

Notice of Meeting

Governance and Ethics Committee

Monday, 8th February, 2016 at 5.00 pm
in the Council Chamber Council Offices
Market Street Newbury

Date of despatch of Agenda: Friday, 29th January 2016

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Andy Day/Moira Fraser/Stephen Chard on (01635) 519459/519045/519462

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Further information and Minutes are also available on the Council's website at www.westberks.gov.uk



Agenda - Governance and Ethics Committee to be held on Monday, 8 February 2016
(continued)

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

Substitutes: Councillors Billy Drummond, Sheila Ellison, Alan Macro and Tim Metcalfe

Agenda

Part I		Page No.
1	Apologies To receive apologies for inability to attend the meeting (if any).	
2	Minutes To approve as a correct record the Minutes of the meetings of this Committee held on 23 November 2015, 09 December 2015 and 05 January 2016.	1 - 12
3	Declarations of Interest To remind Members of the need to record the existence and nature of any Personal, Disclosable Pecuniary or other interests in items on the agenda, in accordance with Members' Code of Conduct .	
4	Forward Plan <i>Purpose: To consider the Forward Plan for the next 12 months.</i>	13 - 18

Standards Matters

5	Monitoring Officer's Quarterly Update Report to the Governance and Ethics Committee – Quarter 3 of 2015/16 (GE3033) <i>Purpose: To present the Monitoring Officer's quarterly report.</i>	19 - 28
6	Amendments to the Constitution - Scheme of Delegation (C2981) <i>Purpose: To review and amend sections of the Scheme of Delegation in light of legislative changes and current practice.</i>	29 - 102



Governance Matters

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| 7 | Internal Audit - Interim Report 2015-16 (GE3007)
<i>Purpose: To update the Committee on the outcome of internal audit work carried out during the first half of 2015-16.</i> | 103 - 112 |
| 8 | Accounting Policies (GE3056)
<i>Purpose: The purpose of the report is to approve the Accounting Policies that will be used to produce the Annual Accounts for the year ended 31 March 2016.</i> | 113 - 126 |

Andy Day
Head of Strategic Support

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

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), 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 24th August 2015 and the special meeting held on the 03rd September 2015 were approved as a true and correct records and signed by the Chairman subject to the inclusion of the following amendments:

03rd 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 were present at the 24th 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 03rd September Special meeting they 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

GOVERNANCE AND ETHICS COMMITTEE - 23 NOVEMBER 2015 - MINUTES

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.

RESOLVED that:

- (i) the Governance and Ethics Committee Forward Plan be noted.**
- (ii) That a small task group with the membership referred to above be established with a view to reviewing the Council's Code of Conduct.**

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 01st 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)

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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
- 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 were 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 become established. He also explained that the Council's liability insurers, Zurich, had been asked to provide feed

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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 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 piece meal 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:**
 - 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 to provide guidance to Heads of Service in maintaining their Service Risk Registers.**

(Councillor Shelia 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.

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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.

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 the 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. 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. 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

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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 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 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"> (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 (b) the report had been included as an “item for information” for Corporate Board.
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"> (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 (b) the report had been included as an “Item for information” for Corporate Board and the Operations Board. (c) such decision had been made in accordance with Parts 5.3 and 5.4 of the Constitution.
For contracts exceeding £2.5million per annum	These contracts would require a key decision of the Executive following recommendation by the

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Contract Value £	Delegated decision or Resolution of:
	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, 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.

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 would come into effect on the 11th 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

DRAFT

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

URGENT VIRTUAL GOVERNANCE AND ETHICS COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 9 DECEMBER 2015

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

Also Present: Moira Fraser (Democratic and Electoral Services Manager)

Apologies for inability to attend the meeting: Councillor Steve Ardagh-Walter and Chris Bridges

PART I

17 Declarations of Interest

Councillors Jeff Beck and Anthony Pick declared an interest in Agenda Item 3, and reported that, as their interest was personal and prejudicial but not a disclosable pecuniary interest, they would not take part in the discussion or vote on this matter.

18 Request for a Dispensation

(Councillors Jeff Beck and Anthony Pick declared a personal and prejudicial interest in Agenda item 3 by virtue of the fact that they were two of the Members that had applied for a dispensation. As their interest was personal and prejudicial they took no part in the debate or voting on the matter).

The Committee virtually considered a report (Agenda Item 3) which pertained to an application for a dispensation from Councillors Adrian Edwards, Anthony Pick, Lynne Doherty, Mike Johnson, Jeff Beck, James Fredrickson and Jeanette Clifford to speak and vote on Item 15 (A339/ Fleming Road Junction Compulsory Purchase Order (CPO)) at the Full Council meeting on the 10th December 2015.

The Monitoring Officer recommended that all Members that applied were granted a dispensation to speak and vote on this item at 10th December 2015 Full Council meeting on the basis that the interest was an 'Other Interest' and not a Disclosable Pecuniary Interest in accordance with the Council's Code of Conduct. The potential for bias was limited in that the land, which was the subject of the CPO, was to be surrendered shortly after the relevant paperwork was completed.

All three Independent Persons (IPs) were consulted. Two of the IPs concurred with the Monitoring Officer while the third felt that a dispensation should not be granted:

1. Lindsey Appleton concurred with the view of the Monitoring Officer and stated that the potential for bias was limited in reality and she would be minded therefore to allow a dispensation in this case.
2. James Rees concurred with the view of the Monitoring Officer.
3. Mike Wall disagreed with the view of the Monitoring Officer and stated that 'On balance I would refuse dispensation. As there is an issue with perception and public confidence is relevant.'

Barry Dickens (Parish Council Representative) was of the view that the citizens of Newbury were best served by their Town Councillors having dispensation to participate

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and vote on Item 15 at Full Council on 10 December 2015. He felt that this dispensation should also apply to any further discussion on the subject covered in Item 15.

Councillors Graham Bridgman, Rick Jones, Lee Dillon, James Cole and Quentin Webb concurred with the view of the Monitoring Officer that a dispensation should be granted and stated that it should be applied at this meeting and any future meetings where this CPO was discussed.

RESOLVED that :

- **a Dispensation be granted**
- **the dispensation permits Councillors Adrian Edwards, Anthony Pick, Lynne Doherty, Mike Johnson, Jeff Beck, James Fredrickson and Jeanette Clifford speak and vote on items pertaining to A339/ Fleming Road Junction Compulsory Purchase Order.**
- **The dispensation be granted for the meeting on 10 December 2015 and any other meeting that discussed (in the sole opinion of the Monitoring Officer) the same issue or matters arising from the same issue.**

CHAIRMAN

Date of Signature

DRAFT

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

GOVERNANCE AND ETHICS COMMITTEE

MINUTES OF THE VIRTUAL MEETING HELD ON TUESDAY, 5 JANUARY 2016

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

PART I

19 Declarations of Interest

Councillors Jeff Beck and Anthony Pick declared an interest in Agenda Item 3, and reported that, as their interest was personal and prejudicial but not a disclosable pecuniary interest, they would not take part in the discussion or vote on this matter.

20 Request for a Dispensation

(Councillors Jeff Beck and Anthony Pick declared a personal and prejudicial interest in Agenda item 3 by virtue of the fact that they had previously applied for, and had been granted, a dispensation to speak and vote on the item in question. As their interest was personal and prejudicial they took no part in the debate or voting on the matter).

The Committee virtually considered a report (Agenda Item 3) which pertained to an application for a dispensation from Councillors Howard Bairstow and David Goff to speak and vote on the A339/ Fleming Road Junction Compulsory Purchase Order, due to be discussed at the Special Full Council meeting on the 21 January 2016.

The Monitoring Officer recommended that both Members be granted a dispensation to speak and vote on this item at 21st January 2016 Special Full Council meeting on the basis that the interest was an 'Other Interest' and not a Disclosable Pecuniary Interest in accordance with the Council's Code of Conduct. The potential for bias was limited in that the land, which was the subject of the CPO, was to be surrendered shortly after the relevant paperwork was completed.

All three Independent Persons (IPs) were consulted. Two of the IPs concurred with the Monitoring Officer while the third felt that a dispensation should not be granted:

1. Lindsey Appleton concurred with the view of the Monitoring Officer and stated that the potential for bias was limited in reality and she would be minded therefore to allow a dispensation in this case.
2. James Rees concurred with the view of the Monitoring Officer.
3. Mike Wall disagreed with the view of the Monitoring Officer and stated that 'On balance I would refuse dispensation. As there is an issue with perception and public confidence is relevant.'

Barry Dickens and Chris Bridges (Parish Council Representative) was of the view that the citizens of Newbury were best served by their Town Councillors having dispensation

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to participate and vote on the item. He felt that this dispensation should also apply to any further discussion on the subject.

Councillors Steve Ardagh-Walter, Graham Bridgman, Rick Jones, Lee Dillon, James Cole and Quentin Webb concurred with the view of the Monitoring Officer that a dispensation should be granted and stated that it should be applied at this meeting and any future meetings where this CPO was discussed.

RESOLVED that :

- **a Dispensation be granted**
- **the dispensation permits Councillors Howard Bairstow and David Goff to speak and vote on items pertaining to A339/ Fleming Road Junction Compulsory Purchase Order.**
- **The dispensation be granted for the meeting on 10 December 2015 and any other meeting that discussed (in the sole opinion of the Monitoring Officer) the same issue or matters arising from the same issue.**

CHAIRMAN

Date of Signature

Governance and Audit Committee Forward Plan April 2016 – April 2017

No.	Ref No	Item	Purpose	Lead Officer	Lead Member	Governance/Audit/ Ethics
25 April 2016						
1.	GE3008	Internal Audit Plan 2016/17	To outline the proposed internal audit work programme for the next three years	Ian Priestley	Communications, Democratic & Electoral Services, Finance assurance, Legal, Human Resources, ICT (James Fredrickson)	Audit
2.	GA3008 (a)	External Audit Plan 2015-16	To provide Members with a copy of the External Audit Plan for 2015-16.	Ian Priestley	Communications, Democratic & Electoral Services, Finance assurance, Legal, Human Resources, ICT (James Fredrickson)	Audit
3.	C3013	Changes to the Constitution	To review and amend parts of the Constitution if required following discussion at the Finance and Governance Group	David Holling	Leader of the Council, Strategy & Performance, Finance (Roger Croft)	Governance
4.	C3034	Monitoring Officer's Quarterly Update Report to the Governance and Ethics Committee –2015/16 Year End	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.	David Holling	Chairman of Governance and Ethics (Quentin Webb)	Standards

No.	Ref No	Item	Purpose	Lead Officer	Lead Member	Governance/Audit/Ethics
5.	C3066	Changes to the Code of Conduct	To make any changes to the CoC if required following a scheduled review of the document.	David Holling	Chairman of Governance and Ethics (Quentin Webb)	Standards
20 June 2016						
6.			No items to Date			
22 August 2016						
7.	GE3084	Annual Governance Statement 2015-16	To allow the Committee to review the Annual Governance Statement prior to signature by the Leader and Chief Executive	Ian Priestley	Communications, Democratic & Electoral Services, Finance Assurance, Legal, Human Resources, ICT (TBC)	Audit
8.	GE3085	Internal Audit Annual Report 2015/16	To provide an opinion on the effectiveness of the Council's internal control framework	Ian Priestley	Communications, Democratic & Electoral Services, Finance Assurance, Legal, Human Resources, ICT (TBC)	Audit
9.	GE3086	Annual Governance Statement - Statement in Support by the Section 151 Officer	To provide evidence and independent verification of governance matters which may impact on the Annual Governance Statement from the viewpoint of the Section 151 Officer.	Andy Walker	Communications, Democratic & Electoral Services, Finance Assurance, Legal, Human Resources, ICT (TBC)	Audit

No.	Ref No	Item	Purpose	Lead Officer	Lead Member	Governance/Audit/Ethics
10.	GE3087	Annual Governance Statement - Statement in Support by the Monitoring Officer	To provide evidence and independent verification of governance matters which may impact on the Annual Governance Statement from the viewpoint of the Monitoring Officer.	David Holling	Communications, Democratic & Electoral Services, Finance Assurance, Legal, Human Resources, ICT (TBC)	Audit
11.	GE3088	West Berkshire Council Financial Statements 2015/16 including KPMG Opinion	To provide Members with the final copy of the Council's Financial Statements	Andy Walker	Leader of Council, Strategy & Performance, Finance (Roger Croft)	Audit
12.	GE3089	Monitoring Officer's Quarterly Update Report to the Governance and Ethics Committee – Quarter 1 of 2016/17	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.	David Holling	Chairman of Governance and Ethics Committee (TBC)	Standards
28 November 2016						
13.	GE3090	Monitoring Officer's Quarterly Update Report to the Governance and Ethics Committee – Quarter 2 of 2016/17	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.	David Holling	Chairman of Governance and Ethics Committee	Standards
06 February 2017						
14.	GE3091	Internal Audit - Interim Report 2016-167	To update the Committee on the outcome of internal audit work.	Ian Priestley	Communications, Democratic & Electoral	Audit

No.	Ref No	Item	Purpose	Lead Officer	Lead Member	Governance/Audit/Ethics
					Services, Finance Assurance, Legal, Human Resources, ICT	
15.	GE3092	Monitoring Officer's Quarterly Update Report to the Governance and Ethics Committee – Quarter 3 of 2016/17	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.	David Holling	Chairman of Governance and Ethics Committee	Standards
16.	C3093	Amendments to the Constitution - Scheme of Delegation	To review and amend sections of the Scheme of Delegation in light of legislative changes and current practice.	David Holling	Communications, Democratic & Electoral Services, Finance Assurance, Legal, Human Resources, ICT	Standards
24 April 2017						
17.	GE3081	Internal Audit Plan 2017/18	To outline the proposed internal audit work programme for the next three years	Ian Priestley	Communications, Democratic & Electoral Services, Finance assurance, Legal, Human Resources, ICT (James Fredrickson)	Audit
18.	GE3082	External Audit Plan 2017-18	To provide Members with a copy of the External Audit Plan for 2017-	Ian Priestley	Communications, Democratic & Electoral	Audit

No.	Ref No	Item	Purpose	Lead Officer	Lead Member	Governance/Audit/Ethics
			186.		Services, Finance assurance, Legal, Human Resources, ICT (James Fredrickson)	
19.	C3083	Monitoring Officer's Quarterly Update Report to the Governance and Ethics Committee –2016/17 Year End	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.	David Holling	Chairman of Governance and Ethics (TBC)	Governance

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Update on Ethical Matters – Quarter 3 of 2015/16 - Summary Report

Committee considering report:	Governance and Ethics Committee
Date of Committee:	Governance and Ethics Committee on 8 February 2016
Lead Member:	Quentin Webb
Date Portfolio Member agreed report:	N/A
Report Author:	David Holling
Forward Plan Ref:	GE3032

1. Purpose of the Report

- 1.1 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.

2. Recommendation

- 2.1 Members of the Governance and Ethics Committee are asked to note the report.

3. Implications

- 3.1 **Financial:** There are no financial issues arising from this report. All costs associated with the investigation of complaints are met from within existing budgets.
- 3.2 **Policy:** Revised policy and changes to processes adopted at Council in December 2013
- 3.3 **Personnel:** There are no personnel issues associated with this report
- 3.4 **Legal:** There are no legal issues arising from this report, The matters covered by this report are generally requirements of the Localism Act 2011 and regulations made under it.
- 3.5 **Risk Management:** The benefits of this process are the maintenance of the Council's credibility and good governance by a high standard of ethical behaviour. The threats are the loss of credibility of the Council if standards fall.
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 None

5. Executive Summary

6. Introduction

6.1 Following the introduction of the Localism Act 2011 it was agreed that quarterly reports would be provided to the Governance and Ethics Committee. This report sets out the number and nature of standards complaints received, progress made with complaints submitted and highlights any areas where training or other action might avoid further complaints in the future.

