

# Individual Decision

---

The attached reports will be taken as  
Individual Portfolio Member Decisions on:

**Thursday 30 July 2015**

<b>Ref:</b>	<b>Title</b>	<b>Portfolio Member</b>	<b>Page No.</b>
ID2937	<b>West Berkshire Council Forward Plan - 2 September 2015 to 31 December 2015</b>	Councillor Gordon Lundie	3 - 20
ID3024	<b>Outside Body Appointments</b>	Councillor Gordon Lundie	21 - 42



This page is intentionally left blank

## Individual Executive Member Decision

---

<b>Title of Report:</b>	<b>West Berkshire Council Forward Plan - 2 September 2015 to 31 December 2015</b>
<b>Report to be considered by:</b>	Individual Executive Member Decision
<b>Date on which Decision is to be taken:</b>	30 July 2015
<b>Forward Plan Ref:</b>	ID2937

---

**Purpose of Report:** To advise Members and residents of items to be considered by West Berkshire Council over the next four months.

---

**Recommended Action:** That the Leader of the Council agrees and where appropriate amends the West Berkshire Council Forward Plan.

**Reason for decision to be taken:** It is a statutory requirement that a Forward Plan be produced.

**Other options considered:** Not applicable.

**Key background documentation:** None

**Published Works:** None

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

Contact Officer Details	
<b>Name:</b>	Moira Fraser
<b>Job Title:</b>	Democratic Services Manager
<b>Tel. No.:</b>	01635 519045
<b>E-mail Address:</b>	mfraser@westberks.gov.uk

## Implications

---

<b>Policy:</b>	The Forward Plan details the Policies to be adopted by West Berkshire Council.
<b>Financial:</b>	The Forward Plan has no financial implications.
<b>Personnel:</b>	The Forward Plan has no personnel implications.
<b>Legal/Procurement:</b>	The Forward Plan has no legal or procurement implications.
<b>Environmental:</b>	The Forward Plan has no environmental implications.
<b>Property:</b>	The Forward Plan has no property implications.
<b>Risk Management:</b>	The Forward Plan has no risk management implications.

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

## Consultation Responses

---

### Members:

<b>Leader of Council:</b>	Councillor Gordon Lundie
<b>Overview &amp; Scrutiny Management Commission Chairman:</b>	Councillor Emma Webster at Overview and Scrutiny Management Commission Meetings
<b>Ward Members:</b>	All Members.
<b>Opposition Spokesperson:</b>	Councillor Alan Macro at Overview and Scrutiny Management Commission Meetings.
<b>Local Stakeholders:</b>	The West Berkshire Forward Plan will be published the first working day after the Individual Decision is signed.
<b>Officers Consulted:</b>	Nick Carter, John Ashworth, Rachael Wardell, Heads of Service, Group Executive.
<b>Trade Union:</b>	Not sought.

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

## Supporting Information

---

### 1. Background

- 1.1 West Berkshire Council's Forward Plan, which is published monthly, sets out the key decisions that the Executive (either collectively or by Individual Executive Members) are expected to take over the next four months.
- 1.2 Key decisions are defined by the Government (Regulation 8 of the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2001) as:
- (1) Those which result in the Local Authority incurring expenditure which is, or the making of savings which are, significant having regard to the Local Authority's budget for the service or function to which the decision is related.
  - (2) Those which are significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Local Authority.
- 1.3 The introduction of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in September 2012 included a requirement to publish 28 clear days' notice of any intended key decision. It should be noted that "clear days" means working days, from midnight to midnight, and excludes weekends and public holidays, so 28 clear days equates to around 5½ normal weeks.
- 1.4 On occasions, however, situations may arise where an urgent decision needs to be made in respect of an item that does not appear on the Forward Plan. There are two different ways in which this can be done:
- (i) the authority can take an urgent key decision without giving 28 days' notice where it is impracticable to give the full notice, provided that the authority gives at least five days' clear notice to all Members of the Overview and Scrutiny Management Commission, which can then call in the decision to check that it was genuinely urgent; or
  - (ii) where a key decision is so urgent there is not even time to give five clear days' notice, the authority can take the decision if the Chairman of the Overview and Scrutiny Management Commission has agreed that the key decision is urgent and cannot reasonably be deferred.
- 1.5 In addition The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 have introduced an entirely new requirement for the Council to publish 28 clear days' notice of the intention to hold a private meeting (or part of a meeting) of the Executive. This 28 day notice must be reinforced by a five day notice which sets out the reasons for the meeting to be held in private, details of any propositions received as to why the meeting should be open, and the Council's response. The response will be provided by the Monitoring Officer. The regulations again provide for an urgency procedure, under which the Council can decide the matter with shorter than 28 or five days' notice, provided that it has first obtained the consent of the Chairman of the Overview and Scrutiny Management Commission.

- 1.6 There are currently no confidential items scheduled for the 3 September 2015 Executive meeting.
- 1.7 There is one confidential item scheduled for an Individual Executive Member Decision in September 2015:
- ID3037 - Allocation of S106 Developers Contributions to deliver extra care housing at Redwood Court, Hungerford. (*Part II - Paragraph 3 - information relating to financial/business affairs of particular person*)
- 1.8 The following items have been added to the Forward Plan as an Individual Decision for September 2015, since it was last published:
- ID2970 – Mill Lane and Boundary Road, Newbury – Proposed 20mph Speed Limit (item delayed from July 2015).
  - ID3025 - Appointment of Representatives on the West Berkshire Standing Advisory Council on Religious Education
  - ID3027 - Refresh of West Berkshire Council Equality Policy
- 1.9 Details of decisions that Full Council, the Governance and Audit Committee, Standards Committee and the Personnel Committee are going to take are also included for ease of reference. It should, however, be noted that the new requirements only apply to Executive meetings.
- 1.10 Publication of the Forward Plan remains a statutory requirement of the Local Authority. The Forward Plan, any General Exception Decisions Notices and Notices of Private Decisions have to be available for inspection and also has to be published on the Council's website.

