

## **GOVERNANCE AND ETHICS COMMITTEE**

### **MINUTES OF THE MEETING HELD ON MONDAY, 8 FEBRUARY 2016**

**Councillors Present:** Steve Ardagh-Walter, Jeff Beck (Vice-Chairman), Graham Bridgman, James Cole, Barry Dickens, Lee Dillon, Rick Jones, Anthony Pick and Quentin Webb (Chairman)

**Also Present:** Tandra Forster (Head of Adult Social Care), Julie Gillhespey (Audit Manager), Kevin Griffin (Head of ICT & Corporate Support), David Holling (Head of Legal Services) and Ian Priestley (Chief Internal Auditor) and Moira Fraser (Democratic and Electoral Services Manager)

**Apologies for inability to attend the meeting:** Chris Bridges, Andy Walker, Lesley Flannigan

#### **PART I**

##### **21 Minutes**

The Minutes of the meetings held on 23 November 2015, 09 December 2015 and 05 January 2016 were approved as a true and correct record and signed by the Chairman.

In relation to Minute 14 (23 November 2015 meeting) 'Risk Management – Revised Approach' it was noted that James Cole was attending the Risk Management Group and that he would provide feedback to the Committee in due course.

##### **22 Declarations of Interest**

There were no declarations of interest received.

##### **23 Forward Plan**

The Committee considered the Governance and Ethics Committee Forward Plan (Agenda Item 4). Members requested that an update from Councillor Cole on the Risk Management Group be added to a future agenda (November 2016).

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

##### **24 Monitoring Officer's Quarterly Update Report to the Governance and Ethics Committee – Quarter 3 of 2015/16 (GE3033)**

The Committee considered a report (Agenda Item 5) concerning local and national issues relating to ethical standards. The report brought to Members' attention any complaints or other problems within West Berkshire.

The Monitoring Officer brought the following key points to the attention of the Committee.

During Quarter 3 of 2015/16 one formal complaint had been received by the Monitoring Officer. This was a marked reduction on quarter two when 15 formal complaints had been received. Following the initial assessment by the Monitoring Officer, in consultation with the Independent Person, no further action was taken on the complaint (NPC5/15).

The investigation into a complaint against a parish councillor (NPC4/15) had been completed and would be discussed at an Advisory Panel meeting on the 11<sup>th</sup> February

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2016. The Advisory Panel would then make a recommendation to a special meeting of the Governance and Ethics Committee.

Dispensations were granted to seven Members in relation to the A339/Fleming Road Junction Compulsory Purchase Order during Quarter 3 of 2015/16 and a further two dispensations were granted in January 2016 in relation to the same matter. A dispensation was also granted to all Members present at the December 2015 Council meeting to discuss matters pertaining to Council Tax.

The number of declarations of gifts and hospitality by District Councillors increased significantly during Quarter 3 of 2015/16. This could be as a result of the annual reminder sent out before the Christmas period by the Monitoring Officer.

No training has been undertaken during this period and the next session would take place before the District Parish Conference on the 22 March 2016.

A task group has been set up to review the Code of Conduct and would report back to the April 2016 meeting.

At the time of writing the report a number of parishes had not as yet submitted their Register of Interest Forms. The Monitoring Officer was pleased to note that this situation had now been remedied and all forms had been received and would be placed on the Council's website in due course.

Councillor Bridgman commented that not all Members were aware of the requirement to declare gifts and hospitality where they were offered but declined. The Chairman noted that the Code of Conduct and Gifts and Hospitality Protocol were currently being considered by a Task Group and these issues would be discussed there and perhaps altered.

**RESOLVED that the report be noted.**

### **25 Amendments to the Constitution - Scheme of Delegation (C2981)**

The Committee considered a report (Agenda Item 6) setting out proposed amendments to the Scheme of Delegation as part of the annual review of the Council's Constitution in light of legislative changes and current practice.

David Holling explained that the report proposed amendments to Part 3 of the Constitution, the Scheme of Delegation. The Scheme of Delegation summarised which part of the decision-making process (e.g. the Council, Executive, the Area Planning Committees, Licensing Committee/ Sub-Committee, the Governance and Ethics Committee and the Personnel Committee) was responsible for which function. This Scheme also set out the extent to which the powers and duties of the Council were delegated to Officers.

All Directors and Heads of Service had been asked to advise of any changes they required to the Scheme to ensure that the Council's Constitution was as up to date as possible. The report proposed a small number of changes for the Governance and Ethics Committee to consider prior to making a recommendation to Full Council. These were set out below:

#### *The Head of Highways and Transport*

- Changes proposed to strengthen paragraph 3.12.2 (Transport) in relation to Concessionary Fares.