7. Key Issues Identified in the report:

7.1 During Quarter 3 of 2015/16 one formal complaint was received by the Monitoring Officer. Following the initial assessment by the Monitoring Officer, in consultation with the Independent Person, no further action was taken on the complaint (NPC5/15)

7.2 The investigation into a complaint against a parish councillor (NPC4/15) has been completed and will be discussed at an Advisory Panel meeting on the 11th February 2016. The Advisory Panel will make a recommendation to the Governance and Ethics Committee.

7.3 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.

7.4 A dispensation was also granted to all Members present at the December 2015 Council meeting to discuss matters pertaining to Council Tax.

7.5 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.

7.6 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.

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

8. Conclusion

1.1 The number of complaints against District Councillors has decreased substantially in Quarter 3. However, Officers have received a further four initial enquiries which the complainant has decided not to pursue during this period.

8.1 It is of concern that a large number of Parishes have still provide details of Declarations of Interest in accordance with the Localism Act in order that this Council as responsible authority can ensure that relevant details are provided for the public to ensure transparency. The Monitoring Officer has written again to the parishes on the 18th January 2016 to reminded Clerks of their obligations.

9. Appendices

Appendix A - Supporting Information

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Update on Ethical matters – Quarter 3 of 2015/16– Supporting Information

1. Introduction

- 1.1 The Localism Act 2011 was enacted on 15th November 2011 and it made fundamental changes to the system of regulation of the standards of conduct for elected and co-opted members of Councils and Parish/Town Councils.
- 1.2 As part of the legislative framework the Council is required to set up a committee and underpinning processes to ensure that high standards of conduct are promoted. In July 2015 this responsibility was transferred to the Governance and Ethics Committee from the Standards Committee.
- 1.3 It was agreed that the Monitoring Officer would continue to take quarterly reports to the Governance and Ethics Committee to ensure ongoing monitoring of ethical standards in the district. This report sets out the membership, number and nature of complaints received, highlights gifts and hospitality received by District Councillors, and highlights areas where training or other action might avoid further complaints in the future. It also provides a means of updating the Committee on the progress of ongoing investigations.

2. Standards Regime

- 2.1 The Council has adopted a regime to meet the requirements of the Localism Act 2011 and the Regulations made under that Act including:
 - Terms of Reference for the Governance and Ethics Committee and Advisory Panel;
 - Code of Conduct for West Berkshire District Councillors;
 - Gifts and Hospitality Code;
 - complaints procedures for breaches of that code;
 - dispensations procedure.

Membership

Independent Persons

- 2.2 Under Section 28 of the Localism Act 2011 the Council has to ensure it has appointed at least one Independent Person who is consulted before any decision is made to investigate an allegation against any Member of the Council or any Parish/Town Councillor. It was agreed at the Full Council meeting on the 27 September 2012 that the Independent Person may be consulted directly either by the person who has made the complaint or the person the complaint has been made about. Following the 02 July 2015 meeting three Independent Persons have been appointed and they will be used on a rotational basis to assess complaints and support the Advisory Panel.
- 2.3 The Independent Persons for 2015/16 are:

- Lindsey Appleton
- James Rees
- Mike Wall

Governance and Ethics Committee

2.4 The Governance and Ethics Committee consists of ten members, eight District Councillors, reflecting the political balance of the Council and two co-opted non voting Parish/Town Councillors. The membership for 2015/16 is as follows:

- Steve Ardagh-Walter,
- Jeff Beck,
- Graham Bridgman,
- James Cole,
- Lee Dillon,
- Rick Jones,
- Anthony Pick,
- Quentin Webb,
- Chris Bridges, (Non-voting Parish Council representative)
- Barrie Dickens (Non-voting Parish Council representative)

- Billy Drummond (substitute)
- Sheila Ellison (substitute)
- Tim Metcalfe (substitute)

Advisory Panel

2.5 The Advisory Panel consists of eight Members, two from each of the political parties, two parish councillors and two Independent Persons will also be included on each Advisory Panel and they will be used on a rotational basis. The Independent Person consulted as part of the Initial Assessment should not sit on the associated Advisory Panel if one is required. The Advisory Panel meetings will be chaired by an Independent Person.

2.6 The Membership for 2015/16 is as follows:

- Adrian Edwards (Conservative)
- Richard Crumly (Conservative)
- Mollie Lock, (Liberal Democrat)
- Alan Macro (Liberal Democrat)
- Tony Renouf, (Parish Council Representative)
- Darren Peace (Parish Council Representative)

3. Parish/ Town Councils

4. Parishes and Town Councils have been asked to provide the Monitoring Officer with their Parish Councillor's Registers of Interest forms post the May 2015 election. This information will be posted on the relevant websites or where the Parish Council does not have a website it will be published on West Berkshire Council's website. Work on collecting this information is ongoing. A further reminder was sent to Parish Councils but as of the 1st November 2015 the following Parishes had not provided this information:

- Basildon
- Beenham
- Bradfield
- Compton
- Englefield
- Padworth
- Pangbourne
- Shaw-cum-Donnington
- Yattendon

5. Council's Constitution

- 5.1 Between October and December 2015 Parts 5 (Executive Rules of Procedure) and Part 11 (Contract Rules of Procedure) were discussed at Full Council. Council decided not to endorse the proposed changes to Part 11 of the Constitution and requested that some additional work be undertaken.
- 5.2 The Monitoring Officer under his delegated authority has authorised the following changes to the Constitution between October and November 2015:
- Changes to Part 10 (Finance Rules of Procedure) 10.1.3, 10.1.9, 10.2.1, 10.2.2, 10.2.3, 10.2.4, 10.3.2, 10.4.4, 10.4.6, 10.9.3 and 10.12.3 and 10.20.1. Also changes to 10.2., 10.4.5, 10.4.6 and 10.9.3 to reflect change of name to the Governance and Ethics Committee
- 5.3 The Head of paid Service under his delegated authority has authorised the following changes to the Constitution between October and November 2015:
- Amended to paragraphs 1 removed..1.2, 1.2.2, 1.2 and 1.2.1 of Part 15 (Management Structure) Replaced the Head of Communities Efficiency programme with 'Head of Programme Management'. All references to the 2012 Management Restructure were removed. Descriptions in Environment Directorate updated to show Building Control is now a shared service and the inclusion of reference to Berkshire, Buckinghamshire and Oxfordshire WildlifeTrust in the Countryside Section.
- 5.4 A Task Group comprising District Councillors Graham Bridgman, Quentin Webb and Lee Dillon, Parish Councillor Barry Dickens and James Rees Independent Person has been set up to review the Council's Code of Conduct. They will report back to the April 2016 meeting.

6. Complaints Against Councillors

- 6.1 During Quarter 3 of 2015/16 (October – December 2015) one formal complaints was received by the Monitoring Officer. This complaint related to a Parish Councillor (NPC5/15).Following the initial assessment of this complaint it was determined by the Monitoring Officer in consultaion with the Independent Person that no breach had been identified and that no further action needed to be taken.
- 6.2 In terms of existing complaints during quarter 2 a complaint (NPC4/15) was received. Due to the complex and longstanding nature of this issue it was decided that it would be appropriate for an independent investigator to look at the facts in so far as they were relevant to this particular complaint. The investigation has now been completed

and the final report was submitted to the Monitoring Officer by the end of January 2016. The report would be discussed at an Advisory Panel meeting on the 11 February 2016.

7. Dispensations

- 7.1 Dispensations to speak and vote at Full Council meetings were submitted in relation to discussions on the A339/ Fleming Road Junction Compulsory Purchase Order by Councillors Adrian Edwards, Anthony Pick, Lynne Doherty, Mike Johnson, Jeff Beck, James Fredrickson and Jeanette Clifford during Quarter 3 of 2015/16. It should be noted that in January 2016 Councillors David Goff and Howard Bairstow also requested dispensation to speak and vote on this matter.
- 7.2 The Monitoring Officer wrote to all Members of West Berkshire Council during quarter three inviting them to seek a dispensation, if needed, for the next four years in matters pertaining to Council Tax. A dispensation was granted to all Members that applied for one.

8. Gifts and Hospitality

- 8.1 Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors) to Part 13 of the Constitution (Codes and Protocols) states that 'Regular updates of declarations will be reported to the Governance and Ethics Committee as part of the quarterly performance monitoring reports'.
- 8.2 The following offers of gifts and hospitality were reported in Quarter 3 of 2015/16:

Member	Event	Offer	Accepted
Anthony Pick	Corn Exchange VIP Launch Event	Reception	Yes
Tony Linden	Corn Exchange VIP Launch Event	Reception	Yes
Peter Argyle	Corn Exchange VIP Launch Event	Reception	Yes
Jeff Beck	Corn Exchange VIP Launch Event	Reception	No
Adrian Edwards	Wellington College awards ceremony organised by the South East Reserve Forces and Cadets Association in my role of Armed Forces Champion.	Reception - food and drink to the value of £25	Yes
Adrian Edwards	Berkshire Historic Environment Forum	Meeting and lunch - £10 payable by AE	Yes
Graham Bridgman	Chairman of Padworth Parish Council - date to be advised	Meal and wine	Yes
Peter Argyle	Homestart AGM	Buffet lunch - self	Yes
Peter Argyle	Black History Launch	Light refreshments - self	Yes
Peter Argyle	V.C. Unveiling	Refreshments offered - not taken	Yes
Peter Argyle	Crown Court Service	Coffee, drinks and nibbles - self	Yes
Peter Argyle	Corn Exchange VIP opening	Canapes and drinks - self and wife	Yes
Peter Argyle	Volunteer Open Day	Buffet and soft drinks - self	Yes

Peter Argyle	Queen's Awards	Cakes and coffee - not taken	Yes
Peter Argyle	West Berks Business Awards	Canapes, dinner wine & drinks - self and wife	Yes
Peter Argyle	Purley Primary Event	Wine - self and wife	Yes
Peter Argyle	SERFCA Awards	Buffet and drinks - self and wife	Yes
Peter Argyle	Mayor of Bracknell reception	Buffet and coffee - self and wife	Yes
Peter Argyle	LAC Awards	Buffet and coffee - self and wife	Yes
Peter Argyle	Grim Reaper production	Tickets (£8 each) - self and wife	Yes
Richard Crumly	KATS Christmas show	Ticket price (£8) to include a glass of mulled wine and a mince pie.	Yes
Richard Crumly	Newbury Lights Ceremony	A glass of mulled wine and a mince pie from Newbury Town Mayor	Yes
Virginia von Celsing	Received in November	Flowers from resident, to thank for assistance in a planning application.	Yes
Roger Croft	Kennet School Presentation Evening	Bottle of wine and a bunch of flowers.	Yes
Peter Argyle	WW1 Exhibition	Drinks and canapes - self and wife	Yes
Peter Argyle	Mega Diwali Celebration	Indian meal and soft drinks - self and wife + tickets	Yes
Peter Argyle	Remembrance Service	Refreshments offered - not taken	No
Peter Argyle	Remembrance Service	Refreshments offered - not taken	No
Peter Argyle	My Cancer Launch	Canapes and drinks - self	Yes
Peter Argyle	Vision Conference	Coffee and biscuits	Yes
Peter Argyle	Pontifical Mass	Refreshments offered - not taken	No
Peter Argyle	Little Heath	Buffet lunch - self	Yes
Peter Argyle	Xmas Concert	Refreshments offered - not taken	No
Peter Argyle	Graduation Awards	Canapes and drinks - self	Yes
Peter Argyle	Carol Service	Refreshments offered - not taken	No
Peter Argyle	Xmas Concert	Wine - self and wife	Yes
Peter Argyle	Thatcham Carols	Refreshments offered - not taken	No
Peter Argyle	Theale Primary School	Buffet and tea/coffee - self	Yes
Peter Argyle	KS5 Awards	Canapes and drinks - self	Yes
Peter Argyle	Newbury Carols	Refreshments offered - not taken	No
Peter Argyle	Memorial to D. Holtby	Refreshments offered - not taken	No

9. Training or Other Action Identified to avoid Further Complaints

- 9.1 Training on the Code of Conduct was included in the Member Induction Programme which was arranged post the May 2015 election. The training, which was well received, was reasonably well attended. In total 18 Members attended the training.
- 9.2 Parish and Town Councillors and their clerks were also invited to attend Code of Conduct Training in June 2015 and 13th October 2015.

9.3 An additional training session for town and parish councillors will take place on the 17th March 2016.

10. Conclusion

10.1 The number of complaints against District Councillors has decreased substantially in Quarter 3. However Officers have received a further 4 initial enquiries which the complainant has decided not to pursue during this period.

10.2 It is of concern that a large number of Parishes have still provide details of Declarations of Interest in accordance with the Localism Act in order that this Council as responsible authority can ensure that relevant details are provided for the public to ensure transparency. The Monitoring Officer has written again to the parishes on the 18th January 2016 to reminded Clerks of their obligations.

Background Papers:

- Localism Act 2011
- Reports to Council 10 May 2012 and Special Council on the 16 July 2012
- Terms of Reference for the Governance and Ethics Committee and Advisory Panel;
- A new Code of Conduct for West Berkshire District Councillors.

Subject to Call-In:

Yes: No:

The item is due to be referred to Council for final approval	<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>
Delays in implementation could compromise the Council's position	<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>
Report is to note only	<input checked="" type="checkbox"/>

Wards affected: All Wards

Strategic Aims and Priorities Supported:

The proposals will help achieve the following Council Strategy aim:

MEC – Become an even more effective Council

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

MEC1 – Become an even more effective Council

The proposals contained in this report will help to achieve the above Council Strategy aims and priorities by ensuring that high ethical standards are maintained by District, Town and Parish Councillors

Officer details:

Name: David Holling
Job Title: Head of Legal Services
Tel No: 01635 519422
E-mail Address: dholling@westberks.gov.uk

Amendments to the Constitution - Scheme of Delegation - Summary Report

Committee considering report:	Governance and Ethics Committee on 8 February 2016 Council on 1 March 2016
Portfolio Member:	Councillor Roger Croft
Date Lead Member agreed report:	Emailed on the 19 th January 2016
Report Author:	David Holling
Forward Plan Ref:	C2981

1. Purpose of the Report

- 1.1 To review and amend sections of the Scheme of Delegation in light of legislative changes and current practice.

2. Recommendation

- 2.1 To agree the proposed amendments to the Scheme of Delegation.

3. Implications

- 3.1 **Financial:** None
- 3.2 **Policy:** Will require Part 3 of the Constitution to be updated
- 3.3 **Personnel:** None
- 3.4 **Legal:** Will require Part 3 of the Constitution to be updated
- 3.5 **Risk Management:** None
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 None

5. Executive Summary

- 5.1 Following an internal audit of the Management of the Constitution in 2010 it was noted that one of the responsibilities of the Finance and Governance Group is to have ownership of the Council's Constitution. The content of the Local Code of Corporate Governance says that there will be an annual review of the operation of the Constitution.
- 5.2 A timetable has been established for the Finance and Governance Group to review individual sections of the Constitution and a number of Officers have been involved in revising specific parts of the Constitution. This report proposes amendments to Part 3 of the Constitution, the Scheme of Delegation.
- 5.3 In addition there is a constitutional requirement for the Leader of the Council to present to the Council a written record of delegations they have made for inclusion in Part 3 of the Constitution.
- 5.4 The Scheme of Delegation summarises which part of the decision-making process (e.g. the Council, Executive, the Area Planning Committees, Licensing Committee/Sub-Committee, the Governance and Ethics Committee and the Personnel Committee) is responsible for which function. This Scheme also sets out the extent to which the powers and duties of the Council are delegated to Officers.
- 5.5 All Directors and Heads of Service have been asked to advise of any changes they require to the Scheme of Delegation to ensure that the Council's Constitution is as up to date as possible. The report proposes a small number of changes for the Council to consider. These are set out below.
- 5.6 Amendments have also been made to the Scheme of Delegation to reflect the merging of the Governance and Audit and Standards Committees.
- 5.7 The following key changes have been made to the document by Officers:

The Head of Highways and Transport

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

The Head of Human Resources

- 2) Changes proposed to paragraph 3.1.3 (Responsibility for Council Functions) to align the Constitution with the Discretionary Compensation Payments Policy. Requests for the Council to make enhanced severance payments or grant premature retirements on the grounds of efficiency will be considered and approved on an individual basis by the Personnel Committee. Where the total cost to the Council of a termination will 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.
- 3) It is proposed that the final bullet point under section 3.3.3 (Human Resources) be removed as Corporate Directors and Heads of Service have no delegated powers with regard to approval of compensation payments.