## **Appendices**

---

Appendix A – West Berkshire Council Forward Plan – 2 September 2015 to 31 December 2015

Appendix B – Notice of Private Decisions for Individual Decision in September 2015

---

# West Berkshire Council Forward Plan

---





# West Berkshire Council Forward Plan – 2 September 2015 to 31 December 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Portfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
<b>2 September 2015 to 30 September 2015</b>											
ID2970	<b>Mill Lane and Boundary Road, Newbury Proposed 20mph Speed Limit</b> <i>To consider the responses received during statutory consultation</i>	ID	01/09/15	Environment	Glyn Davis	Highways, Transport, Emergency Planning		tbc	Statutory consultees, general public, Town Council and Ward members		01 September 2015
ID3025	<b>Appointment of Representatives on the West Berkshire Standing Advisory Council on Religious Education</b> <i>To recommend appointments on the West Berkshire Standing Advisory Council on Religious Education.</i>	ID	01/09/15	Resources	Jayne Mann	Education		tbc			01 September 2015
ID3027	<b>Refresh of West Berkshire Council Equality Policy</b> <i>To request agreement of the refreshed Equality Policy</i>	ID	01/09/15	Resources	Rachel Craggs	Partnerships, Equality, Community Safety		tbc			01 September 2015
ID3037	<b>Allocation of S106 Developers Contributions to deliver extra care housing at Redwood Court, Hungerford. (Paragraph 3 - information relating to financial/business affairs of particular person)</b> <i>To approve the allocation and use of £606,223 of Affordable Housing Developer Contributions (S106 monies) to support Sovereign Housing with the viability of the development of Redwood Court Extra Care scheme (formerly the Priory) 46 units for people aged 55 years and over.</i>	ID	02/09/15	Communities	Cathy Dodson	Adult Social Care, Housing	Yes	24/08/15			01 September 2015
ID2901	<b>Annual Report 2014/15 and Statement of Purpose 2015/16 of the West Berkshire Adoption Service</b>	ID	02/09/15	Communities	Sandra Dopson	Children's Services		24/08/15			01 September 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk) to confirm the contents of any agenda before attending a meeting. **Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.**

**KEY:**  
 ID = Individual Executive Member Decision  
 EX = Executive  
 C = Council  
 GE = Governance & Ethics Committee  
 PC = Personnel Committee

# West Berkshire Council Forward Plan – 2 September 2015 to 31 December 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Portfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
ID2902	<b>Annual Report 2014/15 and Statement of Purpose 2015/16 of the West Berkshire Fostering Service</b>	ID	02/09/15	Communities	Sandra Dopson	Children's Services		24/08/15			01 September 2015
ID2938	<b>West Berkshire Forward Plan - 7 October 2015 - 31 January 2016</b> <i>To agree the Forward Plan for the next four months.</i>	ID	03/09/15	Resources	Moira Fraser	Leader of the Council, Strategy & Performance, Legal & Strategic Support		25/08/15			01 September 2015
EX2989	<b>Home to School Transport Policies</b> <i>To approve the Home to School Transport Policies following consultation (statutory requirement)</i>	EX	03/09/15 EX	Communities	Caroline Corcoran	Education		25/08/15			01 September 2015
EX2961	<b>Council Performance Report 2015/16: Q1 (Key Accountable Measures and Activities)</b> <i>To present the basket of key accountable measures and activities for 2015/16.</i>	EX	03/09/15 EX	Resources	Catalin Bogos	Leader of the Council, Strategy & Performance, Legal & Strategic Support		25/08/15			01 September 2015
EX3016	<b>Treasury Management Annual Report 2014/15</b> <i>To inform Members of the treasury management activity and performance of the Council's investments for the financial year 2014/15</i>	EX	03/09/15 EX	Resources	Gabrielle Esplin	Deputy Leader, Finance, Insurance, Health & Safety, HR, Pensions, ICT & Corporate Support		25/08/15			01 September 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk) to confirm the contents of any agenda before attending a meeting. **Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.**

**KEY:**  
 ID = Individual Executive Member Decision  
 EX = Executive  
 C = Council  
 GE = Governance & Ethics Committee  
 PC = Personnel Committee

# West Berkshire Council Forward Plan – 2 September 2015 to 31 December 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Portfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
EX3019	<b>Financial Performance Report 2015/16 - Quarter One</b> <i>To inform Members of the latest financial performance of the Council.</i>	EX	03/09/15 EX	Resources	Melanie Ellis	Deputy Leader, Finance, Insurance, Health & Safety, HR, Pensions, ICT & Corporate Support		25/08/15			01 September 2015
C3014	<b>Bestowing Title of Honorary Alderman</b>	C	17/09/15 C					09/09/15			01 September 2015
C3015	<b>Recognising the Service of Former Councillors</b>	C	17/09/15 C	Resources	Andy Day			09/09/15			01 September 2015
C3029	<b>Proposed Boundary Review</b> <i>To seek Council's approval to approaching the Local Government Boundary Commission in order to have a planned Electoral Review prior to the next District Council elections in May 2019.</i>	C	17/09/15 C	Resources	Andy Day	Leader of the Council, Strategy & Performance, Legal & Strategic Support		09/09/15			01 September 2015
<b>October 2015</b>											
ID3028	<b>Parking charges at the Burdwood Centre Car Park, Thatcham</b> <i>To consider a petition objecting to the parking charges in this car park</i>	ID	02/10/15	Environment	Mark Cole	Highways, Transport, Emergency Planning		24/09/15			01 October 2015
ID2939	<b>West Berkshire Forward Plan - 18 November 2015 - 29 February 2016</b> <i>To agree the Forward Plan for the next four months.</i>	ID	15/10/15	Resources	Moira Fraser	Leader of the Council, Strategy & Performance, Legal & Strategic Support		07/10/15			01 October 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk) to confirm the contents of any agenda before attending a meeting.  
**Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.**

<b>KEY:</b>
ID = Individual Executive Member Decision
EX = Executive
C = Council
GE = Governance & Ethics Committee
PC = Personnel Committee

# West Berkshire Council Forward Plan – 2 September 2015 to 31 December 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Portfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
EX3038	<b>The Living Wage</b>	EX	08/10/15 EX	Resources	Robert O'Reilly	Deputy Leader, Finance, Insurance, Health & Safety, HR, Pensions, ICT & Corporate Support		30/09/15			01 October 2015
EX2922	<b>Schools Waste Contract (Paragraph 3 – information relating to financial/business affairs of particular person)</b> <i>To inform Members of the intention to award the contract for the Provision of School Waste.</i>	EX	08/10/15 EX	Communities	Karen Felgate	Education	Yes	30/09/15			01 October 2015
<b>November 2015</b>											
ID2940	<b>West Berkshire Forward Plan - 16 December 2015 - 31 March 2016</b> <i>To agree the Forward Plan for the next four months.</i>	ID	12/11/15	Resources	Moira Fraser	Leader of the Council, Strategy & Performance, Legal & Strategic Support		04/11/15			01 November 2015
EX2974	<b>Adverse Weather Debrief Action Progress Report</b> <i>To update on the progress of actions following the Adverse Weather Debrief</i>	EX	19/11/15 EX	Resources	Carolyn Richardson	Highways, Transport, Emergency Planning		11/11/15			01 November 2015
EX3035	<b>Bath Road Feasibility</b> <i>To consider the options appraisal for the redevelopment of 1 Bath Road and agree the preferred course of action.</i>	EX	19/11/15 EX	Communities	Cathy Dodson	Adult Social Care, Housing		11/11/15			01 November 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk) to confirm the contents of any agenda before attending a meeting.  
**Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.**