#### *The Head of Human Resources*

- Changes proposed to paragraph 3.1.3 (Responsibility for Council Functions) to align the Constitution with the Discretionary Compensation Payments Policy. Requests for

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the Council to make enhanced severance payments or grant premature retirements on the grounds of efficiency would be considered and approved on an individual basis by the Personnel Committee. Where the total cost to the Council of a termination would exceed £10,000, the costs must first be approved by the Executive. Below £10,000, the costs must be approved by the Chief Executive in consultation with the Leader and Shadow Leader of the Council.

- It was proposed that the final bullet point under section 3.3.3 (Human Resources) be removed as Corporate Directors and Heads of Service had no delegated powers with regard to approval of compensation payments.

### *The Head of Finance*

- It was proposed that the ninth bullet point in section 3.5.3 (Finance General) be deleted.
- Paragraph 3.5.7 (Local Government Finance Act 1988) third paragraph would be updated in line with legislative changes.

### *The Head of Adult Social Care*

- An additional paragraph 3.7.3 (Better Care Fund) be included to allow the Head of Adult Social Care to approve Better Care Fund performance reporting to NHS England in consultation with the Chairman and Vice-Chairman of Health and Wellbeing Board.

### *The Head of Care Commissioning Housing and Safeguarding (CCH&S)*

- Paragraph 3.8.10 (Energy Act 2011) to be deleted as the Council no longer had the Community Interest Company for Green Deal.
- An additional paragraph 3.8.10 (Disability) to be included appointing the Head of CCH&S to also act as a deputy in all matters in which it was appropriate for the Council to act and in accordance with any Court Orders made by the Court of Protection (paragraph 3.7.2). The Head of ASC needed it for Health and Welfare orders and the Head of CCH&S needed it for Property and Affairs orders.

### *The Head of Planning and Countryside*

- Two additional paragraphs 3.14.16 (Section 1 Burial Act 1853) and 3.14.17 (Section 215 Local Government Act 1972) to be included for authority to enter into a closure of churchyards and transfer of maintenance responsibilities.

### *The Head of Culture and Environmental Protection*

- Two additional paragraphs 3.15.17 (Section 1 Burial Act 1853) and 3.15.18 (Section 215 Local Government Act 1972) to be included for authority to enter into a closure of churchyards and transfer of maintenance responsibilities.
- Paragraph 3.14.5 (Berkshire Act 1986) moved to 3.15.8 (Berkshire Act 1986) to reflect that the Building Control Function had moved from the Planning and Countryside Team to this Service.
- Paragraph 3.15.1 (Authorisation) amended to reflect current practice.
- Paragraph 3.15.3 (Enforcement and Administration Legislation) to be updated to reflect current legislation.

### *The Head of Education Services*

- Minor amendments to paragraph 3.16.2 (Admissions) and 3.16.3 (Attendance at School) to reflect current practice.

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- Ensure that paragraph 3.16.15 (Post 16 Years – Education and Training Provision) referred to the appropriate legislation.

### *The Head of Customer Services*

- Paragraph 3.4 (Schedule of Proper Officer Appointments) amended to reflect that the Registration Service was now managed by this team.

Amendments had also been made to the Scheme of Delegation to reflect the merging of the Governance and Audit and Standards Committees.

*(Councillor Lee Dillon arrived at 5.15pm)*

David Holling confirmed that the Scheme of Delegation might need to change again if major changes to services took place as a result of the budget savings. It was therefore proposed to have a further review of the Scheme of Delegation in September/October 2016.

The following additional changes were requested at the meeting:

Paragraph	Amendment	Reason
3.1.3 (Table 2) – Page 44 last block	After the word 'pensions' in the functions column add severance payments/ premature retirements	To ensure that the amendment was reflected in the functions.

**RESOLVED that the amendments to the Scheme of Delegation set out in the report and those raised at the meeting be recommended to Full Council for approval.**

## 26 Internal Audit - Interim Report 2015-16 (GE3007)

The Committee considered a report (Agenda Item 7) which provided an update on the outcome of internal audit work carried out during the first half of 2015/16.

Ian Priestley informed Members that The Public Sector Internal Audit Standards, as adapted by CIPFA's "Local Government Application Note" required the Chief Internal Auditor to make a formal report annually to the Council in order to present an opinion of the Council's internal control framework. In addition to the formal annual report the Chief Internal Auditor provided an interim report to the organisation in the course of the year. The interim report aimed to address emerging issues in respect of the whole range of areas to be covered in the formal annual report. This report provided an interim view looking at the first six months of the year.

