

# GOVERNANCE AND ETHICS COMMITTEE

## MINUTES OF THE MEETING HELD ON MONDAY, 23 NOVEMBER 2015

**Councillors Present:** Jeff Beck (Vice-Chairman), Graham Bridgman, James Cole, Barry Dickens, Sheila Ellison (Substitute) (In place of Steve Ardagh-Walter), Rick Jones, Alan Macro (Substitute) (In place of Lee Dillon), Anthony Pick and Quentin Webb (Chairman)

**Also Present:** Ian Priestley (Chief Internal Auditor) and Andy Walker (Head of Finance) and Moira Fraser (Democratic and Electoral Services Manager)

**Apologies for inability to attend the meeting:** Councillor Steve Ardagh-Walter and Councillor Lee Dillon

**Councillor Absent:** Chris Bridges

### PART I

#### 10 Minutes

The Minutes of the meeting held on 24 August 2015 and the special meeting held on the 3 September 2015 were approved as a true and correct record and signed by the Chairman subject to the inclusion of the following amendments:

**3 September 2015, Item 9, NPC5/14, Page 13, Second Paragraph, final sentence to read:**

*“Councillor Swift-Hook confirmed that he had not taken part in the management of that procedure although he gave evidence to the Grievance Sub-Committees when asked. Councillor Swift-Hook also confirmed that Councillor Uduwera-Perera had declined to be interviewed by either Grievance Sub-Committee.”*

As neither Councillor Anthony Pick nor Councillor Alan Macro was present at the 24 August 2015 meeting they did not vote on these minutes.

As Councillors Jeff Beck, Graham Bridgman, Barry Dickens Anthony Pick and Alan Macro were not present at the 3 September Special meeting and therefore did not vote on these minutes.

*(Councillor Sheila Ellison arrived at 5.05pm)*

#### 11 Declarations of Interest

There were no declarations of interest received.

#### 12 Forward Plan

The Committee considered the Governance and Ethics Committee Forward Plan (Agenda Item 4). The Chairman re-iterated his request to ensure that in addition to the title of the Portfolio Holder their names also be included on the Forward Plan.

The Chairman requested that in view of the fact that the Code of Conduct had been in place since December 2013 a small Task Group be set up to review it to ensure that it was still fit for purpose. He proposed that the following Members be invited to sit on the Task Group: Councillor Quentin Webb, Councillor Graham Bridgman, Councillor Lee Dillon, Parish Councillor Barry Dickens and Independent Person James Rees. The Task Group would report back to a future meeting of the Governance and Ethics Committee.

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**RESOLVED** that the Governance and Ethics Committee Forward Plan be noted.

### 13 **Monitoring Officer's Quarterly Report Quarter 2 of 2015/16 (GE3032)**

The Committee considered a report (Agenda Item 5) which provided an update on local and national issues relating to ethical standards and brought to Members' attention complaints received during the second quarter of 2015/16.

Moira Fraser explained that during quarter 2 fifteen formal complaints were received by the Monitoring Officer. Fourteen of these complaints related to district councillors and one to a parish councillor.

Following the initial assessment by the Monitoring Officer in consultation with the Independent Person it was decided that no further action should be taken on the complaints pertaining to district councillors. All of the district council complaints pertained to planning matters. The Monitoring Officer had subsequently written to a number of the Members involved outlining the procedures surrounding declarations of interest at meetings and where appropriate about the conduct that was expected of Members at site visits.

The complaint against a parish councillor was currently being investigated. A small number of gifts and hospitality had been declared by district councillors.

At the time of writing the report 24 parish councils had not as yet returned their Register of Interests Forms post the May 2015 elections. Work on collecting the information was ongoing. A further reminder had been sent to the parishes on the 01<sup>st</sup> November 2015.

Since June 2015 all parts of the Constitution had been updated to reflect that the Standards Committee and Governance and Audit Committee had been merged. The Monitoring Officer, under delegated authority had authorised changes to Parts 3 and 7 of the Constitution.

Councillor Graham Bridgman noted that there were a number of typographical and formatting issues in the report including the fact that paragraph 6.6 of Appendix A on page 26 should refer to NPC1/15 and not NPC1/1f.

In relation to the declaration of gifts and hospitality Councillor Jeff Beck stated that it was important for Members to note that they should declare gifts or hospitality even if they were declined.

Councillor Anthony Pick noted that all the complaints against District Councillors related to planning committees and asked if further information could be provided to the Committee. Moira Fraser explained that as no further action was taken on the complaints it was not possible to provide detailed information.

**RESOLVED** that the report be noted.

*(As all matters pertaining to Standards had been concluded Barry Dickens left the meeting at 5.22pm.)*

### 14 **Risk Management - Revised Approach (GE3046)**

The Committee considered a report (Agenda Item 6) which provided commentary on the process for the management of risk.