**KEY:**  
 ID = Individual Executive Member Decision  
 EX = Executive  
 C = Council  
 GE = Governance & Ethics Committee  
 PC = Personnel Committee

# West Berkshire Council Forward Plan – 2 September 2015 to 31 December 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Portfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
GE3032	<b>Monitoring Officer's Quarterly Update Report to the Governance and Ethics Committee – Quarter 2 of 2015/16</b> <i>To provide an update on local and national issues relating to ethical standards and to bring to the attention of the Committee any complaints or other problems within West Berkshire.</i>	GE	23/11/15 GE	Resources	David Holling	Chairman of Governance and Ethics Committee		13/11/15			01 November 2015
<b>December 2015</b>											
ID2941	<b>West Berkshire Forward Plan - 13 January 2016 - 30 April 2016</b> <i>To agree the Forward Plan for the next four months.</i>	ID	03/12/15	Resources	Moira Fraser	Leader of the Council, Strategy & Performance, Legal & Strategic Support		25/11/15			01 December 2015
C2898	<b>West Berkshire Community Champion Awards</b> <i>To present the Community Champion Awards for 2014.</i>	C	10/12/15 C	Resources	Jo Watt	Chairman of Council		02/12/15			01 December 2015
C2926	<b>2015/16 West Berkshire Council Timetable of Public Meetings</b> <i>To recommend a timetable of meetings for 2015/16.</i>	C	10/12/15 C	Resources	Moira Fraser	Leader of the Council, Strategy & Performance, Legal & Strategic Support		02/12/15			01 December 2015
C2930	<b>Proposed Member Development Programme - May 2016</b> <i>To ask Members to agree the proposed Member Induction and Development Programmes for 2015/16.</i>	C	10/12/15 C	Resources	Jo Watt	Leader of the Council, Strategy & Performance, Legal & Strategic Support		02/12/15			01 December 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk) to confirm the contents of any agenda before attending a meeting.  
**Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.**

**KEY:**  
 ID = Individual Executive Member Decision  
 EX = Executive  
 C = Council  
 GE = Governance & Ethics Committee  
 PC = Personnel Committee

# West Berkshire Council Forward Plan – 2 September 2015 to 31 December 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Portfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
C2931	<b>Council Tax Reduction Scheme 2016/17</b> <i>To establish West Berkshire's 2016/17 Council Tax Reduction Scheme for taxpayers on low income.</i>	C	10/12/15 C	Resources	Bill Blackett	Deputy Leader, Finance, Insurance, Health & Safety, HR, Pensions, ICT & Corporate Support		02/12/15			01 December 2015
C2932	<b>Activity Team West Berkshire - Fees and Charges 2016/17</b> <i>To consider the fees and charges for the 2016/17 Activity Team West Berkshire programme in order to enable the service to competitively advertise and promote activities and maximise advanced bookings and income.</i>	C	10/12/15 C	Environment	Jim Sweetin g	Deputy Leader, Finance, Insurance, Health & Safety, HR, Pensions, ICT & Corporate Support		02/12/15			01 December 2015
C2933	<b>Leisure Centres' Fees and Charges 2016</b> <i>To implement the contractual requirement for an annual price review for 2016 for Parkwood Community Leisure to come into effect from 1st January 2015.</i>	C	10/12/15 C	Environment	Jim Sweetin g	Deputy Leader, Finance, Insurance, Health & Safety, HR, Pensions, ICT & Corporate Support		02/12/15			01 December 2015
C3011	<b>Changes to the Constitution</b> <i>To review and amend parts of the Constitution if required following discussion at the Finance and Governance Group</i>	C	10/12/15 C 23/11/15 GE	Resources	David Holling	Leader of the Council, Strategy & Performance, Legal & Strategic Support		02/12/15			01 December 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk) to confirm the contents of any agenda before attending a meeting.  
**Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.**

**KEY:**  
 ID = Individual Executive Member Decision  
 EX = Executive  
 C = Council  
 GE = Governance & Ethics Committee  
 PC = Personnel Committee

# West Berkshire Council Forward Plan – 2 September 2015 to 31 December 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Portfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
EX2962	<b>Council Performance Report 2015/16: Q2 (Key Accountable Measures and Activities)</b> <i>To present the basket of key accountable measures and activities for 2015/16.</i>	EX	17/12/15 EX	Resources	Catalin Bogos	Leader of the Council, Strategy & Performance, Legal & Strategic Support		09/12/15			01 December 2015
EX3020	<b>Financial Performance Report 2015/16 - Quarter Two</b> <i>To inform Members of the latest financial performance of the Council.</i>	EX	17/12/15 EX	Resources	Melanie Ellis	Deputy Leader, Finance, Insurance, Health & Safety, HR, Pensions, ICT & Corporate Support		09/12/15			01 December 2015
EX3036	<b>Staffing implications associated with savings put forward to deliver the 2016/17 revenue budget: approval to pay redundancy payments (Paragraph 1 - information relating to an individual) (Paragraph 2 - information identifying an individual)</b> <i>To seek approval to make the redundancy payments associated with the required staffing implications associated with savings to deliver the 2016/17 revenue budget.</i>	EX	17/12/15 EX	Resources	Robert O'Reilly	Deputy Leader, Finance, Insurance, Health & Safety, HR, Pensions, ICT & Corporate Support	Yes	09/12/15			01 December 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk) to confirm the contents of any agenda before attending a meeting.  
**Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.**

<b>KEY:</b>
ID = Individual Executive Member Decision
EX = Executive
C = Council
GE = Governance & Ethics Committee
PC = Personnel Committee

This page is intentionally left blank



## **NOTICE OF A PRIVATE MEETING OF A DECISION-MAKING BODY TO WHICH THE CHAIR OF THE OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION HAS AGREED<sup>1</sup>**

*Notice of an imminent occasion when the public may be excluded from a meeting due to the likelihood that if members of the public were present during an item of business confidential or exempt information would be disclosed to them and which the Chair of the Overview and Scrutiny Management Commission has agreed is urgent and cannot reasonably be deferred.*

---

<sup>1</sup> In accordance with Regulation 5(7) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

1. At least 28 clear days before a private meeting<sup>2</sup> of a decision-making body, public notice<sup>3</sup> must be given which must include a statement of reasons for the meeting to be held in private.
2. At least 5 clear days before a private meeting of a decision-making body, further public notice<sup>4</sup> must be given which must include a statement of reasons for the meeting to be held in private, details of any representations received by the decision-making body about why the meeting should be open to the public and a statement of the Council's response to such representations.
3. Where the date by which a meeting must be held makes compliance with the above requirements impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chair of the Overview and Scrutiny Management Commission.
4. Compliance with the requirements for the giving of public notice has been impracticable in relation to the business detailed below.