The Head of Finance

- 4) It is proposed that the ninth bullet point in section 3.5.3 (Finance General) be deleted.
- 5) Update paragraph 3.5.7 (Local Government Finance Act 1988) third paragraph in line with legislative changes.

The Head of Adult Social Care

- 6) Inclusion of an additional paragraph 3.7.3 (Better Care Fund) 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)

- 7) Delete paragraph 3.8.10 (Energy Act 2011) as the Council no longer has the Community Interest Company for Green Deal.

To include an additional paragraph 3.8.10 (Disability) appointing the Head of CCH & S to also act as a deputy in all matters in which it is appropriate for the Council to act and in accordance with any Court Orders made by the Court of Protection (see paragraph 3.7.2). The Head of ASC needs it for Health and Welfare orders and the Head of CCH&S needs it for Property and Affairs orders.

The Head of Planning and Countryside

- 8) Include two additional paragraphs 3.14.16 (Section 1 Burial Act 1853) and 3.14.17 (Section 215 Local Government Act 1972) to have authority to enter into a closure of churchyards and transfer of maintenance responsibilities.

The Head of Culture and Environmental Protection

- 9) Include two additional paragraphs 3.15.17 (Section 1 Burial Act 1853) and 3.15.18 (Section 215 Local Government Act 1972) to have authority to enter into a closure of churchyards and transfer of maintenance responsibilities.
- 10) Paragraph 3.14.5 (Berkshire Act 1986) moved to 3.15.8 (Berkshire Act 1986) to reflect that the Building Control Function has moved from the Planning and Countryside Team to this Service.
- 11) Paragraph 3.15.1 (Authorisation) amended to reflect current practice.
- 12) Update paragraph 3.15.3 (Enforcement and Administration Legislation) to reflect current legislation.

The Head of Education Services

- 13) Minor amendments to paragraph 3.16.2 (Admissions) and 3.16.3 (Attendance at School) to reflect current practice.
- 14) Ensure that paragraph 3.16.15 (Post 16 Years – Education and Training Provision) refers to the appropriate legislation.

The Head of Customer Services

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

6. Conclusion

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

7. Appendices

7.1 Appendix A – Part 3 of the Constitution (Scheme of Delegation) showing tracked changes.

Part 3

Scheme of Delegation

Document Control

Document Ref:	WB/P&C/MF/2008-11	Date Created:	May 2007
Version:	20	Date Modified:	August 2015
Revision due			
Author:	Moira Fraser – Democratic and Electoral Services Manager		
Owning Service	Strategic Support		

Change History

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



Version	Date	Description	Change ID
9	July 2013	Added Head of Public Health and Wellbeing (Paragraph 3.17)	
10	September 2013	Typos corrected in 3.8.2 and 3.8.5. Additional paragraph inserted in 3.8.6 and new section 3.8.10 added. Additions made to 3.15.3 and paragraph 3.15.5 amended.	
10.1	November 2013	Local Development Plan renamed Development Plan	
11	March 2014	Amendments to under the Head of Legal Services insert provisions pertaining to the Localism Act 2011, and permit the Monitoring officer to make minor amendments to the Constitution. Insert provisions under the Goods vehicles (Licensing of Operators) Act 1985. Changes to paragraphs 3.3.3. (final bullet point), 3.12.2, 3.12.3, 3.12.7, 3.12.14 and 3.15.3	
12	May 2014	To reflect revision of numbers of Members on the Licensing, Governance and Audit and Personnel Committees	
13	July 2014	Changes to paragraphs 3.15.3 and 3.15.5	
14	September 2014	Amendments to Paragraph 3.13.11	
15	September 2014	A new 3.1.6 – Table of Partner Functions A new 3.9.6 to delegate to the Head of Strategic Support, in consultation with the Head of Legal Services, to make a Public Spaces Protection Order. A new 3.13.14 delegating authority to the Head of Legal Services in consultation with the Head of Care Commissioning, Safeguarding and Housing, to seek civil injunctions in accordance with Part 1 of the ASB, Crime and Policing Act 2014. A new 3.13.14 to delegate authority to the Head of Legal Services or his/her nominee in consultation with the Head of Strategic Support, to issue Closure Notices and apply for a Closure Order. A new 3.15.7 delegating authority to the Head of Culture and Environmental Protection, in consultation with the Head of Legal Services, to serve Community Protection Notices. The delegation to serve Community Protection Notice is also extended to Registered Landlords and Police Community Support Officers who are also authorised to serve Fixed Penalty Notices.	
16	March 2015	Changes to paragraphs 3.3.3, 3.7.2, 3.7.3, 3.7.4, , 3.8.1, 3.8.11, 3.9.7, 3.12.15, 3.14.1, 3.15.2, 3.15.3, 3.15.4, 3.15.6, 3.16.1, 3.16.2, 3.16.3, 3.16.4, 3.16.5, 3.16.7, 3.16.8, 3.16.9, 3.16.10, 3.14.22	
17	March 2015	3.15.3(a) add Animals Act 1971	Monitoring Officer under delegated authority
18	March 2015	3.15.3(b) add Consumer Rights Act 2015	Monitoring Officer under delegated authority
19	July 2015	Amendments arising out of the merge of the Governance and Audit and Standards Committees 3.1.1, 3.1.3, 3.13.2	As per the Council Report
20	August 2015	3.13.11, 3.13.13, 3.14.6, 3.14.7, 3.14.8, 3.14.9, 3.14.10, 3.15.1, 3.15.3, 3.15.6 to 3.15.15	Monitoring Officer under delegated authority
<u>21</u>	<u>March 2016</u>	<u>TBC</u>	

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

If you require this information in a different format, such as audio tape or in another language, please ask an English speaker to contact Moira Fraser on 01635 519045 who will be able to help.

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3.1 Delegation of Functions

3.1.1 Introduction

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

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

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

The information is set out in tabular form as follows:

Table 1 – Responsibility for Local Choice Functions

Table 2 – Council Functions

Table 3 – Licensing Authority Functions

Table 4 – Executive Functions

Table 5 - Partners

3.1.2 Table 1- Responsibility for Local Choice Functions

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

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

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

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

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

Functions	Committee	Membership	Delegation of Functions
Functions relating to elections	Council	All Members	Some of these functions are delegated to the Returning Officer as set out in the Scheme of Delegation
Functions relating to the name and status of areas and individuals	Council	All Members	These functions will not be further delegated
Power to make, amend, revoke or re-enact bylaws	Council	All Members	These functions will not be further delegated
Power to promote or approve local or personal Bills	Council	All Members	These functions will not be further delegated
Functions relating to pensions, etc	Council	All Members	These functions will not be delegated further except for requests for the early release of pensions (subject to the financial implications of each request being approved through the Executive decision making process) (Where the total cost to the Council of a termination will 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.) which are delegated to the Personnel Committee

Functions	Committee	Membership	Delegation of Functions
Miscellaneous functions. Duty to approve Authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be)	Governance and Ethics	8 Members	These functions will not be further delegated
Duty to make arrangements for proper administration of financial affairs, etc.	Council	All Members	Function delegated to Section 151 Officer as set out in the Scheme of Delegation
Power to amend the Council's Constitution	Council	All Members	These functions will not be further delegated – although the Head of Legal Services acting as Monitoring Officer may make minor amendments to the Constitution in order to ensure that legislative provisions are current and any typographical or other errors are corrected
Power to appoint Officers for particular purposes (appointment of 'Proper Officers')	Personnel Committee	6 Members	These functions will not be further delegated
Duty to designate an Officer as the Head of the Authority's Paid Service and to provide staff	Personnel Committee	6 Members	These functions will not be further delegated
Duty to designate an Officer as the Monitoring Officer, and to provide staff	Personnel Committee	6 Members	These functions will not be further delegated
Power to make Standing Orders as to contracts	Council	All Members	Function delegated to the Head of Finance and to the Head of Legal Services as set out in the Scheme of Delegation
Power to make payments or provide other benefits in cases of maladministration, etc.	Council	All Members	This function is delegated to the appropriate Head of Service for payments / benefits up to the value of £2,500
Functions relating to Town and Country Planning and Development Control	District/Area Planning Committees	12 Members	Functions are delegated to the appropriate Area Planning Committee (Eastern and Western). Where their proposed resolutions

Functions	Committee	Membership	Delegation of Functions
			are deemed by the Development Control Manager to have a significant impact on the implementation of the policies and proposals in the Local Development Plan, these will be referred to the District Planning Committee. Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation. Some functions are delegated to the Head of Planning and Countryside in consultation with the Head of Legal Services as set out in the Scheme of Delegation.
Powers relating to the Planning and Compulsory Purchase Act 2004	Area Planning Committees	12 Members	Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation
Licensing and registration functions	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection as set out in the Scheme of Delegation
Power to make closing order in respect of take-away shops	Licensing Committee	12 Members	Functions delegated to the Head of Culture and Environmental Protection as set out in the Scheme of Delegation
Functions relating to health and safety (except those relating to the Council as an employer)	Licensing Committee	12 Members	Functions delegated to the Chief Executive and / or the Head of Culture and Environmental Protection as set out in the Scheme of Delegation
Duty to keep and maintain a register of commons	Area Planning Committees	12 Members	Functions delegated to the Head of Legal Services as set out in the Scheme of

Functions	Committee	Membership	Delegation of Functions
			Delegation
Duty to keep definitive maps and statement under review	Area Planning Committees	12 Members	Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation
Powers relating to the preservation of important hedgerows	Area Planning Committees	12 Members Members for the relevant Wards	Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation
Functions relating to public rights of way	Individual Decision Scheme	Members for the relevant Wards	Functions delegated to the Head of Planning and Countryside in consultation with Head of Legal Services as set out in the Scheme of Delegation
Powers relating to the preservation of trees	Area Planning Committees	12 Members	Functions delegated to Head of Planning and Countryside as set out in the Scheme of Delegation
Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Council	All Members	Powers to appoint staff at Head of Service level and above delegated to the Personnel Committee by means of an Appointments Panel. Appointments below Head of Service level are delegated to the Chief Executive or the relevant Head of Service
As set out in Article 8 of this Constitution	Governance and Ethics Committee	6 Councillors (only one of whom may be a Member of the Executive) 2 non-voting co-opted Parish Councillors	These functions will not be further delegated

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

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for a Premises Licence (Section 18(3))		If a representation is made	If no representation is made
Application for a Personal Licence (Section 120(7))		If a representation is made	If no representation is made
Application for a Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate (Section 18(3) and 72(3))		If a representation is made	If no representation is made
Application for provisional statement (Section 31(3))		If a representation is made	If no representation is made
Application to vary Premises Licence/Club Premises Certificate (Sections 35(3) and 85(3))		If a representation is made	If no representation is made
Application to vary designated Personal Licence (Section 39(3))	If Police representation is made	If Police representation is made	All other cases
Request to be removed as a designated Personal Licence holder			All cases
Application for transfer of Premises Licence (Section 44(5))	If Police representation is made	If Police representation is made	All other cases
Application for interim Authorities (Section 48(3))	If Police representation is made	If Police representation is made	All other cases
Application to review Premises Licences/Club Premises Licence (Sections 52(2) or (3) and 88(2) or (3))		All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious			Officer in consultation with the Chairman and Vice-Chairman of the Licensing Committee or other appropriate appointed Members for this purpose.
Decision to object when Local Authority is a consultee and not the			All cases

Matter to be dealt with	Full Committee	Sub-Committee	Officers
lead Authority			
Determination of a Police representation to a temporary event notice (Section 105(2))		All cases	
Rights of Entry to investigate Licensable activities (Section 179)			Licensing Officers

3.1.5 Table 4 - Summary of Executive Functions

Responsibility	Member-ship	Delegation of Functions	Onward limits on delegations
Executive	Executive Leader plus 9 Members	The formulation, review and monitoring of the Budget and Policy Framework, including consultation with relevant Committees, members of the public and interested parties, and the submission of recommendations for amending the Budget and Policy Framework of the Council	This function will not be delegated
Executive	Executive Leader plus 9 Members	The implementation of the approved Budget and Policy Framework, except in relation to those functions set out in Tables 1 and 2 of Part 3 of this Constitution which are shown as the responsibility of the Council or its Committees. This will include the management, control and supervision of : measures to promote the economic, environmental and social wellbeing of the District the development and review of plans and strategies to support the Council's Budget and Policy Framework and statutory responsibilities the Council's own financial and property resources Revenue Services and Benefits administration Support Services Library and Information	Functions will be delegated to the Chief Executive, Corporate Directors and Heads of Service in accordance with the Scheme of Delegation Functions delegated to the Head of Paid Service (Chief Executive in accordance with Scheme of Delegation and in consultation with Members of the Joint Consultative Panel)

Responsibility	Member-ship	Delegation of Functions	Onward limits on delegations
		Services Education Services and the promotion of Lifelong Learning Social Services and Health Environmental Services including planning, countryside, public protection and highway services	
Executive	Executive Leader plus 9 Members	Representing the Council and the District to the public, other organisations and agencies, both within the District and at a regional / national level	This function will, in part, be delegated to the Chief Executive under the Scheme of Delegation

3.1.6 Table 5 - Summary of Partner Functions

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

3.2 Officers' Scheme of Delegation

3.2.1 Scope of Scheme

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

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

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

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

For the purposes of Section 101 of the Local Government Act 1972 the Council may authorise an Officer of the Authority to commission and

monitor work for and on behalf of the Council by people who are not Officers of the Authority. Such people will be bound by this Scheme and the obligations contained in it at all times when they are engaged on Council business.

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

3.2.2 Consultation

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

Officers shall liaise closely with the Executive on executive functions and the Chairmen of the Area Planning Committees and District Planning Committee or Chairman of the Licensing Committee on regulatory functions and Group Spokesmen before exercising delegated powers in relation to any matter which is likely to be regarded as politically sensitive or contentious.

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

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

3.2.3 Conditions of Delegation

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

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

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

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

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

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

3.2.4 Overall Limitations

Matters not Delegated

The Scheme does not delegate to Officers any matter:

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

General Requirements

Any exercise of delegated powers shall comply with:

- any statutory restrictions;
- Rules of Procedure as contained in the Constitution;
- Policies and Plans approved by full Council, the Executive or the Council's committees; and
- Codes and Protocols.

Exercising Delegated Powers

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

Financial Powers

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

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

Legal Powers

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

3.3 General Delegation to Corporate Directors/Heads of Service

3.3.1 Equipment

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

- Disposal of surplus plant equipment and materials.

3.3.2 Legal Matters

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

3.3.3 Human Resources

- To agree temporary posts provided costs are contained within service staffing budgets (in accordance with West Berkshire Council's Conditions of Service).
- Employment of consultants to advise on specialist aspects of work within the relevant Service Area
- Advertisement of staff vacancies within establishment (in accordance with the Council's recruitment procedures).
- To fill a post without advertisement (in consultation with the Service Head, Human Resources and appropriate Trade Unions).
- Appointment of staff to posts below second tier.
- Determination of starting point within grade.
- To sign job offers and/or contract of employment for:
 - Corporate Director appointments (by Chief Executive)
 - Heads of Service appointments (by Chief Executive or responsible Corporate Director)
 - Other employee appointments (Corporate Director, Head of Service or Officer delegated by one of these)
- To agree flexible contracts, including job share, homeworking and term-time working (in consultation with Corporate Director, Head of Human Resources and appropriate Trade Unions).
- Confirmation of appointments on completion of probationary period.
- Exercise of the discretion contained within the National Conditions for sick payment entitlements.
- Approval of car purchases and car leases in accordance with West Berkshire Council's Conditions of Service and the Council's relevant policies (in consultation with the Head of Finance).
- Extension of industrial accident pay (in consultation with the Head of Finance).
- Approval of application of West Berkshire Council Service Related Additional Payments Scheme (in consultation with the Head of Human Resources).