Ian Priestley provided a refresh of the Council's Risk Management processes with the aim of:

- Ensuring risks associated with the delivery of the Council Strategy were identified and mitigated

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- Clarifying the respective roles of the Risk Management Group and Corporate Board. The RMG would oversee risk allowing CB to focus on responding to critical/key issues. The aim being to delegate the bulk of the work on Risk Management to the RMG.
- Confirm the role of RMG in carrying out a rolling review of service and project risk registers.
- Review the Council's Risk Appetite to ensure it was still appropriate.

Risk Management was a part of any activity undertaken by the Council. The process outlined in the report was not essential to the management of risk but it sought to provide a framework which:

- Was applied consistently;
- Provided clarity and transparency in relation to the risks the Council was managing;
- Provided assurance to Members that risk management was effective in ensuring appropriate actions were taken to minimise risk to the delivery of the Council's objectives.

The proposed roles for Corporate Board and the Risk Management Group, chaired by John Ashworth, had been set out in detail in the report.

The Committee was asked to discuss whether or not the measures that had been put in place were adequate and appropriate. Ian Priestley explained that the proposed approach was graphically represented in Appendix C to the report.

The process would include a number of elements:

*Key Issues List* - risks being triggered and action or active monitoring was required and are reported at Corporate Board on a quarterly basis'

*Council Strategy Risk Register* - which was proving difficult to produce due to the wide ranging nature of the Strategy,

*The Corporate Risk Register* - had replaced the Strategic Risk Register, identified issues that affected the Council as a whole and it was reviewed annually by the Risk Management Group,

*Service Risk Registers* – which were managed by Heads of Service and this was an effective process. Each Head of Service was required to sign off an Assurance Statement at the end of each year which highlighted any issues identified during the year.

*Project Risk Registers* – for all major projects. Corporate Board identified which projects required these registers which were then monitored by the Risk Management Group.

*Chief Executive's Key Risks* – these were risks that if triggered would have a significant impact on the Council, generally they had high gross and low net score. The current list included safeguarding of children and adults which were the subject of quarterly reports to Corporate Board.

The Council's Risk Appetite (Appendix D) set out the Council's view as to what level of risk was deemed acceptable and helped to ensure consistency across the Council.

Ian Priestley explained that the new approach needed time to bed in. He also explained that the Council's liability insurers, Zurich, had been asked to provide feed back on the approach. He also acknowledged Councillor James Cole's expertise in risk management and stated that he would appreciate input from him in due course.

The Chairman, Councillor Webb, asked Officers to summarise the key changes that had been made. The Chief Internal Auditor stated that the most significant change was the introduction of the Council Strategy Risk Register and that the Strategic Risk Register

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had been replaced by the Corporate Risk Register. In addition a formal review process of Project Risk Registers by the Risk Management Group had been introduced.

Councillor Anthony Pick felt that it would be useful if from the outset risk could be defined in the document.

Councillor Jeff Beck noted that in paragraph 5.1 (on page 38 of the paperwork) Officers described the Council's risk management process as 'reasonably' effective but that an assessment would only take place in 12 to 18 months time. He therefore queried the delay in undertaking the review. Ian Priestley commented that historically the process had been reasonably effective and therefore changes were being made. The changes would require some time to become embedded and then a review could be undertaken. The Chief Internal Auditor explained that it was necessary to ensure that risk management became an integral part of the way the Council worked and was not seen as a 'tick box' exercise.

Members queried the membership of the Risk Management Group. Officers noted that the group currently comprised: the Corporate Director (Environment), The Chief Internal Auditor, the Health and Safety Manager, the Insurance Manager, the Civil Contingencies Manager, the Information Management Manager and the Property Services Manager. The membership was currently being reviewed to ensure that there was adequate representation from the Environment and Communities Directorates.

Councillor James Cole felt that the report made for uncomfortable reading and he was concerned that this was a tick box exercise. He queried how often the Risk Management Group (RMG) met. Officers explained that the group met every six weeks or so but acknowledged that some meetings had been cancelled. Councillor Cole queried who was responsible for financial issues on the RMG. Ian Priestley confirmed that he represented finance on the group. It was also noted that the budget was monitored on a monthly basis by both Corporate Board and Operations Board and that quarterly reports were presented to the Executive. Councillor Cole was concerned that a piecemeal approach was being applied in terms of risk management and that significant issues were not being picked up early enough.

Andy Walker explained that there were many layers to the risk management process. The Council was a diverse organisation and was responsible for a wide range of services and therefore had a very broad spectrum of risks. Separate processes were in place to deal with specific risks for example separate processes were in place for dealing with financial risks and safeguarding issues. He accepted that the process as set out in Appendix C was complex but Officers were seeking to refine the processes and in so doing provide reassurance to Members.