Date of Decision or period within which the decision is to be made	Ref No:	Matter in respect of which the decision is to be made	Short Description	Decision maker	Executive Member & Lead Officer	List of documents to be submitted to decision maker	Public or Private meeting. Statement of reasons if private.
02/09/15	ID3037	<b>Allocation of S106 Developers Contributions to deliver extra care housing at Redwood Court, Hungerford</b>	<i>To approve the allocation and use of £606,223 of Affordable Housing Developer Contributions (S106 monies) to support Sovereign Housing with the viability of the development of Redwood Court Extra Care Scheme (formerly the Priory) – 46 units for people aged 55 years and over.</i>	Individual Executive Member Decision	Adult Social Care, Housing Cathy Dodson	Report and Associated Appendices	(Paragraph 3 – information relating to financial/business affairs of a particular person)

<sup>2</sup> A 'private meeting' means a meeting or part of a meeting of a decision making body which is open to the public except to the extent that the public are excluded due to the confidential or exempt business to be transacted.

<sup>3</sup> In accordance with Regulation 5(2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

<sup>4</sup> In accordance with Regulation 5(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

5. The Chair of the Overview and Scrutiny Committee has agreed that the Executive may hold a private meeting to consider the business referred to in paragraph 4 above because the meeting is urgent and cannot reasonably be deferred for the reasons stated below.

<b>Date of Chair's agreement</b>	<b>Matter in respect of which the decision is to be made</b>	<b>Reasons why meeting urgent and cannot reasonably be deferred</b>

Andy Day  
Head of Strategic Support  
West Berkshire Council

Date: 22 July 2015

This page is intentionally left blank

## Individual Executive Member Decision

---

<b>Title of Report:</b>	<b>Nominations for Representation to Outside Bodies</b>
<b>Report to be considered by:</b>	Individual Executive Member Decision
<b>Date on which Decision is to be taken:</b>	30 July 2015
<b>Forward Plan Ref:</b>	ID3024

---

**Purpose of Report:** To consider nominations from the Conservative and Liberal Democrat Group for representation on Outside Bodies.

---

**Recommended Action:** That the Leader of the Council appoints representatives to the Outside Bodies as detailed on the attached Appendix A.

**Reason for decision to be taken:** The Council is required to make and re-new appointments to certain Outside Bodies on a four yearly basis.

**Other options considered:** None

**Key background documentation:** None

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Gordon Lundie
<b>E-mail Address:</b>	glundie@westberks.gov.uk

Contact Officer Details	
<b>Name:</b>	Moira Fraser
<b>Job Title:</b>	Democratic Services Manager
<b>Tel. No.:</b>	01635 519045
<b>E-mail Address:</b>	mfraser@westberks.gov.uk

## Implications

---

- Policy:** The proposals outlined in this report are not in contradiction to any of the Council's existing policies, including those outlined in the Council Plan. Appointments are made in accordance with Appendix J of Part 13 (Codes and Protocols) of the Constitution (Protocol for Council Representation on Outside Bodies.)
- Financial:** The possible payment of travelling and subsistence claims. Members should wherever possible make mileage and subsistence claims from the outside body. These costs will be met from within existing budgets
- Personnel:** None
- Legal/Procurement:** None
- Property:** None
- Risk Management:** None

## Consultation Responses

---

### Members:

- Leader of Council:** Both groups have been consulted via the Group Executives
- Overview & Scrutiny Commission Chairman:** Both groups have been consulted via the Group Executives
- Ward Members:** N/a
- Opposition Spokesperson:** Both groups have been consulted via the Group Executives
- Local Stakeholders:** The bodies requesting representation have all been consulted
- Officers Consulted:** Andy Day, David Holling, Nathan Gregory, Moira Fraser
- Trade Union:** Not consulted

Is this item subject to call-in.	Yes: <input checked="" type="checkbox"/>	No: <input 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 OSC or associated Task Groups within preceding 6 months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

## Supporting Information

---

### 1. Background

- 1.1 The Council is required to appoint representatives to the Outside Bodies listed in Appendix A. In order to standardise the timetable for appointments the Council makes to Outside Bodies the majority of appointments are made for four years to coincide with the electoral cycle. The Leader of the Council will, however, have the opportunity to review any of these appointments during the term of office should it be deemed necessary.
- 1.2 The appointments are being made in accordance with Appendix J (Protocol for Council Representation on Outside Bodies) of Part 13 (Codes and Protocols) of the Constitution. (see Appendix C)
- 1.3 To assist Members organisations have been asked to provide information relating to the group's constitution, governance arrangements, financial position of the organisation, insurance arrangements and health and safety policies. Copies of this information is available from Strategic Support should Members wish to view it. Due to the size of these documents we are not able to reproduce these documents for all Members.
  - 1.1 Before accepting the appointment Members should establish:
    - the time commitment required by the role and whether or not they have the time and capacity to take on the responsibility;
    - what the nature of the organisation is as this will affect their role and help with identifying the potential risks involved;
    - in what capacity they are being asked to serve on the Outside Body;
    - what the body has been set up to do;
    - the governance arrangements of the organisation; and
    - the financial position of the organisation.
  - 1.2 The Council representatives are also advised to:
    - consider if there is likely to be any significant conflict of interest between their role in the outside organisation and their Council role before accepting the office;
    - clarify the insurance arrangements and if no insurance exists this must be weighed up in the decision to accept the appointment;
    - ask about any specific legal responsibilities attached to the membership of the organisation;
    - read the constitution of the organisation and be aware of its powers, duties and objectives;
    - attend meetings regularly and present apologies in good time when they are unable to attend;
    - satisfy themselves that they receive regular reports on the activities of the organisation and its financial position;

- satisfy themselves that the organisation has adequate Health and Safety and Equalities Policies;
  - obtain a copy of the annual report and accounts to ensure that funds are spent on agreed objectives where the organisation is funded by or through the Council; and
  - seek advice from the appropriate Council Officers in the event of any doubt or concerns about the running of the organisation.
- 1.4 Members are required to submit an annual report to the Head of Strategic Support on the activity of the Outside Body using the prescribed form which (see Appendix B). Members will be asked to report back by the 01<sup>st</sup> May each year, i.e. the first report will be required by the 01 May 2016. The reports will then be circulated to all Members. Where there is more than one Member appointed to an outside body a joint submission should be made.
- 1.5 There are a number of organisations to which the Council appoints Members where more regular feedback from Members would be appropriate. In these circumstances Members or Officers attending the meeting should provide a brief summary for circulation to all Members. These summaries should be sent to the Democratic and Electoral Services Manager.
- 1.6 Relationships between the Council, Outside Bodies and the Council's representative can be complex. In any case of dispute or difficulty, Members should seek advice from the Secretary or Clerk to the Outside Body, who can then take advice from professional advisors where necessary.
- 1.7 If Members are concerned about the position they find themselves in as a Councillor on an Outside Body, they should contact the Monitoring Officer for further advice.