- Approval of variations to Council payment schemes (in consultation with the Head of Human Resources and where appropriate with employees representatives).
- To implement the Council's disciplinary and grievance procedures in accordance with West Berkshire Council's Conditions of Service.
- To sign contracts for external employment services within approved budgets (with agreement of Corporate Director or Officer delegated by one of these).
- Authorising attendance of Officers at professional, administrative and educational meetings, conferences and courses.
- To determine new organisation structures below Head of Service level provided that:
 - there are no resultant redundancies;
 - the change is following consultation with relevant staff, existing staff; and
 - the change can be contained within service budgets.
- To make ex-gratia payments in respect of claims not exceeding £1,000 in respect of damage or injury resulting from the actions of clients looked after by the District Council both in relation to young people and adults. (See under Head of Strategic Support for ex-gratia payments for maladministration.)
- General organisation of services within policy laid down by Council.
- ~~To approve compensation and other payments to all current and former employees of the Council (other than employees in maintained schools who are covered by section 37 of the Education Act 2002) by way of a settlement agreement in consultation with the relevant Head of Service to an amount not exceeding £10,000. For amounts over £10,000 to approve compensation in consultation with the relevant Head of Service, Head of Finance and Head of Legal Services.~~

3.3.4 Tenders/Contracts

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

3.3.5 Emergencies

If the Council needs to act urgently in any matter including, without limitation, complying with the Major Incident Plan or taking any action under new legislation of powers, the Chief Executive may authorise any action taken or expenditure occurred as necessary. A Corporate Director may act in the place of the Chief Executive where the Chief Executive is

unwell, unobtainable or where there is no Chief Executive in post. The Chief Executive, or Corporate Director as appropriate, may delegate responsibility to a Head of Service or other nominated Officer where it is considered appropriate.

3.3.6 Delegation to Specific Directors

(a) Communities

- To give consent to the marriage of a young person in care pursuant to Section 3 of the Marriage Act 1949 as amended by the Family Law Reform Act 1969.
- To exercise the powers of the Council under paragraph 20 of Schedule 2 of the Children Act 1989 in relation to the death of children looked after by local authorities.
- To exercise the functions of the Council under Part VII of the Children Act 1989 in relation to the provision of accommodation by voluntary organisations.
- To approve the registration of children's homes under Part VIII of the Children Act 1989 in accordance with the Children's Homes Regulations 1991.
- To agree Service Level Agreements/Joint Arrangements with other agencies in respect of the provision of joint leisure, cultural and information services
- ~~To respond to and determine responses to recommendations made at any stage of the Social Services statutory complaints processes and other complaints procedures operated within Social Care Services, including application of financial redress, as considered appropriate by the Corporate Director or Head of Service, in consultation with the relevant Portfolio Member, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003) document, Financial Rules of Procedure, and where necessary, in consultation with the Monitoring Officer.~~
- To respond to and determine responses to recommendations made at any stage of the Social Services statutory complaints processes and other complaints procedures operated within Social Care Services, including application of financial redress, as considered appropriate by the Corporate Director or Head of Service, in consultation with the relevant Portfolio Member, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003), Revised in 2005 document, any relevant guidance from the Department of Health, Financial Rules of Procedure, and where necessary, in consultation with the Monitoring Officer.
- To appoint Officers to act as Approved Mental Health Professionals under the Mental Health Act 2007.
- Caravan Act 1968
- Local Government and Housing Act 1989, Part VIII

- Housing Act 1985
- Housing Act 1996 - Parts VI and VII
- Housing Grants, Construction & Regeneration Act
- Housing Act 1988 – Part II
- Gypsy Sites
- Housing Act 1985:
- Determination of rents of new properties in line with rents of other Council properties.
- All matters pertaining to rent collection and the recovery of arrears.
- Service of Notices to secure possession where there are arrears of rent.
- Service of Notice to Quit on tenants of Council dwellings. The Head of Care Commissioning, Housing and Safeguarding can also undertake this function.
- Allocation of pitches on Council owned caravan sites.
- Applications for emergency housing accommodation from persons threatened with eviction.
- Decisions on all matters relating to the Council's conditions of tenancy in relation to the Council's statutory housing function.
- Assessing current and future need for affordable housing and demand for market housing

(b) Environment

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

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

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

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

(c) Chief Executive

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

3.4 Schedule of Proper Officer Appointments

Sect	Function	Exercised by
The following Officers have been appointed Proper Officer for the purposes of the under-mentioned provisions of the Local Government Act 1972:		
83	Witness and receipt of declarations of acceptance of office	The Chief Executive or Head of Legal Services
84	Receipt of declarations of resignation of office	The Chief Executive or Head of Legal Services
86	Declaration of a vacancy	The Chief Executive or Head of Legal Services
88(2)	Convening of meeting of Council to fill a casual vacancy in the office of Chairman	Head of Strategic Support
89(1)(b)	Receipt of notice of casual vacancy from two local government electors	The Chief Executive or Head of Legal Services
151	Officers having responsibility for the administration of the Council's financial matters	Head of Finance or deputy appointed in writing
210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to Proper Officers	Head of Legal Services
212(1) & (2)	Proper Officer to act as local registrar for Land Charges Act 1925	Head of Strategic Support
225(1)	Proper Officer for the depositing with the Independent Adjudicator the list of politically restricted posts under Section 2(4) of the Local Government & Housing Act 1989	Chief Executive
225(1)	Deposit of Documents	Head of Legal Services
228(3)	Accounts of 'any Proper Officer' to be open to inspection by any Member of the authority	Head of Finance

Sect	Function	Exercised by
229(5)	Certification of photographic copies of documents	Appropriate Director or Head of Service from which the document originates
234	Authentication of all documents on behalf of the Council	Appropriate Director or Head of Service from which the document originates
	Sealing of all documents on behalf of the Council	Head of Legal Services or their deputy authorised in writing.
236(9)	To send copies of byelaws for Parish records	Head of Legal Services
	To receive copies of byelaws and deposit them with public documents of Parish or community	Head of Legal Services
238	Certification of Byelaws	Head of Legal Services
248	Keeping a Roll of Freeman	Head of Strategic Support
Sch. 12 Para 4(2)(b) & 4(3)	Signature of summonses to Council meetings	Head of Strategic Support
	Schedule 12 Receipt of notices regarding Para 4(3) address to which summons to meetings is to be sent	Head of Strategic Support
Sch. 14 Para 25(7)	Certification of resolutions under Para 25 of Schedule 14	Head of Planning and Countryside
Sch. 16 Para 28	Receipt on deposit of lists of protected buildings (Sections 146(6) and (7) of the Town & Country Planning Act 1990	Head of Planning and Countryside
Section 41 - Local Government (Miscellaneous Provisions) Act 1976: Certification of minutes and resolutions		Head of Strategic Support
Representation of the People Act 1983 as follows:		
Section 8 - Registration Officer and the Deputy Registration Officer under Section 8		Chief Executive

Sect	Function	Exercised by
	of the Act	
	Section 35 - Returning Officer for elections	Chief Executive
	Local Government Act 1972: Section 115(2) - Receipt of money due from Officers	Head of Finance
	Section 146 (1) Declarations and certificates with and regards to securities	Head of Finance
	To ensure that the Council's policies on Data Protection and Freedom of Information are complied with.	Head of Strategic Support
	Any reference to any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any Instrument made before 26th October 1972, which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.	Chief Executive Corporate Directors
	The provisions of Section 191 of the Local Government Act 1972 - Functions with respect of Ordnance Survey	Head of Planning and Countryside
	Any reference in any enactment passed before or during the 1971/72 session of Parliament, other than the Local Government Act 1972, or in any Instrument made before 26th October 1972, to the Public Health Inspector of a District or Borough Council which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.	Head of Culture and Environmental Protection
	For the purpose of: - Marriage Act 1949 - Registration Services Act 1953 - Local Registration Scheme - Provisions relating to new governance of the Registration Services	Head of Legal Services Customer Services with Superintendent Registrar as deputy
	Local Government Act 1972 as amended:	
	Section 100B(2) Circulation of Reports and Agendas Section 100B(7) Supply of Papers to the Press Section 100C(2) Summaries of Minutes Section 100F Members' Right to Papers	Head of Strategic Support

Sect	Function	Exercised by
Section 100d(1)(a) & Section 100D(5)(a)	Compilation of Lists Background Papers and Identification of Background papers.	
	Designated Officer as 'Head of Paid Service' under the provisions of the Local Government and Housing Act 1989	Chief Executive
	Designated Officer as 'Monitoring Officer' under the provisions of the Local Government and Housing Act 1989	Head of Legal Services or deputy appointed in writing by the Monitoring Officer.
	Signing and authorising all property valuations on behalf of the Council	Head of Finance
	Carrying out the various statutory duties required under the Weights and Measures Acts 1963 and 1985 and/or any regulations or amendments made there-under on behalf of the Council.	The most senior qualified Trading Standards Officer as approved and appointed by the Head of Culture and Environmental Protection
	Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997.	Head of Finance (Section 151 Officer)
In the event of any Officers appointed as Proper Officer being absent or otherwise unable to act, the following Officers have been authorised to act as Proper Officers in their place:		
	For the Chief Executive	Appropriate Corporate Director
	For the Head of Legal Services	Legal Services Managers within Legal Services with relevant knowledge
	For the Head of Finance	Appropriate Corporate Director
	Others	Appropriate Corporate Director

3.4.1 Delegations to Heads of Service

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

3.5 Head of Finance

3.5.1 Designation

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

3.5.2 Responsibility

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

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

3.5.3 Finance General

- Local Government Finance Act 1992 S17 and Local Government Finance Act 1988 Schedule 4A.
- The power to opt to tax certain properties for VAT purposes (in consultation with Head of Legal Services).
- Determination of the appropriate rate of interest which may be charged, under Section 24 of the Health and Social Services and Social Security Adjudications Act 1983, on any sum charged on or secured over an interest in land under Section 22 of the Act (in consultation with the Corporate Director (Communities))
- Decisions to write off arrears in the case of bankruptcies and liquidations once the Council has proved the debt.
- Declaration of the Local Rate of Interest on Mortgage Advances on the basis that all mortgages are treated as if they are advances under the Housing Act 1985 and subject to decisions being reported to the Executive (in consultation with Head of Care Commissioning, Housing and Safeguarding).
- Agreement as to reduction in rateable value.
- Investment of surplus funds.
- Writing off debts as irrecoverable up to an amount not exceeding £5,000 and exceeding £5,000 in cases where the debtor has been declared bankrupt.
- ~~Rating (Disabled Persons) Act 1978: Section 2 – Granting of rebates to institutions.~~
- To make any necessary changes to the Constitution consequent upon amendments to the European thresholds on Procurement (see Contract Rules of Procedure).
- To accept terms and conditions attached to any Government grants (e.g. s31 grant for Major Schemes)

3.5.4 Loans and Borrowing

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

3.5.5 Valuation

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

3.5.6 Housing Benefits

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

3.5.7 Local Government Finance Act 1988

- Sections 89, 91, 92, 97 and 98 - Establishment and Maintenance of Funds.
- ~~Section 134 - Consultation with representatives of National Non-Domestic Ratepayers. (Exercised by the Chief Executive).~~
- Schedule 9 - ~~Notifications to Valuation Officer, and regulations made there under - all functions. This schedule gives the service the powers to administer, collect and enforce business rates. It gives the same powers as those for council tax as given in 3.5.8 and 3.5.9.~~
- Section 41 Publication of Draft NNDR list.
- Sections 27, 73 and 77 - Supply of Information to Secretary of State.
- Section 42A compilation and maintenance, in accordance with section 42B, of a rural settlement list

(Note: this relates solely to the provisions for rate relief for certain types of property in rural settlements having populations of less than 3,000)

- Sections 5, 95(1)-(3), 95(5)-(9), 97 and 107 - Statutory Calculations.

3.5.8 Council Tax (Administration and Enforcement) Regulations 1992

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

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

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

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

All Local Authority powers/duties contained within the Regulations.

3.5.11 Council Tax (Reductions for Disabilities) Regulations 1992

All Local Authority powers/duties contained within the Regulations.

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

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

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

3.5.13 Local Government Finance Act 1992 Section 13A

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

3.5.14 Matters Relating to Children and Young Persons

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

3.5.15 Local Government (Miscellaneous Provisions) Act 1976

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

3.5.16 Housing Act 1985

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

3.5.17 Property Matters

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

3.5.18 Insurance

All insurance arrangements and settlement of claims.

3.5.19 Human Resources

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

3.6 Head of Children and Family Services

3.6.1 General

- Within the provisions of Part III of the Children Act 1989 and the National Health Service and Community Care Act 1990, to arrange for the purchase and provision of appropriate care services to those persons assessed as having needs that fall within the Council's agreed priorities, subject always to appropriate Contract and Financial regulations, the approved policies and estimates of the Council and the proper identification of appropriate suppliers.
- To grant applications for and impose conditions of registration of child minding and day-care for young people under the Children Act 1989.
- To revise and cancel registration.
- To vary the conditions of registrations.

- To set up arrangements for the hearing of representations and complaints in accordance with Section 26 of the Children Act 1989 and the National Health and Community Care Act 1996.
- To make provision for the accommodation of children in secure accommodation in accordance with Section 25 of the Children Act 1989.
- To approve and sign applications for passports for children and young persons in the care of the Council.
- To arrange for a child in care to live abroad subject to the approval of a Court in accordance with paragraph 19 of Schedule 2 of the Children Act 1989.
- To approve the applications of children and young persons in the care of the Council who wish to join HM Forces.
- To exercise the functions of the Council under Part VI of the Children Act 1989 in relation to the provision of accommodation for children in community homes.
- To arrange interest free loans to foster parents to provide accommodation for children and young people in care by extending their present homes or to purchase larger homes, the amount of the outstanding loan to be reduced by the way of a special allowance for as long as they care for foster children.
- To approve the institution of adoption proceedings by foster parents.
- To set up an adoption panel in accordance with Regulation 56 of the Adoption Agencies Regulations 1983 and to make such decisions and notifications as to the adoption of children as are specified in those regulations.
- To exercise the functions of the Council under Sections 85 and 86 of the Children Act 1989 in relation to the children accommodated by health and education authorities or in residential care homes or mental nursing homes.
- To assess the contributions to be paid towards board and lodging by working children in accordance with the currently agreed formulae, provided that the amount remaining for weekly personal pocket money and clothing allowance should not be less than the amount currently approved under the payment of foster care allowances.
- To waive charges or make additional allowances where the child has exceptional circumstances, such as apprenticeship and heavy travelling expenses.
- To increase the contribution of children in lodgings in appropriate circumstances in order to help to assimilate the heavier cost of lodging after leaving care.
- To approve request for young people in care to reside outside the UK for the purpose of training, work experience or work opportunities.

3.6.2 Support to Children and Families in their Own Home

- To exercise the powers of the Council under Section 7 of the Children Act 1989 to report to the Court on the welfare of children in private proceedings.
- To exercise any functions of the Council relating to Orders with respect to children in family proceedings under Part II of the Children Act 1989.