A summary of the internal audit work that was currently underway was set out in Appendix A. Details of completed work was set out in Appendix B. Two follow up audits had been given an unsatisfactory opinion – Archiving of Council Records and Personal Budgets (Direct Payments).

The Heads of ICT and Corporate Support and Adult Social Care had therefore been invited to attend the meeting to answer any questions Members had in relation to the Archiving of Council Records and Personal Budgets (Direct Payments).

It was noted that time would be given for the recommendations from the audit to be sorted and then a follow up audit would take place. Julie Gillhespey explained that the follow up was a snapshot at the time the follow up was undertaken, and only one follow-up was undertaken unless they were specifically asked to carry out a further one. Ian Priestley advised that it was not planned to re-audit in respect of Personal Budgets (Direct Payments), and that due to a lack of resources in future follow-ups would be undertaken on a risk based approach. He noted that in 1998 the team had comprised ten auditors and there were only four in the current cohort.

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Ms Gillhespey also explained that Portfolio Holders were given a copy of the draft audit report and worked with Heads of Service and Corporate Directors, if appropriate, to agree a way forward. Where unsatisfactory follow ups occurred the Heads of Service were asked to attend Governance and Ethics Committee meetings to provide reassurance that they were addressing the issues raised by the auditors. Mr Priestley mentioned that the bi-annual Internal Audit reports were also presented to Corporate Board, Operations Board and Governance and Ethics Committee meetings. He therefore wanted to reassure the Committee that there was a lot of Member involvement in the audit process.

Mr Priestley noted that no fundamental weaknesses had been identified in the Council's internal control framework through the work carried out by Internal Audit. Overall the internal control framework remained robust.

### *Archiving of Council Records*

Ms Gillhespey explained that the main issue with this area was that some of the records in storage did not have a destruction dates and some of those that did have a destruction date were not being destroyed at the appropriate time. As a consequence the Council was incurring unnecessary costs.

Councillor Lee Dillon queried whether the issue was that the Council was not providing destruction dates or the providers were not doing it. Officers confirmed that both of these issues were occurring. When documents were originally sent to Reading Records no process was put in place for destroying documents as it was not a requirement at the time. In some cases the service provider was notifying the Council but services were not doing anything about it pro-actively.

David Holling also noted that the Council did not have the resources to shred documents and therefore there were costs associated with getting external providers to do this work on the Council's behalf. Councillor Dillon accepted that there needed to be a balance between the costs associate with archiving and those of shredding.

Kevin Griffin commented that the historic processes were inadequate. Work was being undertaken to redress the situation. Documents now included a destruction date. The Council was currently paying around £40k for archiving. Opportunities for reducing costs had been looked into. One of the opportunities identified was that MJF (a supplier) only charged £3 per box for storage compared to £9 per box at Reading Records. Simply transferring appropriate records from one provider to the other could therefore generate significant savings.

There had been some issues around resourcing this work but Officers were meeting on the 25 February 2016 to agree a way forward. It was being proposed that two weeks would be set aside in April to go through the documents at Reading Records and where appropriate some could be set aside for destroying and others transferred to MJF. The ICT Apprentice would be asked to assist with this work.

It was anticipated that around £17k could be saved though this work. Councillor Anthony Pick commented that if transferring the boxes would result in a two thirds reduction in the costs he would expect to see a greater reduction in costs. Kevin Griffin agreed to provide Members with greater clarity around these potential savings. It was possible that there might be some contractual costs involved and it was possible that greater savings could be achieved in subsequent years.

Councillor Steve Ardagh–Walter queried whether the Council made use of electronic storage. Officers explained that where appropriate this storage method was used.

Councillor Rick Jones queried whether the storage providers would be able to assist with the destruction of documents accepting that there would be a charge to do so. Kevin

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Griffin stated that this was something he could look into but that he was not sure if it was a service that they offered.

Councillor James Cole queried whether paper records were affected by the 'right to be forgotten'. It was agreed that clarity would be sought from the Information Management Officer.

### *Personal Budgets (Direct Payments)*

Councillor Jeff Beck noted that at the time of the follow up audit five of the 11 agreed recommendations had not been implemented and he was therefore not confident that they would be addressed, and without sight of the recommendations how did they know that the update given by the Head of Service related to the recommendations outstanding. Ms Gillhespey responded that the points on the update did cover the outstanding recommendations, and it looked like reasonable progress had been made.

Tandra Forster explained that there were two main issues. At the time of the audit the team doing the financial monitoring was not performing well and Officers were not keeping up with the annual reviews. In a few instances examples were found of funding being misspent or where clients were not spending their whole budgets. It was difficult to re-coup this funding but Officers were becoming more skilled at doing so.