## **Appendices**

---

Appendix A - List of nominations for appointments to Outside Bodies

Appendix B – Annual report Form.

Appendix C - Appendix J (Protocol for Council Representation on Outside Bodies) of Part 13 (Codes and Protocols) of the Constitution.



Outside Body Nominations - Appendix A

Body	No. of Reps	Nominee 1 Name	Nominee 2 Name	Nominee 3 Name	Nominee 4 Name
AWE Local Liaison Committee	3 Members	Dominic Boeck	Ian Morrin	Graham Bridgman	
Berkshire Healthcare NHS Foundation Trust	1 (preferably a Council Member)	Adrian Edwards			
Berkshire Historic Environment Forum	1 (Member of Council)	Adrian Edwards	Anthony Pick		
Berkshire Local Transport Body	1 Member of Council 1 Nominated Deputy	Garth Simpson	Jeanette Clifford		
Berkshire Maestros	1 Member (preferably a Council Member)	Carol Jackson-Doerge			
Berkshire Pension Fund Advisory Panel	1 (Member of Council)	Alan Law			
BLASJC (Bus Lane Adjudication Service Joint Committee)	1 (Member of Council)	Garth Simpson			
Breedon Educational and Vocational Foundation	1 (Need not be a Member)	Pamela Bale			
Bucklebury Common Advisory Committee	1 (Member of Council)	Graham Pask			
Charity of Mrs Mabel Luke	1 (Need not be a Member of Council) (Should not be a Victoria Ward Member)	Vacancy			
City Deal Joint Committee	1 (Member)	Alan Law			
Clarke's Educational Foundation	1 (Need not be a Member of Council)	Mollie Lock			
Corn Exchange Trust	2 (Member)	Carol Jackson- Doerge	Jeff Beck		
Domestic Abuse Forum Strategy Group	1 (Member of Council)	Marcus Franks			
Donnington Hospital Trust	1 (Member of Council)	Paul Bryant			
Empowering West Berkshire	1 (preferably a Council Member)	Dennis Bennyworth			
Greenham and Crookham Commons Commission	2 + 1 (Member of Council appointed by the Leader and one rep appointed by the volunteers annually)	Dominic Boeck	Sheila Ellison	Mr Derek Emes (Volunteer Rep)	
Greenham Common Community Trust Ltd	1 Member	Paul Bryant			
Henwick Worthy Sportsground Joint Management Committee	2 + 1 sub	Marigold Jaques	Nick Goodes	Graham Pask (sub)	
Hungerford & Camburn Education Foundation	1 (Member of Council)	Paul Hewer			
Hungerford Leisure Centre Joint Advisory Committee	3 (Members of Council)	Paul Hewer	James Podger	Andrew Rowles	
Kennet & Avon Canal Partnership Steering Group	1 + officer support if possible	Rick Jones			
Kennet Leisure Centre Joint Advisory Committee	4 (Members of Council)	Rob Denton-Powell	Roger Croft	Marigold Jaques	Steve Ardagh-Walter
Lady Frances Winchcombe's Thatcham Foundation	1 (Need not be a Member of Council)	Sheila Ellison			
Lambourn Centre Joint Advisory Committee	4 (Members of Council)	Graham Jones	Gordon Lundie	John Davies	James Fredrikson
LGA General Assembly	4 (Members of Council)	Gordon Lundie	Roger Croft		
Mary Hare School	1 (Preferably a Member of Council)	James Podger	if sub required Marigold Jaques		
Mid and West Berkshire Countryside Local Access Forum	1 (Member of Council)	Anthony Chadley			
Newbury Almshouse Trust	2 (Preferably Members of Council)	Adrian Edwards	Marcus Franks		
North Wessex Downs AONB	1 Member of Council + 1 sub	Keith Chopping	Anthony Chadley		
Padworth Common Advisory Committee	1 (Member of Council)	Graham Bridgman			
PATROL (Parking and Traffic Regulations Outside London Joint Committee) Adjudication Joint Committee	1 (Member of Council)	Garth Simpson			
Readibus	1 (Member of Council)	Jeff Beck			
Research Sites Restoration Ltd	1 Member	Paul Bryant			
Restorative Justice Service West Berkshire Steering Group NEW (added on 1 April 2015)	1 (Member of Council)	Marcus Franks			

Outside Body Nominations - Appendix A

Royal Berkshire Hospital NHS Foundation Trust Council of Governors	1 (Member of Council)	Gordon Lundie			
Saunders Wynne & Coventry Educational Foundation	2 (Need not be Members of Council)	Clive Hooker	Mr J Warwick		
Snelsmore Common Advisory Committee	1 + 1 sub	Graham Pask	Paul Bryant (sub)		
South East Reserve Forces and Cadets Association	1 (Member of Council)	Adrian Edwards			
St Bartholomew's School Charitable Foundation	3 (Need not be Members of Council)	David Goff	Billy Drummond	Adrian Edwards	
Standing Conference on Archives	1 (Member + 1 Officer)	Hilary Cole			
Thatcham Detached Youth Project	2 (Do not need to be Members of Council, but understanding between TTC and WBC that WBC is represented)	Sheila Ellison	Marigold Jaques		
Thatcham Vision	2	Marigold Jaques	Sheila Ellison		
Thatcham Volunteer Bureau	1 (Need not be a Member of Council)	Marigold Jaques			
Tourism South East	1 (+ 1 sub who can attend general meetings) (Preferably Member of Council)	Tony Linden			
Vibrant Villages Grant Scheme	1 (Member of Council)	Quentin Webb			
Volunteer Centre West Berkshire	1 (Preferably a Council Member)	Jeff Beck			
Watermill Theatre	1 (Need not be a Member of Council)	Carol Jackson-Doerge			
West Berkshire Citizens Advice Bureau	1 (Member of Council)	Marigold Jaques			
West Berkshire Disability Alliance	1	Hilary Cole			
West Berkshire DoF/E Committee	2	Tim Metcalfe	Mollie Lock		
West Berkshire Fostering Panel	1 (Member of Council)	Rick Jones			
West Berkshire Safer Communities Partnership	1	Marcus Franks			
West Berkshire Safer Communities Partnership Strategy Group	3 Members of Council	Graham Pask	Marcus Franks	Quentin Webb	
Willink Leisure Centre Joint Advisory Committee	4 (Members of Council)	Carol Jackson-Doerge	Ian Morrin	Keith Chopping	
Wokefield Common Advisory Committee	1 (Member of Council)	Carol Jackson-Doerge	Graham Bridgman		
Berkshire Adoption Panel		Peter Argyle			
Joint Primary Care Commissioning Committee	1 must be from HWBB	Graham Jones			
Local Nature Partnership		Keith Chopping			
AONB Leader Action Group		Keith Chopping			
			Key:		
			Red	To be agreed.	
			Green	Confirmed	