- To exercise the powers of the Council under Section 16 of the Children Act 1989 to provide advice, assistance and befriending under the terms of a Family Assistance Order.
- To exercise the functions of the Council under Section 17 and Part I of Schedule 2 of the Children Act 1989 to safeguard and promote the welfare of children in need including financial assistance within current budgetary limits.
- To guarantee to housing associations, district councils and private landlords, and to authorise the payment of any rent accruing due from tenants in those cases where the Council has asked the housing associations or private landlord to retain the tenants in their houses whilst efforts are made by Council's Officers to rehabilitate them in cases coming within the provision of Section 17 of the Children Act 1989.
- Approve arrangements for the financial and other support of young people formerly looked after by the Council and by others under Section 24 of the Children Act 1989 within current budgetary limits.
- In accordance with procedures agreed in writing in advance, with the Head of Finance, to vary the assessment scale in respect of financial contribution by a parent or young person to any service provided by the Council under Part III of the child in question. (Note: The assessment scale is never varied but the amount that is paid is covered by the delegated power to waive charges see above).

3.6.3 Child Protection

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

3.6.4 Accommodation, Care, Fostering and Adoption

- To provide accommodation for children in need in pursuance of the Council's duty under Section 20 to 23 of the Children Act 1989.
- To exercise the functions of the Council to undertake parental responsibility for children who are the subject of Care Orders and to make arrangements for reasonable contact with parents and others in accordance with Sections 33 and 34 of the Children Act 1989.
- To allow children who are the subject of a care order to reside at home in accordance with Section 23 (5) of the Children Act 1989, subject to the Accommodation with Parents Regulations 1991.

- To make contributions towards the maintenance of children placed with a person as a result of a Residence Order in accordance with paragraph 15 of Schedule 1 of the Children Act 1989.
- To approve payment of the legal expenses of applicants for a Residence Order or other Section 8 Orders in respect of children in care to the extent that they are not met by Legal Aid Fund.
- To change the names of children who are the subject of a care order in favour of the Council, subject to the requirements of Section 33 of the Children Act 1989.
- To appoint an independent visitor for a child where appropriate in accordance with paragraph 17 of Schedule 2 of the Children Act 1989.
- To guarantee apprenticeship and similar deeds under paragraph 18 of Schedule 2 of the Children Act 1989.
- To approve the payment of the legal expense of prospective adoptive parents for children who are being placed for adoption by the Council as an Adoption Agency.
- To grant allowances to persons who have adopted children in accordance with Section 57 of the Adoption Act 1976 and regulations which may be issued by the Secretary of State.
- To take in such action as may be necessary to implement the payment of the various foster care allowances for the time being approved by the Council within current budgetary limits, and in consultation with the Head of Finance, to increase the allowances annually in accordance with the scales recommended by the National Foster Care Association.
- To sanction payment of the cost of the initial clothing and equipment required by children looked after by the Council who are placed in boarding schools and other establishments within current budgetary limits.
- To approve applications to go on school expeditions, including expeditions abroad, of children looked after by the Council including expenditure on equipment and pocket money within the current budgetary limits.
- To make payments within limits set by the appropriate Corporate Director from time to time to promote contact between parents and children looked after by the Council in accordance with paragraph 16 of Schedule 2 of the Children Act 1989.
- To exercise the powers of the Council under Part III of Schedule 2 of the Children Act 1989 relating to contributions towards the maintenance of children looked after by local authorities.
- To exercise the powers conferred on the Council under Part IX of the Children Act 1989 in respect of arrangements for the care of privately fostered children.
- To make decisions to exempt persons from the usual fostering limit in accordance with paragraph 4 of Schedule 7 of the Children Act 1989.

3.6.5 Home Care Services: Financial Matters

- In accordance with procedures approved in advance by the Head of Finance to waive the assessment charges for any services to clients in circumstances

where it is essential for the family for social and/or medical reasons and to record every case requiring such action in a register to be provided for this purpose.

- In accordance with procedures agreed in writing in advance, with the Head of Finance, to vary or waive the charges for any service provided by the Council under Part III of the Children Act 1989 where failure to do so would adversely affect the welfare of the child in question.

3.7 Head of Adult Social Care

3.7.1 Residential and Nursing Home Accommodation

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

3.7.2 Disability

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

3.7.3 Better Care Fund

- Quarterly Performance Reporting
- To approve performance reporting for the Better Care Fund Programme
- within the provisions of the Health and Social Care Act 2012 the Head of Adult Social Care in consultation with the Chair and Vice Chair of the Health and Wellbeing Board

3.7.33.7.4 Home Care Services: Financial Matters

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

3.8 Head of Care Commissioning, Housing and Safeguarding

3.8.1 Housing Act 2004

- To develop and implement strategies to bring empty homes back into use, including the use of empty Dwelling Management Orders and Compulsory Purchase Orders.
- To make use of planning and housing powers to address poor housing

3.8.2 Housing Grants, Construction & Regeneration Act 1996

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

3.8.3 Local Government and Housing Act 1989, Part VIII

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

- Implementing rent reviews in accordance with valuers' instructions.

3.8.4 Housing Act 1988 – Part I

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

3.8.5 Gypsy Sites

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

3.8.6 Housing Act 1996 (as amended by the Homelessness Act 2002)

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

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

3.8.7 Home Energy and Conservation Act 1995

To promote energy efficient homes including administering grants for energy efficiency.

3.8.8 Future Development Sites

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

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

3.8.9 Sites with Existing Planning Permission

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

~~3.8.10 Energy Act 2011~~

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

3.8.10 Disability

To act as Deputy in all matters in which it is appropriate for the Council to act and in accordance with any Court Orders made by the Court of Protection.

3.8.11 Safeguarding

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

3.9 Head of Strategic Support

3.9.1 General

Power under Section 92 of the Local Government Act 2000 to direct the appropriate Corporate Director or Head of Service in consultation with the relevant Portfolio Member, to make ex-gratia payments up to £2,500 or to provide other benefits to remedy complaints, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003) document, and Financial Rules of Procedure, and where necessary in consultation with the Monitoring Officer.

3.9.2 Local Government Act 1972

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

3.9.3 Civil Contingencies Act 2004

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

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

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

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

3.9.4 Electoral Matters

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

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

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

3.9.6 Anti Social Behaviour, Crime and Policing Act 2014

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

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

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

3.10 Head of Customer Services

3.10.1 Registration of Births, Deaths and Marriages

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

3.11 Head of ICT and Corporate Support

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

3.12 Head of Highways and Transport

3.12.1 Agreements

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

3.12.2 Transport

- West Berkshire Council is a designated body for the issuing of Section 19 Bus Permits in accordance with the Transport Act 1985 and changes introduced by the Local Transport Act 2008
- To make payments towards the provision of cross boundary public transport services which are the subject of service subsidy agreements entered into by adjoining authorities and which serve the District.
- In consultation with the Head of Legal Services to exercise the powers of the Council under Public Passenger Vehicle Act 1981 including the submission of objections to applications for the grant of the operator's licences under Section 14A.
- To exercise the power of the Council under Section 7 of the Transport Act 1985 to request the Traffic Commissioners to make, vary or revoke traffic regulations conditions affecting local services or to hold an inquiry prior to determination of such conditions.
- To enter into public transport service subsidy agreements under the provisions of the Transport Act 1985 where they are exempt from the tendering requirements in that Act, including de-minimis arrangements.
- To issue concessionary travel scheme notices under section 150(1) of the Transport Act 2000 provided that significant changes are only made after consultation with the Portfolio Holder.

- To lodge holding objections regarding proposals by operators for withdrawals of or alterations to rail services, or the fares and charges therefore, where it is anticipated that extra Council expenditure would result.
- To serve a 42 day Notice of Deregulation provided that such response is made within existing policy.
- To make objections to applications for Vehicle Operators Licences under Sections 12 to 14 of the Goods Vehicles (Licensing of Operators) Act 1995

3.12.3 Miscellaneous

- To agree contributions to regional water authorities' surface water drainage schemes calculated on the proportion of highway "run-off" to that from other areas, including related matters such as contributions towards the cost of cleansing village ponds, and to make payments to any minor drainage scheme of any type where they are satisfied that highways will benefit.
- To extinguish public rights of way (stop up) and dispose of land not exceeding 500sq m no longer required for highway purposes.
- In consultation with the Head of Legal Services to accept dedications of land donated to the Council for highway purposes.
- To approve and protect development and improvement lines.
- To exercise the Council's powers in relation to cycle tracks under the Cycle Track Act 1984.
- To construct and/or light cycle tracks.
- To alter or remove any cycle tracks.
- To settle compensation claims in respect of drainage or sewerage schemes on behalf of the Council (in consultation with Head of Legal Services).
- To take all necessary action to safeguard the interests of the Council in relation to applications by water undertakings for orders or schemes under the legislation operated by such undertakings.
- In the exercise of the functions of the Council as Highway Authority, to advise on the highway aspects of development control.
- To demolish property acquired for road schemes in advance of requirements subject always to due regard to planning considerations or consent as appropriate.
- To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
- To erect traffic signs and to arrange wayleaves for their erection on private property.
- To adopt streets constructed to specification.
- To plan and carry out highway improvements not requiring planning permission subject to consultation with the appropriate Executive Member and Ward Members. If the purchase of land is necessary then delegated authority (for land up to the value of £300,000) from the Head of Legal Services will be required.

- To fix contributions to private street works and charges apportioned in flank and rear frontages in accordance with the Council's approved policy.
- To apply for planning permission for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992.
- To approve and licence (including charging any appropriate fees for doing so):
 - the placing of structures within highway limits;
 - the laying maintenance and inspection of pipes, cables or other lines over or under highways;
 - the erection of stiles, gates or cattle grids and enforcement and maintenance of stiles and gates under Sections 146 and 147 of the Highways Act 1980;
 - arrangements for motor vehicles and cycle trails;
 - the construction of a building over any part of a highway.
 - the placing of tables and chairs on the public highway.
- To exercise the Council's powers including the giving of formal notices:
 - to prohibit horses, cattle or vehicles entering on ornamental gardens within the highway;
 - to pipe or culvert and fill up roadside ditches;
 - to require the execution of works to prevent soil or refuse from land from falling or being washed on to a street;
 - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof;
 - to exercise the Council's powers and duties under Part III of the New Roads and Street Works Act 1991 (other than the institution of legal proceedings);
 - to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
 - to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
 - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.
- To carry out:
 - minor temporary repairs in private streets required to remove danger to persons or vehicles;
 - emergency works of any kind whether or not provision has been made in the estimates, where justified in their opinion (and that of the Head of Legal Services), by the scale of the potential legal liability.
- To respond to consultations from the Department for Transport, and others pursuant to Sections 247, 248, 251 and 253 of the Town and Country Planning Act 1990.

- Selection of sites for street seats.
- Approval of requests for street closures or for making orders for the prevention of obstructions in the street during public processions etc in accordance with Section 21 of the Town Police Clauses Act 1847.
- Approval of applications for permission to hold events in Council car parks.
- Approval of requests to waive car parking charges in the period leading up to Christmas.
- To implement highway maintenance and improvement works in accordance with approved budgets and to agreed service standards in accordance with the Highways Act 1980 and current guidance.

3.12.4 Road Traffic Regulations Act 1984

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

3.12.5 Berkshire Act 1986

- Section 4 - to recover expenses reasonably incurred in fencing or lighting a source of danger or obstruction to persons or vehicles using a highway from the owner or other person responsible for the danger or obstruction.
- Section 5 - to specify modifications to plans sections and particulars submitted by a landowner in support of a private street works scheme.
- Section 8 - to affix to any building or structure in or having a frontage to or construction over any road in the District a traffic sign or any apparatus required for illumination forming part of any sign.

3.12.6 Highways Act 1980

- Section 38 - For the construction and dedication of new streets to standards laid down by the Highway Authority.
- Section 41 – To exercise powers in respect of the duty to maintain highways.
- Sections 64 and 69 - Provision of planting within the highway by the Local Authority (in consultation with Head of Planning and Countryside).
- Sections 64 and 96 - To enter into agreements for the maintenance and planting of land within highways limits and to authorise other authorities.
- Section 65 - To exercise the Council's powers under this Section of the Act.
- Section 100 - To exercise powers relating to highway drainage.

- Section 132 - To exercise powers relating to unauthorised markings on highways.
- Section 134 - To grant extensions to the statutory periods of reinstatement of footpaths and bridleways.
- Sections 141 and 142 - Determination of applications for licences to plant on the public highway and removal of unauthorised planting (in consultation with Head of Planning and Countryside).
- Section 144 - To exercise powers relating to the erection or consent to erection of flagpoles, pylons or structures on highways for the purpose of displaying decorations.
- Section 154 - To exercise powers relating to the service of notices requiring the cutting or felling of trees etc. that overhang or are a danger to roads or footpaths.
- Sections 165 and 166 - Serving of Notices in respect of dangerous forecourts and land adjacent to the public highway.
- Section 169 - To exercise powers relating to the control of scaffolding or other structure on or over the highway.
- Section 170 - To exercise powers relating to the control of mixing mortars, cement or other bound materials on the highway.
- Section 171 - To exercise powers relating to the control of deposits of building materials or excavations within the highway.
- In consultation with the Head of Finance to issue licences and fix and collect fees in relation to the following matters governed by the Highways Act 1980:
 - Mixing of Mortar - Section 170;
 - Construction of bridges - Section 176;
 - Placing of rails, beams etc on highways - Section 178;
 - Construction of cellars under streets -Section 179;
 - Control of openings into cellars etc under streets and pavement lights and ventilators - Section 180.
- Section 184 - To exercise powers relating to the service of notices that the Council proposes to construct a vehicle crossing over the footway.
- Section 219 - To exercise powers relating to the service of notices under the Advance Payments Code.
- Section 256 - To enter into agreements to exchange land to straighten or adjust boundaries.

3.12.7 Land Drainage Act 1991

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

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

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

3.12.9 Environmental Protection Act 1990

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

3.12.10 Goods Vehicles (Licensing of Operators) Act 1985

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

3.12.11 Traffic Management Act 2004

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

3.12.12 Clean Neighbourhoods and Environment Act 2005

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

3.12.13 Other Powers –Consultation Provisions

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

3.12.14 Flood and Water Management Act 2010

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

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

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

3.13 Head of Legal Services

3.13.1 General

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

3.13.2 Local Government Act 1972

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

3.13.3 Local Government (Miscellaneous Provisions) Act 1976:

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

3.13.4 Miscellaneous

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

3.13.5 Commons Registration

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

3.13.6 Licences

- Following approval of applications by the Head of Planning and Countryside, to issue waste disposal site licences or management licences (including notices of modification) incorporating suitable conditions.

- To make objections to applications for Vehicle Operator’s Licence under Sections 12 to 14 of the Goods Vehicles (Licensing of Operators) Act 1995.

3.13.7 Highways Act 1980

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

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

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

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

- Head of Planning and Countryside to be able to serve Notices, in consultation with the Head of Legal Services
- To exercise the Council’s powers including the giving of formal notices:
 - to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
 - to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
 - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.
 - to serve notices in respect of obstructions and other nuisances and to take enforcement action as required.
- To make and confirm orders for the diversion or extinguishment of footpaths or bridleways proposed by the Head of Planning and Countryside.
- To make and confirm orders for the modification of the Definitive Map and Statement under Sections 53, 53B, 55, 57 and 57A Wildlife and Countryside Act 1981 as proposed by the Head of Planning and Countryside.
- To accept in respect of property blighted by approved schemes blight and purchase notices, and to serve counter notices of objections under the town and country planning and land compensation legislation, and to authorise payment on the execution of works to any person who appears to be entitled

to the same under the legislation in force from time to time (in consultation with the appropriate Corporate Director or Head of Service)

- To sign, on behalf of the Council, application requests for any direction and for any restriction to access to public open access land or related matters, in accordance with the Countryside and Rights of Way Act 2000.