Councillor Webb queried whether or not it would be possible for Councillor Cole to attend the next RMG meeting so that he could better understand the process. Councillor Cole could then report back to the Committee. Ian Priestley agreed to check this with John Ashworth. Councillor Anthony Pick highlighted the need to ensure processes were in place to escalate any issues identified by the risk management process.

Councillor Rick Jones stated that risk management could not stop every eventuality and that this was exacerbated in the Council by the complex nature of the services that were provided. He felt that time was needed for the new system to become embedded to ensure consistency.

### **RESOLVED that:**

- 1. A refresh of the Council's Risk Management processes be provided with the aim of:**

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- i. Ensuring risks associated with the delivery of the Council Strategy are identified and mitigated
  - ii. Clarifying the respective roles of the Risk Management Group, Corporate Board and Members. The RMG will oversee risk allowing CB and Members to focus on responding to critical / key issues. The aim being to delegate the bulk of the work on Risk Management to the RMG.
  - iii. Confirm the role of RMG in carrying out a rolling review of service and project risk registers.
  - iv. Review the Council's Risk Appetite to ensure it is still appropriate
2. Risk Management be a part of any activity undertaken by the Council. The process outlined in this report is not essential to the management of risk. All that this process seeks to do is to provide a framework that:
- i. Is applied consistently
  - ii. Provides clarity and transparency in relation to the risks the Council is managing
  - iii. Provides assurance to Members that risk management is effective in ensuring appropriate actions taken to minimise risk to the delivery of the Council's objectives.
3. Ian Priestley to ask the Chairman of the Risk Management Group, John Ashworth, if Councillor James Cole could attend a future RMG meeting(s) in order to improve his understanding of the process.
4. Councillor Cole to then provide feedback to the Committee.
5. Officers to define what risk was and that this definition should be used in documents and should be the basis that Heads of Service based their Service Risk Registers on.

*(Councillor Sheila Ellison left the meeting at 6.07pm)*

### 15 **Changes to the Constitution - Part 5 (Executive Rules of Procedure) (C3011(a))**

The Committee considered a report (Agenda Item 7) which asked Members to consider a request from the Liberal Democrat Group to review Part 5 (Executive Rules of Procedure) specifically around the number of Members required to affect a call-in.

In accordance with the Council's Constitution almost all decisions of the Executive, Committees of the Executive, individual Members of the Executive and 'key decisions' taken under delegated powers of Officers were subject to call-in.

Where items were marked as being subject to call-in currently five Members were required to sign the notice asking for the decision to be reviewed. Following the May 2015 elections the make up of the Council comprised 48 Conservative Members and 4 Liberal Democrat Members. This meant that in order to affect a call-in the Liberal Democrat Group had to gain cross party support. They had therefore asked that that section of the Constitution be reviewed to reflect the political balance of the Council. Moira Fraser stated that it should be noted that one item had been called-in in 2014 and four items in 2013. The call-in requirements for the other Berkshire unitaries ranged from three to five Members and it was therefore proposed that to promote greater accountability paragraphs 5.3, 2.7,5 and 6.4.4 should be amended to require three Members to affect a call-in.

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Councillor Alan Macro commented that not all decisions taken at the Council were transparent (Individual Decisions and Delegated Officer Decisions) and even at Executive items were not often thoroughly debated. He therefore felt that it was important to reduce the threshold in order for Opposition Members to be able to affect a call-in without garnering cross party support.

Councillor Jeff Beck proposed that the amendments be accepted. Councillor Alan Macro seconded the proposal.

Councillor Graham Bridgman did not see the need to introduce the change. He explained that he had recently been asked to support a call-in but had declined to do so on the basis that the call-in was badly written not on the basis of politics.

Councillor Rick Jones stated that he did not see the issue with needing to garner cross party support to affect a call-in. He was uncomfortable with the implication that decisions made at the Overview and Scrutiny Management Commission (OSMC) were made on a political basis. He had always thought that the Commission operated on a politically neutral basis.

Councillor Macro stated that there was only one Member of the Opposition on the OSMC. He stated that it was not only about the politics but also that Opposition did not know the members of the Administration very well and it was therefore difficult to ascertain if they might support a call-in.

The Chairman noted that a proposal had been mooted to undertake more pre-scrutiny activity in the Council. Should this be introduced it would be preferable to let that system operate for a year to see what impact it would have and then decide if there was a need to amend the call-in procedures. Councillor Webb therefore proposed that the proposal be deferred for a year. Councillor Rick Jones agreed with the proposal.