**WEST BERKSHIRE COUNCIL**

**APPOINTMENT TO OUTSIDE BODIES ANNUAL FEED BACK FORM**

<b>Name of Organisation</b>	
<b>Name of Member</b>	
<b>Period of review</b>	
<b>Number of Meetings called to attend</b>	
<b>Number of Meetings attended</b>	
<b>Reasons for not attending, if appropriate</b>	
<b>What background/briefing information did you receive from the organisation on its constitution, aims, objectives etc and was it sufficient to enable you to carry out your appointed role?</b>	
<b>Please indicate how effective you think the organisation is (has it met or contributed to the Council's Key Priorities) and give examples to illustrate your reply?</b>	

Do you think the Council should continue to be represented on this organisation?	Yes/No
If No, please state why	

Councillor .....

Signed..... Dated:.....

Return completed forms to: Moira Fraser, Policy and Communication, Market Street Offices, Newbury, RG14 5LD or email: [mfraser@westberks.gov.uk](mailto:mfraser@westberks.gov.uk)

### ***Protocol for Council Representation on Outside Bodies***

---

#### **1. Introduction**

- 1.1 Elected Members are appointed by West Berkshire Council to serve on a range of Outside Bodies. In the context of this Protocol, an “Outside Body” covers organisations such as Trusts, Voluntary Bodies, Charities, Community Associations and Companies etc.
- 1.2 Service on Outside Bodies has always been an established part of a Councillor’s role. A Member appointed to an external body will be able to use their knowledge and skills both as a Council Member, and as a representative of their communities, to assist the organisation to which they are appointed, as well as the Council which they represent.
- 1.3 This Protocol is designed to provide guidance as to the roles, experience and responsibilities as well as the liabilities that Members may attract in connection with their involvement with these organisations. Councils are increasingly working in partnership with external organisations. This means that it is important that everyone is clear exactly what the role of Councillors appointed to these bodies is. Questions of accountability and governance are likely to arise particularly as more funding may be channelled through the Council to these Outside Bodies
- 1.4 Membership of an Outside Body brings into play different considerations to those which relate to Council membership. As members of Outside Bodies, elected Members will have different duties, obligations and liabilities depending upon the type of organisation involved. Members’ roles on these Outside Bodies may appear to conflict, sometimes with each other, and sometimes with their position as a West Berkshire Councillor. This can be eased by giving clear guidance, which is what this document aims to do. Paragraphs 9 and 10 of this Protocol provides information on registering interest and information on dealing with conflicts of interest are set out in paragraph 11.
- 1.5 Depending on the legal nature of the body and the role fulfilled by the Member they may attract personal responsibility for decisions and actions of the body. It is a Members’ responsibility to ensure that they are aware of their liabilities and any insurance arrangements that are in place where they participate in Outside Bodies. Officers will strive to ensure that Members are provided with as much information as possible prior to their appointment. Paragraphs 4 and 5 of the Protocol set out the general roles and responsibilities for Members on Outside Bodies.
- 1.6 To aid Members further, this Protocol sets out the different types of bodies and responsibilities. Members with any doubts or questions should consult the Head of Legal Services at the earliest opportunity for help and advice.

More detailed information, relating to Limited Companies, Charitable Trusts, Partnerships and Unincorporated Organisations, is set out in paragraphs 12 to 15.

- 1.7 The Council will indemnify Members representing the Council on Outside Bodies in many circumstances. There are however specific statutory limitations as to the extent of indemnification the Council is able to provide. These are set out in paragraph 16 of the Protocol.
- 1.8 Members can serve on Outside Bodies in their personal capacity provided that there is no conflict of interest with their duties as a Member of West Berkshire Council. Again, legal advice is available to help Members assess their position.

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

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

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

- 3.1 Before accepting the appointment Members should establish:
  - the time commitment required by the role and whether or not they have the time and capacity to take on the responsibility;
  - what the nature of the organisation is as this will affect their role and help with identifying the potential risks involved. One of the most important things is to find out if the organisation is a separate legal organisation (i.e. a body which has an identity of its own such as a company) or whether it is simply a group of people coming together with a common purpose (an unincorporated organisation). An unincorporated organisation generally poses a more significant risk to those involved in it because if something goes wrong, personal legal action can be taken against everyone managing it.
  - in what capacity they are being asked to serve on the Outside Body:
    - as a member of an Outside Body where they represent the Council's position as a 'member' of the Outside Body but take no part in its management or governance other than to attend and vote at annual

or general meetings. Here they will be mainly concerned with representing the Council and will not have responsibilities for governance of the body; or

- as a member of the management committee, board of directors or committee of trustees of the Outside Body. Whilst the Member may have been appointed to the body by the Council, their primary responsibility will be to the body itself, to advance the interests of the body or of the beneficiaries of the trust, as opposed to acting as a representative of the Council. They will have detailed responsibilities which are outlined further in this guidance
- what the body has been set up to do;
- the governance arrangements of the organisation; and
- the financial position of the organisation.

3.2 The Council representatives are also advised to:

- consider if there is likely to be any significant conflict of interest between their role in the outside organisation and their Council role before accepting the office;
- clarify the insurance arrangements (does it cover the key risks of the organisation as well as the Member and is the liability limited or unlimited) and assess the possibility of any implications on themselves as individuals (specifically consider the nature and function of the body and the amount of money it deals with – always be aware of the added risk where the organisation employs staff);
- if no insurance exists this must be weighed up in the decision to accept the appointment;
- ask about any specific legal responsibilities attached to the membership of the organisation;
- read the constitution of the organisation and be aware of its powers, duties and objectives;
- attend meetings regularly and present apologies in good time when they are unable to attend;
- satisfy themselves that they receive regular reports on the activities of the organisation and its financial position;
- satisfy themselves that the organisation has adequate Health and Safety and Equalities Policies;
- obtain a copy of the annual report and accounts to ensure that funds are spent on agreed objectives where the organisation is funded by or through the Council; and
- seek advice from the appropriate Council Officers in the event of any doubt or concerns about the running of the organisation.