3.13.9 Berkshire Act 1986

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

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

3.13.10 Road Traffic Regulation Act 1984

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

3.13.11 Town and Country Planning (General Permitted Development) (England) Order 2015

- To exercise the Council's powers under the Town and Country Planning (General Permitted Development) (England) Order 2015, on the instructions of the Head of Planning and Countryside, subject to the conditions below:
 - Article 4: the making, service and confirmation of directions restricting permitted development;
 - Schedule 2, Part 6: Determination whether planning permission is required following notification of agricultural development
- The delegations relating to Article 4 Directions above shall be exercised subject to the following:
 - The action shall be taken after consultation with the Chairman or in their absence the Vice-Chairman of the District Planning Committee and appropriate Ward Members, if available.

- The action taken shall be reported to the next meeting of the appropriate Area Planning Committee.
 - In exercising these powers the Officers shall have regard to the urgency of the action which is required.
- Subject to circumstances, the Officers may report the matter to the appropriate Area Planning Committee for decision where it is prudent to do so.

3.13.12 Localism Act 2011

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

3.13.13 Property Matters

- Agreements for easements and wayleaves to an unlimited value.
- Agreement for leases and licences up to a value of £100,000 per annum.
- Agreement to purchases and sales of land up to consideration of £300,000.
- Surrenders.
- Lifting of all restrictive covenants up to a value of £300,000.
- The creation of charges on property, in appropriate circumstances, in accordance with Section 22 of the Health and Social Services and Social Security Adjudications Act 1983 as amended (in consultation with the Corporate Director (Communities)).

3.13.14 Anti Social Behaviour, Crime and Policing Act 2014

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

The Head of Legal Services or his/her nominee, in consultation with the Head of Strategic Support, be authorised to issue a Closure Notice and apply for a Closure Order in accordance with Chapter 3 of the Anti Social Behaviour, Crime and Policing Act 2014.

3.14 Head of Planning and Countryside

3.14.1 Countryside including Rights of Way functions

- Management of Recreation Facilities where these are public open spaces.
- Admission and exclusion of public to recreation facilities and premises (also Head of Culture and Environmental Protection).
- Letting of recreation facilities and premises (also Head of Culture and Environmental Protection).
- To carry out powers in relation to The Hedgerow Regulations 1997.

- To grant a licence and associated consents for the annual Michaelmas Fair.
- To exercise powers in relation to the Clean Neighbourhoods and Environment Act 2005.
- To exercise the powers and duties of the Council (in consultation with the Head of Legal Services), in relation to public rights of way, including the making and service of Notices and Orders, under the following primary legislation, and any secondary legislation made thereunder, including amendments or updates to the legislation.

Countryside Act 1968

Countryside and Rights of Way Act 2000

Criminal Damage Act 1971

Environmental Protection Act 1990

Highways Act 1980

Land Drainage Act 1991

Local Government (Miscellaneous Provisions Act) 1976

National Parks and Access to the Countryside Act 1949

Natural Environment and Rural Communities Act 2006

New Roads and Street Works Act 1991

Rights of Way Act 1990

Town and Country Planning Act 1990

Wildlife and Countryside Act 1981

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

3.14.2 Highways Act 1980 and Town and Country Planning Act 1990

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

3.14.3 Agreements relating to Public Rights of Way

- To enter into agreements with other public authorities for the provision of services and the recoument of charges.

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

3.14.4 Miscellaneous relating to Public Rights of Way

- To extinguish public rights of way (stop up) and dispose of land not exceeding 500sq m no longer required for highway purposes.
- In consultation with the Heads of Legal Services and Highways and Transport:
- to accept dedications of land donated to the Council for highway purposes.
- In the exercise of the functions of the Council as Highway Authority, to advise on the highway aspects of development control.
- To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
- To keep the definitive maps and statement under review
- To plan and carry out highway improvements not requiring planning permission subject to consultation with the appropriate Executive Member and Ward Members.
- To approve and licence (including charging any appropriate fees for doing so):
 - the placing of structures within highway limits;
 - the erection of stiles, gates or cattle grids and enforcement and maintenance of stiles and gates under Sections 146 and 147 of the Highways Act 1980;
 - arrangements for motor vehicles and cycle trails;
- To exercise the Council's powers including the giving of formal notices:
 - to pipe or culvert and fill up roadside ditches;
 - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof;
 - to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
 - to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
 - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.
- To respond to consultations from the Department of Transport, Environment and the Regions and others pursuant to Sections 247, 248, 251 and 253 of the Town and Country Planning Act 1990.
- To implement highway maintenance and improvement works in accordance with approved budgets and to agreed service standards in accordance with the Highways Act 1980.

~~3.14.5~~ ~~Berkshire Act 1986~~

- ~~• Section 32 – To ensure access for the Fire Service in planning applications.~~
- ~~• Section 33 – To ensure the provision of means of escape from fire in certain buildings.~~
- ~~• Section 35 – To ensure adequate fire and safety precautions in public buildings.~~
- ~~• Section 36 – To ensure adequate safety precautions in relation to vehicle parking in buildings.~~
- ~~• Section 37 – To ensure adequate fire precautions in storage buildings over 7,000m³.~~
- ~~Section 38 – To ensure adequate fire precautions in high buildings.~~

~~3.14.63.14.5~~ **Planning**

- Subject to the conditions set out below, the determination, granting or refusal of Notifications and Applications for permission, certification approval or consent relating to developments and works.
- Subject to the conditions set out below, the approval or refusal of items reserved or conditioned by any permission, approval or consent.
- Subject to the conditions set out below, the determination of applications for advertisement consent.
- In respect of applications determined by the District Planning Committee or relevant Area Planning Committees and subject to the conditions set out below and consultation with the Ward Members, the acceptance of minor amendments to schemes already permitted, approved or consented to.
- Prior to determination of submitted application, the acceptance of amendments to submitted application for permission approval or consent.

Conditions

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

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

consent of the Chairman of the appropriate Area Planning Committee, or if unavailable, the Vice-Chairman, is required.

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

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

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

3.14.73.14.6 Town and Country Planning Act 1990

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

- Determination of applications as to whether Planning Permission is required.
- To request further information evidence or plans under the provisions of article 6 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and Article 4 of the Town and Country Planning (Applications) Regulations 1998 and subsequent amendments where details submitted with an application are considered inadequate or incomplete.
- Response to Purchase Notices.
- The serving and enforcement of Planning Contravention Notices.
- The issuing, service and enforcement of Enforcement Notices including action in default when required.
- The service and enforcement of Stop Notices.
- The service and enforcement of Breach of Condition Notices.
- Injunctions restraining breaches of planning controls.

Authority to take Direct Action under the Planning and Compensation Act 1991, to carry out works under an Enforcement Notice

- The issue of Lawful Use or Development Certificates.

- The making and enforcement of Tree Preservation Orders and the determination of applications for consent in respect of such Orders.
- The service of Notices in relation to untidy land and consequent action to secure compliance.
- Enforcement against breaches of Advertisement Regulations.
- To carry out powers in relation to Part VIII and Part X of the Town and Country Planning Act 1990.

Entering into Planning performance Agreements which shall include the power to charge for any discretionary services provided, pursuant to Section 93 of the Local Government Act 2003.

3.14.83.14.7 Planning (Listed Buildings and Conservation Areas) Act 1990

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

- The service of Building Preservation Notices.
- Enforcement in respect of unauthorised works to listed buildings.
- The issuing and service of Listed Building Enforcement Notices.
- The issuing and service of Urgent Works Notices and execution of works as contained in the Notice.

3.14.93.14.8 Other Powers – Technical, Legal and Consultation Provisions

- Authority to sign Decision Notices regarding the granting or refusal of planning permissions, consents or approvals.
- Authority to enter into Legal Agreements to secure planning obligations for the provision of mitigation where unacceptable harm would otherwise result as a consequence of development
- To respond to requests under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment Regulations 2011 (as amended) for a view as to whether an environmental statement is considered necessary in connection with a particular development proposal and to establish the scope of any such assessment.
- To express the Council's view on planning applications in respect of former County Matters referred by local authorities outside the District for development which would not prejudice the Council's planning policies.

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

- All consultations on Planning issues (with the exception of those deemed significant and requiring referral to the Executive/Select Committee) be

delegated to the Head of Planning and Countryside in consultation with the Leader, appropriate Portfolio Holder and Opposition Spokesperson.

3.14.103.14.9 Minerals

- Consultations on Mineral Safeguarding Areas.
- Complying with the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended):
 - Screening Opinions (Part II Regulation 5)
 - Scoping Opinions (Part IV Regulation 13)
- Provision of information in respect of compilation of Environmental Statements notification of consultees of intention to compile an Environmental Statement and the need to supply information for this purpose. (Part IV Regulation 15). Also advertising.
- Responding to notifications under the Town and Country Planning (General Permitted Development) (England) Order 2015:
 - Mining and mineral exploration (Class B, Part 17, of Schedule 2);
 - the removal of material from mineral workings (Class M Part 173, of Schedule 2)
 - To determine whether or not to issue an Article 5 Direction upon notification of a developer's intention to exercise any permission for mineral operations granted by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- Review of mineral planning applications under the Environment Act 1995 (as amended):
 - deciding the dates by which applications for development must be made;
 - determining applications for postponement of the review date.
- Serving aftercare non-compliance notices in relation to permissions for mineral workings and waste disposal sites (in accordance with Schedule 5 of the Town and Country Planning Act 1990 and the Planning Practical Guidance).
- Responding to adjoining local authorities on consultations on:
 - minerals and waste disposal consultations;
 - their minerals and waste plans.

3.14.113.14.10 Environmental Protection Act 1990 (as amended by Environment Act 1995)

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

3.14.123.14.11 Local Government Miscellaneous Provisions Act 1976

- Section 16 – The serving of Requisition of Information Notices.

- Section 23 and 24 – Authorisation of action and service of Notices to make trees safe and recovery of costs from owner or occupier.

3.14.133.14.12 Wildlife Heritage Sites and Regionally Important Geological and Geomorphological Sites

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

3.14.143.14.13 Planning and Compulsory Purchase Act 2004

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

3.14.153.14.14 Planning Act 2008

To exercise the Council's powers and duties under the Planning Act 2008 and any secondary legislation made thereunder, and including any amendments or updates to the legislation.

3.14.163.14.15 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

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

3.14.16 Section 1 Burial Act 1853

In consultation with the Head of Culture and Environmental Protection to submit objections and such representations considered necessary or permitted in respect of closed churchyard applications under the Act.

3.14.17 Section 215 Local Government Act 1972

To exercise the Council's obligations under the Act in relation to transfers of maintenance responsibilities relating to closed churchyards.

3.15 Head of Culture and Environmental Protection

3.15.1 Authorisation

The Head of Culture and Environmental Protection shall be authorised:

- to authorise any Officers or other persons for the purpose of enforcement and administration of the legislation listed;
- to institute legal proceedings or authorise other Officers to institute legal proceedings in respect of those matters set out in this part of the Scheme
- to appoint the Council's Chief Inspector of Weights and Measures Inspector;

- to act as the Council's Proper Officer for the purposes of any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any other instrument made before 26th October 1972, which refers to the post of Public Health Inspector.
- The Trading Standards and Building Control Manager, the Environmental Health and Licensing Manager and Waste Manager shall be authorised to:
- to authorise any Officers or other persons for the purpose of enforcement and administration of the legislation listed in any part of 3.15.3 (Enforcement and Administration of Legislation);
- to institute legal proceedings or authorise other Officers to institute legal proceedings in respect of those matters set out in any part of 3.15.3 (Enforcement and Administration of Legislation)

3.15.2 General

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

3.15.3 Enforcement and Administration of Legislation

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

Administration of Justice Act 1970

Agricultural Act 1970

Animals Act 1971

Animal Health Act 1981

Animal Welfare Act 2006

Anti Social Behaviour Act 2003

Cancer Act 1939

Charities Act 1992

Children and Young Persons Act 1933

Children and Young Persons (Protection from Tobacco) Act 1991

Chiropractors Act 1994

Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005

Companies Act 2006

Consumer Credit Act 1974

Consumer Credit Act 2006

Consumer Protection Act 1987
Consumer Rights Act 2015
Copyright Designs and Patents Act 1988
Courts and Legal Services Act 1990
Criminal Justice Act 1988
Customs & Excise (Management) Act 1979
~~Development of Tourism Act 1969~~
Education Reform Act 1988
Enterprise Act 2002
Environmental Protection Act 1990
Estate Agents Act 1979
European Communities Act 1972
Explosives Act 1875
Explosives Act 1923
~~Farm and Garden Chemicals Act 1967~~
Financial Services and Markets Act 2000
Fireworks Act 2003
Food and Environment Protection Act 1985
Food Safety Act 1990
Forgery and Counterfeiting Act 1981
Fraud Act 2006
Hallmarking Act 1973
Health and Safety at Work etc. Act 1974
Intoxicating Substances (Supply) Act 1985
Knives Act 1997
Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Malicious Communications Act 1988
~~Medicines Act 1968~~
~~Motor Cycle Noise Act 1987~~
National Lotteries etc Act 1993
Olympic Symbols etc. (Protection) Act 1995
Osteopaths Act 1993
Performing Animals (Regulation) Act 1925
~~Poisons Act 1972~~

Prices Acts 1974
 Proceeds of Crime Act 2002*
 Protection from Harassment Act 1997
 Public Health Act 1936-1984
 Regulatory Enforcement and Sanctions Act 2008
 Road Traffic Act 1988
 Road Traffic Act 1991
 Road Traffic (Foreign Vehicles) Act 1972
 Road Traffic Regulation Act 1984
 Scotch Whisky Act 1982
 Solicitors Act 1974
 Sunbeds (Regulation) Act 2010
 Tattooing of Minors Act 1969
 Theft Act 1968
 Tobacco Advertising and Promotion Act 2002
 Tobacco Products Duty Act 1979
 Trade Descriptions Act 1968
 Trade Marks Act 1994
 Unsolicited Goods and Services Act 1971 and 1975
 Vehicles (Crime) Act 2001
 Video Recordings Act 1984 and 2010
 Violent Crime Reduction Act 2006
 Weights and Measures Act 1985

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

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

Environmental Health and Licensing

Animal Boarding Establishments Act 1963
[Anti-social Behaviour Crime and Policing Act 2014](#)
 Berkshire Act 1980
 Breeding of Dogs Act 1973
 Breeding of Dogs Act 1991

Building Act 1984
Caravan Act 1968
Caravan Act 1985
Caravan Sites and Control of Development Act 1960-1985
Chronically Sick and Disabled Persons Act 1970
Cinema Act 1968-1985
Clean Air Acts 1956-1993
Clean Neighbourhoods and Environment Act 2005
Consumer Rights Act 2015
Control of Pollution Act 1974
Crime and Disorder Act 1997
Criminal Justice and Public Order Act 1994
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Disabled Persons Act 1981
Dogs (Fouling of Land) Act 1996
Environment Act 1995
Environmental Protection Act 1990
[European Communities Act 1972](#)
Factories Act 1961
Food Safety Act 1990
Gambling Act 2005
Guard Dogs Act 1975
Health and Safety at Work etc. Act 1974
Health Act 2006
Home Safety Act 1961
Housing Acts 1957, 1985, 1996, 2004
Housing Grants, Construction and Regeneration Act 1996
Land Compensation Act 1973
Late Night Refreshment Houses Act 1969
Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Local Government Acts 1953-1989
Local Government and Housing Act 1989
National Assistance (Amendment) Act 1951

National Assistance Act 1948
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops and Railway Premises Act 1963
Pesticides Act 1996
Pet Animals Act 1951
Pollution, Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002
Public Health (Control of Disease) Act 1984
Public Health Acts 1936, 1961
Radioactive Substances Act 1993
Rag Flock Act 1961
Regulation of Investigatory Powers Act 2000
Riding Establishments Act 1964/1970
Scrap Metal Dealers Act 1964/ 2013
Safety of Sports Grounds Act 1975
Slaughter of Poultry Act 1967
Slaughterhouses Act 1974
Sunday Trading Act 1994
Theatres Act 1968
Town Police Clauses Acts 1847-1889
Transport Act 1980
Water Acts 1945-1989
Water Industries Act 1991
Zoo Licensing Act 1981

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

- Anti Social Behaviour Act 2003
- Anti-social Behaviour, Crime and Policing Act 2014
- Clean Neighbourhoods and Environment Act 2005
- Control Of Pollution Act 1974
- Control of Pollution (Amendment) Act 1989
- Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991

- Environment Act 1995
- Environmental Protection Act 1990
- European Communities Act 1972
- Refuse Disposal (Amenity) Act 1978
- Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005

3.15.4 Culture General

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

3.15.5 Anti Social Behaviour, Crime and Policy Act 2014

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

3.15.6 Building Control Functions

The Trading Standards and Building Control Manager is authorised to enforce and administer the following provisions:

3.15.7 The Building Act 1984

- Sections 1, 8 and 16 – Determination of applications for Building Regulation Consent; applications for dispensation from, or relaxation of, Building Regulation requirements.
- Section 10 – Advertisement of proposed dispensation.
- Section 15 – To consult the Fire Service concerning dispensations.
- Section 18 – Building over/close to Thames Water sewers.
- Section 19 – Short-lived materials.
- Section 20 – Unsuitable materials.