The finances were now being monitored by the Client Financial Services that provided regular updates to the Adult Social Care (ASC) Management Team. In addition 75% of client care reviews had now been undertaken and it was anticipated that they would all be completed by year end. She was therefore confident that the appropriate mechanisms were in place to address the concerns raised.

Councillor Jeff Beck was surprised that some personal budgets were underspent. Ms Forster explained that direct payments was only a small part of what ASC did. Personal budgets had been set up to allow clients to procure their own services but it had become evident that some of them were reluctant to employ people because of all the issues that this raised. This initiative had been part of the Putting People First policy which had been set up at a time when there was more money in the system. The Head of ASC commented that use of e-payment cards, which would be less onerous for individuals, might also assist clients.

Councillor Steve Ardagh-Walter asked for some indication of the magnitude of expenditure for direct payments. Tandra Forster agreed to provide the Committee with a written response to this query.

Councillor Rick Jones commented that direct payments were one element of a wider piece of work being undertaken under the Care Act and that he was satisfied with the progress that had been made.

Members were concerned that the audit process was not sufficiently robust and they queried why unsatisfactory audits were not automatically subjected to a second review. Officers explained that it was the responsibility of the Service to implement the recommendations. The Audit Team did not have the capacity to undertake all the testing that was required in a second review in all instances. The Team opted to focus on assurance work. Ian Priestley commented that most authorities did not even undertake any follow up activity and that services were required to undertake self assessments.

The Chairman noted that it was the role of the Governance and Ethics Committee to hold the relevant Heads of Service to account.

Councillor Graham Bridgman made some general comments on the report. He stated that some of the numbers appeared to have gone awry. He also noted that the report included a number of acronyms which by convention should be written in full in the first

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instance followed by the acronym in brackets. There were also terms in the report which were not fully explained which made it difficult to read.

Members felt that it would be useful for them to have sight of the recommendations being referred to in the unsatisfactory follow up audits which would assist them with holding the Heads of Service to account.

Councillor Beck raised concerns about the statement in the conclusion to the report that no fundamental weaknesses had been identified given the unsatisfactory follow ups. The Chairman commented that there were only two audits that had resulted in unsatisfactory follow ups. Ian Priestley commented that this opinion was based on work across the Council and that the unsatisfactory follow ups were isolated exceptions. Generally speaking this was a well managed authority.

Councillor Lee Dillon queried whether it would be possible to agree a trigger at which an automatic second review would be implemented.

*(Councillor Steve Ardagh-Walter left the meeting at 6pm)*

Councillor Rick Jones stated that it was the role of the auditors to identify weaknesses and it was then up to the manager, Head of Service and Portfolio Holder to ensure that the recommendations were implemented. Ian Priestley reminded Members that most authorities did not undertake follow ups and they relied on management to implement the agreed recommendations. The 2016/17 Internal Audit Plan would include fewer follow ups as there were insufficient resources to undertake this work. Spending time on follow ups, which were time consuming due to the testing that was required, would result in less assurance work being done. Members queried whether Portfolio Holders should be invited to attend Governance and Ethics meetings when the Head of Service was compelled to do so.

It was suggested that in future were unsatisfactory follow ups were discussed the recommendations and associated actions be included in the paperwork for the meeting to assist Members with holding Heads of Service to account.

### **RESOLVED that:**

- 1. the report be noted;**
- 2. Tandra Forster to provide Members with the levels of expenditure on Direct Payments;**
- 3. Kevin Griffin to provide clarity on the savings that could be generated by transferring the archiving from one supplier to another;**
- 4. Sue Ellis to provide clarity on the impact of the 'right to be forgotten' on stored documents;**
- 5. the Year End report to take cognisance of the changes requested by Members.**

## **27 Accounting Policies (GE3056)**

The Committee considered a report (Agenda Item 8) which sought approval of the Accounting Policies that would be used to produce the Annual Accounts for the year ending 31<sup>st</sup> March 2016.

Officers explained that in the past the Accounting Policies had been approved at the same time as the final Annual Accounts. It had since been recommended that Members should have an opportunity to discuss the Accounting Policies prior to the production of the Annual Accounts.

The purpose of the Statement of Accounting Policies was to explain the basis of measurement that had been used in the preparation of the Financial Statements. They gave the reader of the Annual Accounts vital background information on the different

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Accounting Policies in place and helped the reader to follow the main Statements. The Financial Statements were produced in accordance with the code of practice, and then audited by the Council's external auditors KPMG.

**RESOLVED that the Accounting Policies for producing the Annual Accounts for the year ending 31<sup>st</sup> March 2016 be approved.**

*(The meeting commenced at 5.00 pm and closed at 6.15 pm)*

**CHAIRMAN** .....

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