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

4.1 In carrying out the role of a representative on the Outside Body, Councillors act both as individuals and as representatives of the Council:

4.2 Members should:

- act according to the rules, constitution and framework set by the Outside Body;
- take an active and informed role in the Outside Body's affairs;
- make independent and personal judgements in line with their duty of care to the Outside Body;
- report back to West Berkshire Council annually (by the 1st May ) using the prescribed form;
- promote equality as an integral part of the role and to treat everyone with fairness and dignity;
- from time to time it is possible that a conflict of interest may arise between the role of the Councillor and the role they are undertaking on an Outside Body. Members are referred to in paragraph 11. Members are advised to seek legal advice before setting off on a course of action.
- behave ethically and follow as far as applicable the Code of Conduct for Members; and
- wherever possible approach the lead officer for the Outside Body for a briefing on agenda items before attending meetings of the Outside Body.

4.3 Members should not:

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

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

## **5. The Role of the Councillor**

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

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

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



## **6. Expenses, Remuneration and Benefits**

- 6.1 As a general rule Members should not benefit personally from their appointment to outside organisations.
- 6.2 Travel and subsistence expenses should be claimed through the organisation if available otherwise through the Council in accordance with Part 14 of the Constitution (Members' Allowances Scheme).
- 6.3 Any Councillors offered any gift or hospitality, in their capacity as Members must treat the offer in accordance with Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors) to Part 13 (Codes and Protocols) of the Constitution
- 6.4 Free access to a Company's facilities should only be accepted where it is necessary to discharge duties and responsibilities as a Director and should be declared to the Council.
- 6.5 The Code of Conduct should be followed at all times.

## **7. Representatives Reporting Back**

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

## **8. Further Advice**

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

## **9. Interests**

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

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

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

- 10.2 The Code of Conduct also states:

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

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

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

## **11. Conflicts of Interest**

- 11.1 Appointment to an Outside Body can take various forms, and before taking up active membership it is advisable to establish exactly in what capacity the Member is being appointed.
- 11.2 If Members are appointed to an Outside Body they will have a personal interest in that body and will need to consider their position when they sit on Council, the Executive, a Council committee or other decision-making body which is considering a matter which relates to that body.
- 11.3 If Members attend a meeting where there is an item of business which relates to or affects the Outside Body, they will need to disclose the interest at the meeting, regardless of whether or not they were appointed onto the Outside Body by the Council, or by the Outside Body itself. This may not be a report which specifically mentions the body, but will affect it. For example, the budget setting meeting of Full Council can have implications for council funding of voluntary organisations.
- 11.4 The next issue is to consider whether they also have a Disclosable Pecuniary Interest (DPI) which would require them not only to disclose it but also to withdraw from consideration of that item of business.
- 11.5 If a Member does decide that they have a DPI, they must disclose this and leave the meeting room and not influence the debate or decision in any way. If the Council body making the decision has a policy of allowing members of the public to speak, Members can use this avenue legitimately to speak to the meeting but they must follow the rules of the public speaking session and then leave the room as soon as they have spoken on the matter.
- 11.6 Members should take advice from the Monitoring Officer if any situation arises where they think they might have a problem with an interest arising from their involvement with the Outside Body.

- 11.7 Whilst a failure by a Member to disclose a personal interest, or to disclose and withdraw for a DPI, may lead to sanctions against the individual Councillor, it will not of itself invalidate the decision of the authority in which the Councillor participated. However, where there is a real possibility that the decision of the Council might have been affected by bias or predetermination on the part of one or more Councillor, that decision can be held by a Court of Law to be invalid. Members therefore need also to be careful about the possibility of bias and predetermination when they are dealing with matters involving an Outside Body on which they serve.
- 11.8 Any Councillor who is about to take part in a decision, either collectively with other Councillors or via Individual Decision, must not allow themselves to be unduly influenced by their allegiance to any Outside Body or individual, nor should they give the impression that they might be influenced by it. That is bias and apparent bias. It arises because of a connection to an Outside Body or person.
- 11.9 It also follows that, whilst a Councillor may have preferences and predispositions, they must not finish the decision-making process until they have received and considered all the relevant information relating to the matter. To do so would be predetermination. Whilst it is accepted that Councillors live in the real world and will discuss matters with colleagues and constituents, and bring the benefit of those discussions to the Committee Room, they must still listen to the arguments and be prepared to change their mind if the evidence presented requires it.
- 11.10 From this it will be apparent that particular difficulties arise where a Councillor is a member of an Outside Body such as a pressure group, which is seeking to influence the authority's decision on a particular matter, as such membership can readily be taken as evidence of bias and/or predetermination. On occasion, and particularly in respect of local, single-issue pressure groups, a Member may have to choose whether to be a campaigning Councillor, participating in a pressure group, or to remain outside the campaign but be able to vote on the issue when it comes before the Council.
- 11.11 In some instances a Member may also find that they are unable to properly carry out their functions as a Member of the Council and a Member of the Outside Body. In these instances the Member may consider resigning from one body or another. Members should seek advice from the Monitoring Officer before taking such action.

## **12. Limited Company**

- 12.1 A company has a separate legal personality to its shareholders (also described as company members or subscribers). One of the main advantages of acting through a limited company is that shareholders can claim the benefit of limited liability. In the case of a company limited by shares this means that they will not be liable for the debts of the company if the company makes losses over and above the amount which they have pledged to pay the company for their shares. In a company limited by guarantee this means that the shareholders 'guarantee' to contribute a specified sum if called upon to do so (usually a nominal amount of £1) in the event that the company goes into insolvent liquidation.