- Section 21 – Provision of drainage.
- Section 24 – Fire exits.
- Section 25 – Water supply.
- Section 32 – Lapse of Building Regulations approval.
- Section 33 – Tests for conformity.
- Sections 35 and 36 – Prosecution of offences (and removal of offending work) under the Building Regulations.
- Sections 47-54 – Monitoring of building work supervised by approved inspectors.
- Section 57 – Prosecution of offences by approved inspectors.
- Section 71 – Exits and entrances to public buildings.
- Section 72 – Means of escape from certain high buildings.
- Section 73 – Raising of chimneys.
- Section 74 – Rooms below subsoil water level.
- Section 76 – Defective premises
- Sections 77 and 78 – Notices and action in respect of dangerous buildings and structures.
- Section 79 – Ruinous and dilapidated buildings and neglected sites.
- Section 80 – The power to prosecute in respect of failure to give notice of intention to demolish
- Section 81 – Notices in respect of demolition.
- Section 95 – Power to enter premises.
- Section 96 – Provisions as to entry.
- Section 107 – Recovery of expenses.

3.15.8 Berkshire Act 1986

- Section 32 – To ensure access for the Fire Service in planning applications.
- Section 33 – To ensure the provision of means of escape from fire in certain buildings.
- Section 35 – To ensure adequate fire and safety precautions in public buildings.
- Section 36 – To ensure adequate safety precautions in relation to vehicle parking in buildings.
- Section 37 – To ensure adequate fire precautions in storage buildings over 7,000m³.
- Section 38 – To ensure adequate fire precautions in high buildings

3.15.83.15.9 Local Government Miscellaneous Provisions Act 1976

- Section 16 – The serving of Requisition of Information Notices.

- Section 25 and 26 – Serving of Notices and subsequent action to provide protection to the public from dangerous excavations on private land to which the public has access.

3.15.93.15.10 Environmental Protection (Controls on Injurious Substances) Regulations 1993

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

3.15.103.15.11 Local Government (Miscellaneous Provisions) Act 1982

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

3.15.113.15.12 Clean Air Act 1993

Section 16 – Height of chimneys.

3.15.123.15.13 The Building Regulations 2010

Section 16 – Laying open uninspected work.

3.15.133.15.14 The Building (Local Authority Charges) Regulations 1998

Section 3 – Fix charges for Building Regulation fees.

3.15.143.15.15 Party Walls Act 1996

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

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

Fix charges for Building Regulation Fees.

3.15.17 Section 1 Burial Act 1853

In consultation with the Head of Planning and Countryside to submit objections and such representations considered necessary or permitted in respect of closed churchyard applications under the Act.

3.15.18 Section 215 Local Government Act 1972

To exercise the Council's obligations under the Act in relation to transfers of maintenance responsibilities relating to closed churchyards.

3.16 Head of Education Services

3.16.1 General

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

Education Act 1962

Further Education Act 1985
 Education Reform Act 1988
 Further and Higher Education Act 1992
 Education Act 1996
 School Inspections Act 1996
 Education Act 1997
 School Standards and Framework Act 1998
 Special Educational Needs and Disability Act 2001
 Education Act 2002
 Education Act 2005
 Education and Inspections Act 2006
 Education and Skills Act 2008
 Apprenticeships, Skills, Children and Learning Act 2009
 Education (Schools) Act 1992
 Learning and Skills Act 2000
 Further Education and Training Act 2007
 Special Educational Needs (Information) Act 2008
 Academies Act 2010
 Equalities Act 2010
 Education Act 2011
 Children and Families Act 2014.

3.16.2 Admissions

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

3.16.3 Attendance at School

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

3.16.4 Special Educational Needs (SEN)

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

3.16.5 School Term Dates

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

3.16.6 Name of School

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

3.16.7 Curriculum

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

3.16.8 Staffing – in respect of Nursery Schools

- To advise the Governing Body and/or the Selection Panel as to the shortlisting of candidates for Headship in accordance with the provisions of the Education Act 1996.

- Subject to the Articles of Government and the disciplinary procedures applicable in each specific case, to authorise disciplinary action as appropriate.

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

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

3.16.10 All Educational Establishments

To exercise the powers and duties under the The Education (School Teachers' Appraisal) (England) Regulations 2012

3.16.11 Finance

- To design and keep under review the Authority's Scheme of Delegation in accordance with the Authority's policies and any statutory requirements.
- To approve loans for any education project within the policy of the Council which provides for loans.
- To determine applications for financial assistance from staff in accordance with any schemes approved by the Council.
- Acceptance of tenders and authority to sign, or authorise the sealing of contracts, for works and/or services for schools funded other than by the Council (or where the funding is in whole or in part passported through the Council).

3.16.12 Provision of Information Concerning Individual Performance of Pupils

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

3.16.13 Governance

- Appointment of local education authority governors: in accordance with Section 19 of the Education Act 2002 and relevant regulations to appoint and dismiss local education authority governors.

- Training and support of governors: in accordance with Section 22 of the Education Act 2002, to provide information for governors and necessary training.

3.16.14 Miscellaneous

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

3.16.15 Post 16 Years - Education and Training Provision

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

To exercise the powers and duties of the Council under Sections 15ZA and 18A of the Education Act 1996 (as inserted by the Apprenticeships, Skills and Children and Learning Act 2009), Part 3 of the Children and Families Act 2014, Section 68 of the Education and Skills Act 2008 as updated by Section 20 in Part 3 of the Children and Families Act 2014 and Section 10 Education and Skills Act 2008

3.17 Head of Public Health and Wellbeing

3.17.1 General

The Director of Public Health, working through the Head of Public Health and Wellbeing, has delegated authority for those matters which they are required to be responsible for under the National Health Service Act 2006 (as amended by the Health and Social care Act 2012).

3.17.2 Health of the Population

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

3.17.3 General

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

3.17.4 Dental Health

Dental health functions for which the Council has responsibility.

3.17.5 Health of Prisoners

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

3.17.6 Weight Measurement and Children’s Sexual Health Service

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

3.17.7 Violent Offenders

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

3.17.8 Health Protection

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

3.17.9 Health Improvement

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

3.17.10 Health Care Public Health

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

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

Internal Audit Interim report 15-16 - Summary Report

Committee considering report:	Governance and Ethics Committee
Date of Committee:	Governance and Ethics Committee on 8 February 2016
Portfolio Member:	Councillor James Fredrickson
Date Portfolio Member agreed report:	07 January 2016
Report Author:	Ian Priestley
Forward Plan Ref:	GE3007

1. Purpose of the Report

- 1.1 To update the Committee on the outcome of internal audit work carried out during the first half of 2015-16
- 1.2 The Public Sector Internal Audit Standards, as adapted by CIPFA's "Local Government Application Note" requires the Chief Internal Auditor to make a formal report annually to the Council in order to present an opinion of the Council's internal control framework.
- 1.3 In addition to the formal annual report the Chief Internal Auditor provides an interim report to the organisation in the course of the year. The interim report aims to address emerging issues in respect of the whole range of areas to be covered in the formal annual report. This report provides an interim view looking at the first 6 months of the year.

2. Recommendation

- 2.1 To note the report and consider the explanations provided by the Heads of Service respect of the follow up audits where we considered that progress on implementation of agreed actions was unsatisfactory.

3. Implications

- 3.1 **Financial:** none
- 3.2 **Policy:** none
- 3.3 **Personnel:** none
- 3.4 **Legal:** none
- 3.5 **Risk Management:** none
- 3.6 **Property:** none
- 3.7 **Other:** none

4. Other options considered

4.1 None

5. Executive Summary

5.1 A summary of the internal audit work that is currently underway is at appendix A. Details of completed work is at appendix B.

5.2 The following table summarises the results of the audit work where an opinion was given.

Type	Very weak	Weak	Satisfactory	Well Controlled	Very Well Controlled
Key Financial System	0	0	0	1	0
Other systems	0	0	4	2	0

5.3 The following summarises the results of follow up audits.

Type	Unsatisfactory	Satisfactory
Key Financial Systems	0	1
Other systems	2	4

5.4 Two follow audits were given an unsatisfactory opinion. These were:

- (1) Archiving of Council Records – (Strategic Support & ICT)
- (2) Personal Budgets – Direct Payments – (Adult Social Care)

5.5 Archiving of Council Records

- (1) **Internal Audit comment** - A follow-up progress meeting was held with the Chief Executive on 15th September 2015, at which time we were informed by the Information Security Officer that further progress has been made on the work being undertaken to check the accuracy of the storage records held for each location. Once this exercise has been completed, then the next stage will be involvement by the Records Management Group, to agree an approach to reviewing the records in storage, so that records are only retained where this is necessary. Internal Audit will carry out a further follow up review at a later stage to assess the progress made.
- (2) **Heads of ICT and Strategic Support comment** – Considerable progress has been made. An updated process has been put in place for managing archiving at the MJF store, which will now be documented. In addition, work is underway with Services to confirm destruction dates and arrange destruction of records where this is overdue.

- (3) (3) It has also been determined that we cannot rely of the information being supplied by Reading Records and we are currently of the view that the service is expensive and inadequate. We are arranging to conduct and full physical 'stock check', with the expected outcome of destroying old records wherever possible and transferring any remaining records to MJF.
- (4) (4) It is anticipated that the results of the stock check exercise and destruction programme will result in significant revenue savings
- (5) (5) Whilst this corporate issue rests with the Head of ICT and Support Services and Head of Strategic Support archiving is the responsibility of all Heads of Service. This report has identified the challenges of keeping on top of what is deemed to be a corporate issue when those services are having their head count and budgets reduced.

5.6 Personal Budgets – Direct Payments

- (1) **Internal Audit comment** - From the total of 11 agreed recommendations, we found that 3 have been fully implemented, 2 partially implemented and one is work in progress. The remaining 5 recommendations have not been implemented. We found that some of the significant weaknesses we identified have not been addressed.
- (2) **Head of Adult Social Care comment** - we have made further significant progress on the Direct Payments audit.
 - (a) We now have a regular performance updates - a report is now to ASC management team meeting each month so that the Service Managers are sighted on any issues and the amount of money recouped.
 - (b) Our ICT colleagues have helped us amend the spreadsheet to meet Audit's requirements
 - (c) Outcomes of the audit are being sent in all cases
 - (d) Letters have been amended
 - (e) ASC now check to ensure all reviews are up to date

5.7 The Head of ICT in respect of Archiving, and the Head of Adult Social Care in respect of Direct Payments, will attend the Governance and Ethics Committee to give an update on progress with implementing agreed recommendations and provide assurance to the Committee.

6. Conclusion

6.1 No fundamental weaknesses were identified in Council's internal control framework through the work carried out by Internal Audit. Overall the internal control framework remains robust.

7. Appendices

7.1 Appendix A – Current Internal Audit work

7.2 Appendix B – Completed Internal Audit work first half of 15-16

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1) CURRENT AUDITS

Directorate/Service	Audit Title	Current Position of Work	Audit Plan Year
Corporate	National Fraud Initiative 14/15	Ongoing	2015/16
Resources			
Customer Services	Payroll	Being Drafted	2014/15
Customer Services	Accounts Receivable	Draft Issued	2014/15
Customer Services	Housing Benefits	Draft issued	2014/15
Customer Services	Council Tax	Draft issued	2014/15
Customer Services	NNDR	Draft issued	2014/15
Finance	Treasury Management	Draft Issued	2014/15
Finance	General Ledger	Being Reviewed	2014/15
Finance	Budgetary Control	Testing	2014/15
Human Resources	Staff Training and Development	Draft issued	2014/15
Public Health and Wellbeing	Public Health	Ready for Review	2014/15
Legal Services	Contract letting	Draft issued	2014/15
Strategic Support/ICT & Corporate Support	Data Protection	Draft Issued	2014/15
Finance	Insurance Claims Management	Testing	2015/16
ICT & Corporate Support	Superfast Broadband – Review of Assurance Processes for Managing Phase 1	Draft issued	2015/16

Communities

Children's Services	Turnaround Families Programme – testing of grant claims	Ongoing testing of claims	2014/15
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Children's Services	Section 17 Payments	Testing	2014/15
Children's Services	Respite	Being Reviewed	2014/15
Education	Schools Library and Museum Services Joint Arrangements	Ready for Review	2014/15
Education	Building Maintenance	Draft issued	2014/15
Care Commissioning, Safeguarding and Housing	Disabled Facility Grants	Testing	2015/16
Education	Asset Project Management	Testing	2015/16

Environment			
Planning and Countryside	Building Control	Draft issued	2014/15
Highways and Transport	Home to School Transport	Testing	2014/15

2) CURRENT ADVISORY REVIEWS/OTHER WORK

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

3) CURRENT FOLLOW-UPS

Directorate/Service	Audit title
Corporate	Capital Programme/Use of the Project Management Methodology
Resources	
Finance	Treasury Management
Finance	General Ledger
Finance	Procurement Cards
Finance	Health and Safety
Finance	VAT
Customer Services	Housing Benefits
Customer Services	Council Tax
Customer Services	NNDR
Customer Services	Payroll
Customer Services	Accounts Receivable
Customer Services	Car Loans and Car Leasing
ICT & Corporate Support	Printer Rationalisation Project
ICT & Corporate Support	Managing Incidents/Helpdesk
Communities	
Children's Services	Carers Payments
Adult Social Care	Phoenix Centre
Environment	
Highways and Transport	Personal Vehicle Business Usage Checks

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1) Completed Audits

Directorate/Service	Audit Title	Date Audit finalised	Overall Opinion
Resources			
Customer Services	Accounts Payable	17/09/2015	Well Controlled
Strategic Support	Service Planning/ Performance Management	21/09/2015	Satisfactory
Customer Services	Registrars	11/08/2015	Satisfactory
Communities			
Directorate	Disclosure and Barring Service	19/06/2015	Satisfactory
Environment			
Culture and Environmental Protection	Libraries Purchasing/Stock Control	23/09/2015	Satisfactory
Culture and Environmental Protection	Waste Management and Disposal Contract – Contract Management	19/08/2015	Well Controlled
Highways and Transport	Concessionary Fares	28/05/2015	Well Controlled

NOTE

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

3) COMPLETED FOLLOW-UPS

<u>Directorate/ Service</u>	<u>Audit Title</u>	<u>Date follow up finalised</u>	<u>Overall Opinion of Report</u>	<u>Opinion – Implementation progress</u>
Corporate	Mileage Claims	11/08/15	N/A Compliance Checks	N/A
Resources				
Customer Services	Accounts Payable	17/09/15	Well Controlled	Satisfactory
Finance	Insurance	02/04/15	Satisfactory	Satisfactory
Strategic Support	Members Expenses	23/07/2015	Well Controlled	Satisfactory
Strategic Support/ICT & Corporate Support	Archiving of Council Records	18/09/2015	Weak	Unsatisfactory Agreed to undertake a 2 nd stage Follow-up
Strategic Support	School Census	30/07/2015	Well Controlled	Fully Implemented
Communities				
Adult Social Care	Personal Budgets – Direct Payments	09/09/2015	Weak	Unsatisfactory
Environment				
Culture and Environmental Protection	Cleaner and Greener	15/09/15	Well Controlled	Satisfactory

Accounting Policies - Summary Report

Committee considering report:	Operations Board on 28 January 2016 Governance and Ethics Committee on 8 February 2016
Portfolio Member:	Councillor Roger Croft
Date Portfolio Member agreed report:	28 January 2016
Report Author:	Lesley Flannigan
Forward Plan Ref:	GE3056

1. Purpose of the Report

- 1.1 The purpose of the report is to approve the Accounting Policies that will be used to produce the Annual Accounts for the year ended 31 March 2016.
- 1.2 In the past the Accounting Policies have been approved at the same time as the final Annual Accounts. It has been recommended that Members should have an opportunity to discuss the Accounting Policies prior to the production of the Annual Accounts.