The Chairman requested that the Committee vote on the proposal made by Councillor Beck and seconded by Councillor Macro to accept the recommendations set out in the report. At the vote the proposal was **not carried**.

Members then voted on the proposal made by Councillor Webb and seconded by Councillor Jones to retain the status quo and that the proposal be reviewed in a year's time in order to assess the impact of any pre-scrutiny activity undertaken by the Council. At the vote this proposal was **carried**.

**RESOLVED that the status quo be retained and that the proposal be reviewed in a year's time.**

*Councillors Jeff Beck and Alan Macro requested that their votes against the Committee's decision be recorded.*

### 16 **Changes to the Constitution - Part 11 (Contract Rules of Procedure) (C3011(b))**

The Committee considered a report (Agenda Item 8) which requested a review of Part 11 (Contract Rules of Procedure) following a request from the Procurement Board to do so.

A number of changes had been made to Part 11 of the Council's Constitution (Contract Rules of Procedure) in May 2015 to ensure that the Council was acting in accordance with the Public Contracts Regulations 2015. The changes included the setting of thresholds for delegated decision making. The revised rules had been in place since May 2015 and Officers had now been asked to amend the thresholds by both Corporate Board and Procurement Board to reduce the number of contracts which required Executive approval. Under paragraph 11.4.4 transactions falling outside of the Capital Programme (i.e. revenue) and where the relevant Head of Service did not have

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delegated authority to award the contract an approval or a resolution of the Executive was required.

The changes set out in the report mainly affected those contracts over the £500k threshold, however, some minor changes to the other thresholds were required to provide clarity. The proposed amendments (in red text) were as follows:

Contract Value £	Delegated decision or Resolution of:
Total Contract value of up to £99,999.	Relevant Head of Service (or such officers as nominated by the Head of Service in writing) should have delegated authority to award the contract.
Total Contract value of between £100,000 and £499,999.	<p>Relevant Head of Service (following the recommendation of the s151 Officer and Head of Legal Services) should have delegated authority to award the contract following:</p> <ul style="list-style-type: none"> <li>(a) a written report by the relevant Head of Service (or such officers as nominated by the Head of Service in writing) had been provided and approved by the Procurement Board; and</li> <li>(b) the report had been included as an “item for information” for Corporate Board.</li> </ul>
For contracts exceeding £500,000 in total value and up to £2.5million per annum.	<p>The award of these contracts should require a “key decision” (as defined in Part 5.1.1 of the Constitution) delegated to be taken by the relevant Head of Service in consultation with the relevant Portfolio Holder (following recommendation by the relevant Corporate Director, s151 Officer and Head of Legal Services) to award the contract provided:</p> <ul style="list-style-type: none"> <li>(a) a written report by the relevant Head of Service (or such officers as nominated by the Head of Service in writing) had been provided and approved by the Procurement Board; and</li> <li>(b) the report had been included as an “Item for information” for Corporate Board and the Operations Board.</li> <li>(c) such decision had been made in accordance with Parts 5.3 and 5.4 of the Constitution.</li> </ul>
For contracts exceeding £2.5million per annum	These contracts would require a key decision of the Executive following recommendation by the s151 Officer and Head of Legal Services. Executive would receive a report from the relevant officer either recommending the contract be awarded or to seek delegated authority for the relevant Head of Service to award the contract in consultation with the relevant Portfolio Holder,

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<b>Contract Value £</b>	<b>Delegated decision or Resolution of:</b>
	s151 Officer and the Head of Legal Services.

Councillor Alan macro did not support the changes as he was concerned about transparency and the revised thresholds being proposed. Moira Fraser stressed that all key decisions taken by the Council needed to appear on the Council's Forward Plan and the decision could not be made until at least 28 days public notice had been given that such a decision was to be made. Therefore, if the amended contract thresholds were agreed by Members then decisions made by Officers under delegated authority would still have to be included on the Forward Plan within the prescribed deadlines and would also require the publication of a delegated officer decision notice which would then be subject to the Council's call-in procedures. Andy walker also stressed that Procurement Board would continue to monitor activity and would oversee all activity.

Moira Fraser summarised that the driver for these amendments was to reduce the number of reports going through the Executive asking for approval to go out to tender in relation to a contract and that further delegation to Officers should be put in place. It was noted that this process would place more emphasis on the Procurement Board.

**RESOLVED that a recommendation would be made to Council to agree the proposed amendments to part 11 (Contract Rules of Procedure) and to agree that the changes will come into effect on the 11<sup>th</sup> December 2015.**

*(Councillor Alan Macro requested that his opposition to this decision be recorded)*

*(The meeting commenced at 5.00 pm and closed at 6.25 pm)*

**CHAIRMAN** .....

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