- 12.2 An appointment as a director of a company needs to be confirmed by the completion of a form (known as '288') which needs to be signed and submitted to Companies House. The secretary of the Outside Body should assist you with this.
- 12.3 The Directorship should also be recorded in the Council's Register of Members' Interests (within 28 days of the appointment). Directors take responsibility for all the main decisions in relation to the operation of the company, including entering into contracts.
- 12.4 The position of Council Members acting as Company Directors is that although Members have been appointed by the Council they have a duty to act in the best interest of the Company.
- 12.5 Although Members are advised to consider the specific rules pertaining to the Company they have been appointed to, the general legal responsibilities of Company Directors are:
- to ensure that the Company acts within its legal powers;
  - to act honestly and in good faith in the best interests of the Company;
  - not to make a personal profit and to take proper care of the assets;
  - to avoid conflicts of interest and not to allow personal interest to influence action as a Director;
  - to record personal interests in the Company's Register of Director's Interests;
  - to act with reasonable competence and care;
  - to exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience); and
  - not knowingly allow the Company to trade fraudulently, recklessly or in an insolvent position.
- 12.6 Council appointed Directors are advised to:
- clarify the insurance arrangements and assess the possibilities of any implications on themselves as individuals;
  - to be familiar with the Articles and Memorandum of Association of the Company;
  - to ensure that their interests are registered with the Company;
  - to attend Board meetings regularly, read the agenda in advance and seek a briefing from officers where necessary;
  - to ensure that the Company has proper procedures for reporting performance and financial information to board members at each meeting;
  - to take an interest in the appointment of the management of the Company to ensure that suitable qualified and experienced managers are in place;
  - to ensure that the Company has adequate Health and Safety and Equalities Policies; and

- to seek advice from the appropriate Council Officers if in any doubt about the financial viability of the Company or any aspect of its operation.
- 12.7 Members need to be particularly careful when acting as a Company Director if there is any prospect of the company becoming insolvent i.e. not having sufficient assets to pay its debts. When a company becomes insolvent, or it is foreseeable that it will be insolvent, directors of the company have a higher duty of competence and attention to company business than when the company is still solvent. If they fail to take every possible step to minimise the company's debts, they may be personally liable for any additional losses suffered by creditors of the company ("wrongful trading"). A director may be found guilty of fraudulent trading (a criminal offence) if they allow the company to trade with an intent to defraud creditors.
- 12.8 If you become a Company Director there are some useful guidance documents to assist you on the websites of the [Institute of Directors](#) and [Companies House](#).
- 12.9 There may be occasions where conflicts of interest arise between the Council and the Company. Some examples are:
- contracts between the two;
  - negotiations on agreements, such as terms of leases;
  - applications for Council permission, e.g. planning consent.
- 12.10 This may mean that the primary responsibility to the Company could conflict with the Council's interest.
- 12.11 In these circumstances, Members are advised to declare a DPI at any Council meetings or discussions and should withdraw from the decision making process.

### **13. Charitable Trustees**

- 13.1 To be a Charity an organisation must operate for one of the four charitable purposes, namely:
- the relief of poverty and human suffering;
  - the advancement of education;
  - the advancement of religion; and
  - another purpose for the benefit of the community.
- 13.2 It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.
- 13.3 Trustees duties include:
- the need to act in accordance with the constitution of the Charity;
  - not making a private profit from their position;
  - acting honestly and in good faith in the best interests of the Charity;
  - ensuring that information relating to the charity and trustees is registered with the Charity Commissioners and annual accounts, reports and returns are completed and sent;

- Ensuring that the body acts in accordance with the overriding duty to the beneficiaries of the Trust;
- ensuring compliance with all relevant legislation (e.g. in relation to tax and land matters); and
- Council representatives are advised to clarify the insurance arrangements and assess the possibilities of any implications on themselves as individuals.

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

- exercising a general power of investment or any specific power of investment arising from the Trust;
- making investments in line with the Standard Investment Criteria under section 4 of the Act or taking independent advice on investments under section 5;
- exercising the power to acquire land or deal in land;
- appointing agents, custodians or nominees or in reviewing their obligations;
- compounding liabilities under section 15 of the Trustee Act 1925;
- Insuring Trust property; and
- Dealing with reversionary interests, valuations or audits.

13.5 The standards of care expected of Trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual. Additional information relating to the responsibilities for charitable directors and trustees is available on the Charity commission's website <http://www.charity-commission.gov.uk>.

## **14. Partnerships**

14.1 The Council representatives on partnerships have three main roles:

- to promote the Council's objectives in participating in the partnership;
- to ensure that the Partnership delivers its own objectives:
- to safeguard the Council's interests within the partnership, particularly where the Council is a funding partner or the accountable body for External Funding

14.2 Council representatives on partnerships are advised to:

- be clear on the Council's own objectives in participating in the partnership;
- read the Constitution of the Partnership and be aware of its objectives and powers;
- attend Partnership meetings regularly, read the agendas in advance and seek briefing from Officers where necessary;
- ensure that the Partnership has proper procedures for reporting progress and financial information; and

- take an interest in the appointment of key staff.

## **15. Unincorporated Organisations**

- 15.1 Groups which are not charitable trusts or limited companies are 'unincorporated associations' and have no separate legal identity from their members. The rules governing the Members' duties and liability will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for Management Committees to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and therefore register as a charity.
- 15.2 Management Committee Members must act within the Constitution of that Outside Body and must take reasonable care when exercising their powers.
- 15.3 If Members become involved in the administration of an unincorporated body, they need to be aware that, as the body has no separate corporate status, any liabilities will fall upon the members personally. This means that if something goes wrong and the organisation is sued, the members/owners personal assets are at risk – they cannot stand behind a company or other body which gives them some protection.
- 15.4 If Members take on personal responsibilities for the organisation, such as buying equipment or renting premises, they are personally liable for the entire cost, and can only recover those costs from the organisation to the extent that it actually has the money to reimburse them, or from the other members of the organisation to the extent that the membership agreement gives them the right to be reimbursed by each of them.
- 15.5 Members need to be very careful about the risk of personal liability and the extent to which this has been covered by insurance arrangements (either arranged by the organisation itself or by the Council or by indemnities).

## **16. Indemnity for Members**

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

authority or the insurer for their costs incurred in relation to those proceedings;

- 16.3 The indemnity includes an act or omission subsequently found to be beyond the powers of the Member in question, but only to the extent that the Member reasonably and genuinely believed that the act or omission was within their powers at the time they acted.
- 16.4 The indemnity does not apply to the defence of any criminal proceedings brought against a Member unless specifically approved by the Council and then only on a similar basis to that relating to proceedings for breaches of the Code of Conduct.
- 16.5 It is possible in some circumstances for the Council to indemnify (i.e. stand behind the Councillor and pick up any personal legal liabilities/costs/damages which the Councillor incurs as a result of his/her appointment to an Outside Body). The Council currently has Officials Indemnity insurance cover in place which covers Members on Outside Bodies but it may be necessary to consider issues on a case by case basis. Please speak to the Monitoring Officer if you have any cause for concern that an Outside Body with whom you are involved is getting into difficulty or you have any indication that you might be getting involved in potential personal liability.





This page is intentionally left blank