2. Recommendation

- 2.1 The recommendation is for Members to approve the attached Accounting Policies.

3. Implications

- 3.1 **Financial:** Accounting Policies need to follow Recommended Practice.
- 3.2 **Policy: None**
- 3.3 **Personnel: None**
- 3.4 **Legal: None**
- 3.5 **Risk Management:** None
- 3.6 **Property: None**
- 3.7 **Other: None**

4. Other options considered

- 4.1 None: the Accounting Policies follow the Code of Practice on Local Authority Accounting in the United Kingdom 2015/16, issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).

5. Executive Summary

- 5.1 The purpose of the Statement of Accounting Policies is to explain the basis of measurement that has been used in the preparation of the Financial Statements. They give the reader to the Annual Accounts vital back ground information on the different Accounting Policies in place and help the reader to follow the main Statements.
- 5.2 The Financial Statements are produced in accordance with the code of practice, and then audited by the Council's external auditors KPMG.

6. Conclusion

- 6.1 This report is to enable Members to review and approve the Accounting Policies prior to the financial year end and the production of the Annual Accounts.

7. Appendices

- 7.1 Appendix A – The Accounting Policies

Annual Accounts

INDEX

1. Statement of Accounting Policies
 - I. General Principles
 - II. Post Balance Sheet Events
 - III. Accruals of Income and Expenditure
 - IV. Cash and Cash Equivalents
 - V. Government Grants and Contribution
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 - VII. Revenue Expenditure Funded from Capital Under Statute
 - VIII. Employee Benefits
 - IX. Overheads and Support Services
 - X. Investment Properties
 - XI. Heritage Assets
 - XII. Property, Plant and Equipment (PPE)/Other Information re Fixed Assets
 - XIII. Inventories and Work in Progress
 - XIV. Provisions, Contingent Liabilities and Contingent Assets
 - XV. Financial Instruments
 - XVI. Private Finance Initiative (PFI)
 - XVII. Leases
 - XVIII. Reserves
 - XIX. VAT

(1) Statement of Accounting Policies

I. General principles

The purpose of the Statement of Accounting Policies is to explain the basis of measurement that has been used in the preparation of the Financial Statements. The Annual Accounts summarises the Council's transactions for the 2015/16 financial year and its position at the year end 31 March 2016.

The Financial Statements for 2015/16 are prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom 2015/16 (The Code) issued by The Chartered Institute of Public Finance and Accountancy (CIPFA), Financial Reporting Standards (FRS) and where appropriate the International Accounting Standards (IAS). The Accounting convention adopted is principally historical cost modified by fair value for particular categories of assets and liabilities.

There are no instances in the Annual Accounts where the fundamental accounting concepts have not been followed. The Annual Accounts can contain estimated figures, where the actual figure is not known. Estimates are made taking into account historical experience, current trends and other relevant factors. There are no items in

the Balance Sheet at 31 March 2016 for which there is believed to be a significant risk of material adjustment in the forthcoming financial year.

The Council has to consider all their interests and to prepare a full set of Group Accounts where they have material interests in subsidiaries, associates or joint ventures. West Berkshire Council currently has no interests that necessitate the production of Group Accounts.

II. Post Balance Sheet Events

Post Balance Sheet Events are included in the notes to the core Financial Statements as they occur and represent significant transactions / events which are known to have taken place since the Balance Sheet date.

III. Accruals of Income and Expenditure

All revenue and capital income and expenditure relating to the financial year is accounted for in the year that it takes place, not simply when cash payments are made or received. In particular:

- Fees, charges and rents due from customers are accounted for as income at the date the Council provides the relevant goods or services
- Supplies are recorded as expenditure when they are consumed. Where there is a gap between the date supplies are received and their consumption; they are carried as inventory on the Balance Sheet
- Works are charged as expenditure when they are completed, before which they are carried as works in progress on the Balance Sheet
- Interest payable on borrowing and receivable on investment is accounted for on the basis of the effective interest rate for the relevant financial instrument rather than the cash flows fixed or determined by the contract
- Where income and expenditure have been recognised in the accounts but cash has not been received nor paid, a debtor or creditor for the relevant amount is recorded on the Balance Sheet.

An exception to this rule is the periodic costs such as gas and electricity, which are included in the accounts on a payments basis and are not considered material to the accounts.

IV. Cash and Cash Equivalents

Cash and cash equivalents are short term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value. The Council's policy is to include cash in hand, deposits held at call with banks and other short term highly liquid investments with original maturities of three months or less.

V. Government Grants and Contributions

Whether paid on account, by instalments or in arrears, government grants and third party contributions and donations are recognised as income at the date that the Council satisfies the conditions of entitlement to the grant/contribution. There must also be reasonable assurance that the monies will be received and the expenditure

for which the grant is given has been incurred. Monies advanced as grants and contributions for which conditions have not been satisfied are carried in the Balance Sheet under creditors. When conditions are satisfied the grant or contribution is moved to the relevant service revenue account.

Where capital grants have been credited to the Comprehensive Income and Expenditure Statement they are reversed out of the General Fund through the Movement in Reserves Statement.

VI. Charges to Revenue for Fixed Assets

Service revenue accounts, support services and trading accounts are debited with the following amounts to record the real cost of holding fixed assets during the year.

- Depreciation attributable to the assets used by the relevant service
- Impairment losses attributable to the clear consumption of economic benefits on tangible fixed assets used by the service and other losses where there are no accumulated gains in the revaluation reserve against which they can be written-off.

The Council is not required to raise Council Tax to cover depreciation, impairment losses or amortisations. However, it is required to make an annual provision from revenue to contribute towards the reduction in its overall borrowing requirement (equal to an amount calculated on a prudent basis determined by the Council in accordance with statutory guidance). Depreciation, impairment losses and amortisations are therefore replaced by revenue provision in the General Fund balance, by way of an adjusting transaction with the Capital Adjustment Account.

VII. Revenue Expenditure Funded from Capital Under Statute

Expenditure incurred during the year that may be capitalised under statutory provisions but does not result in the creation of a fixed asset, has been charged as expenditure to the relevant service revenue account in the year. Where the Council has determined to meet the cost of this expenditure from existing capital resources or by borrowing, a transfer to the Capital Adjustment Account then reverses out the amounts charged to the General Fund balance on the Statement of Movement in Reserves, so there is no impact on the level of Council Tax.

VIII. Employee Benefits

VIII (a) Salaries and Wages

The cost of salaries and wages has been included in the accounts based on 12 months and 52 pay weeks.

In line with (IAS 19), an accrual has been made for leave and flexible hours owing at year end. The accrual is based on a three year historic sample of leave owing and then averaged out to give a total for the whole Council. No adjustment has been made for other employee costs.

VIII (b) Pension Schemes and Discretionary Benefits

Employees of the Council are members of three separate pension schemes:

- The Teachers' Pension Scheme, administered by Capita Teachers' Pensions on behalf of the Department for Education (DfE).
- The Local Government Pension Scheme (Berkshire Pension Scheme) is administered by The Royal Borough of Windsor and Maidenhead.
- The NHS Pension Scheme.

All schemes provide defined benefits to members (retirement lump sums and pension), earned as employees working for the Council.

The arrangements for the Teachers' Pension Scheme mean that liabilities for these benefits cannot be identified to the Council. The scheme is therefore accounted for as if it were a defined contributions scheme – no liability for future payments of benefits is recognised in the Balance Sheet and the Education Service revenue account is charged with the employer's contribution payable to the Teachers' Pension Scheme in the year.

The NHS Pension Scheme is also accounted for as if it were a defined contributions scheme.

The Berkshire Pension Scheme is accounted for as a defined benefits scheme:

The liabilities of the Berkshire Pension Scheme attributed to the Council are included in the Balance Sheet on an actuarial basis using the Projected Unit Method – i.e. an assessment of the future payments that will be made in relation to retirement benefits earned to date by employees, based on assumptions about mortality rates, employee turnover rates, etc, and projected earnings of current employees.

Liabilities are discounted to their value at current prices using a discount rate. (The discount rate is the yield on the Merrill Lynch Non Gilt Sterling AA over 15 year Corporate Bond index, with an adjustment to reflect the liabilities relative to the duration of the index.)

The assets of the Berkshire Pension Scheme attributable to the Council are included in the Balance Sheet at their fair value:

- Quoted securities – current bid price
- Unquoted securities – professional estimate
- Unitised securities – current bid price
- Property – market value.

The change in the net pensions liability is analysed into the following components:

- Service cost comprising:
 - current service cost – the increase in liabilities as a result of years of service earned this year;

- past service cost – the change in liabilities arising from current year decisions whose effect relates to years of service earned in earlier years or from plan curtailments;
- Gains or losses on settlements - transactions that eliminate all further legal or constructive obligations for part or all of the benefits provided under the plan.
- Administration expenses are those that are directly related to the management of plan assets. These have been charged to the Comprehensive Income and Expenditure Statement.
- Net interest on the net defined benefit liability - the change during the period in the net defined benefit liability. It is calculated by applying the discount rate used to measure the defined benefit obligation at the beginning of the period to the net defined benefit liability at the beginning of the period adjusted for contribution and benefit payments during the year.
- Re-measurements comprising:
 - differences between the return on plan assets and interest income on plan assets calculated as part of the net interest on the net defined benefit liability;
 - actuarial gains and losses which result from events not coinciding with assumptions made at the last actuarial valuation or the actuaries updating the assumptions.
- Contributions paid into the Berkshire Pension Scheme, and
- Benefits paid.

In relation to retirement benefits, statutory provisions require the General Fund balance to be charged with the amount payable by the Council to the Berkshire Pension Scheme in the year, not the amount calculated according to the relevant accounting standards. In the Movement in Reserves Statement, this means that there are appropriations to and from the Pensions Reserve to remove the notional debits and credits for retirement benefits and replace them with debits for the cash paid to the pension scheme and any amounts payable to the pension scheme but unpaid at the year-end. The negative balance that arises on the Pension Reserve thereby measures the beneficial impact to the General Fund of being required to account for retirement benefits on the basis of cash flows rather than as benefits are earned by employees.

Discretionary benefits: The Council also has restricted powers to make discretionary awards of retirement benefits in the event of early retirements. Any liabilities estimated to arise as a result of an award to any member of staff (including teachers) are accrued in the year of the decision to make the award and accounted for using the same policies as are applied in the Berkshire Pension Scheme.

Redundancy policy: It is the Council's policy to minimise the impact of organisational change on its employees and to redeploy employees whenever

possible. Therefore redundancies and redundancy payments only occur when absolutely necessary and in agreement with Trade Unions.

When redundancy payments are applicable it will be as a result of a decision by the Council to terminate an officer's employment before the normal retirement date or an officer's decision to accept voluntary redundancy.

It is the Council's policy not to offer enhanced pension payments on termination of employment.

IX. Overheads and Support Services

The costs of overheads and support services are charged to those that benefit from the service in accordance with the costing principles of the CIPFA Service Reporting Code of Practice (SeRCOP). The full cost of overheads and support services are shared between users in proportion to the benefits received.

The costs of the Corporate and Democratic Core have been separately identified and are not borne by the revenue services. This category is defined by the SeRCOP and accounted for, within the Central Services heading of the Net Cost of Services in the Comprehensive Income and Expenditure Statement.

X. Investment Property

Only properties that the Council holds solely to earn rental income or capital appreciation are classed as Investment Properties. These properties are not used by the Council in its daily business. Initially Investment Properties are valued at cost and are then re-valued annually.

XI. Heritage Assets

FRS 30, Heritage Assets, has been adopted by the Council. Heritage Assets are those assets held by the Council for cultural, environmental or historical reasons in relation principally to their contribution to knowledge and culture.

XII. Property, Plant and Equipment (PPE)/Other information re Fixed Assets

Only assets with a value of £5k or more are counted as Fixed Assets.

Where a Fixed Asset yields economic benefit to the Council, all expenditure on the acquisition, creation and enhancement of the asset, is capitalised on an accruals basis. This excludes expenditure on routine repairs and maintenance of Fixed Assets, which is charged direct to service revenue accounts.

Fixed Assets are initially valued at cost, comprising all expenditure that is directly attributable to that asset, on the basis recommended by CIPFA and in accordance with the Statements of Asset Valuation Principles and Guidance Notes issued by the Royal Institution of Chartered Surveyors, known as the RICS Red Book.

CIPFA guidance allows Councils to choose whether to depreciate its assets at either the mid point through the year or at the end of the year. West Berkshire Council's assets have been depreciated at the end of the year.

Appendix 1 Notes to Financial Statements

Fixed Assets are classified into the groupings shown in the Balance Sheet under the following headings:

- Land and Buildings, shown at fair value
- Plant and Equipment, shown at depreciated historical cost
- Infrastructure Assets, shown at depreciated historical cost
- Community Assets, shown at depreciated historical cost
- Investment Properties, shown at market value
- Assets Under Construction, shown at historical cost
- Assets Held for Sale, shown at fair value.

Assets included in the Balance Sheet at fair value are re-valued, as a minimum, every five years, except for Investment Properties which are re-valued annually. All increases in valuations are matched by credits to the Revaluation Reserve as unrealised gains.

The Revaluation Reserve contains revaluation gains recognised since 1 April 2007 only, the date of its formal implementation. Gains arising before that date have been consolidated into the Capital Adjustment Account.

If an impairment loss was identified on a Fixed Asset it would be charged to the Comprehensive Income and Expenditure Statement. If there were accumulated revaluation gains in the Revaluation Reserve for that asset, an amount up to the value of the loss would be transferred from the Revaluation Reserve to the Capital Adjustment Account.

When an asset is sold, the value of the asset in the Balance Sheet is written off to the Comprehensive Income and Expenditure Statement as part of the gain or loss on disposal. Receipts from disposals are credited to the Comprehensive Income and Expenditure Statement as part of the gain or loss on disposal. Any revaluation gains in the Revaluation Reserve are transferred to the Capital Adjustment Account.

Capital Receipts are credited to the Usable Capital Receipts Reserve and can only be used for new capital investment or set aside to reduce the Council's underlying need to borrow.

Where an item of Property Plant or Equipment is made up of components that have different asset lives, International Accounting Standard 16 (IAS 16) requires the components to be recognised as separate assets. West Berkshire Council splits Fixed Assets into components where components are either 10% of the asset's value or have value of more than £250k. These assets are recognised either at the time of purchase or on revaluation.

In accordance with IAS 16, depreciation is provided for on all Fixed Assets with a finite useful life.

All Fixed Assets, with the exception of Freehold Land, Community Assets, Investment Properties and Assets Under Construction are depreciated,

Depreciation is calculated on the following basis:

Appendix 1 Notes to Financial Statements

- Dwellings and other buildings – straight line allocation over the life of the property as estimated by a valuer, between 10 and 60 years
- Vehicles, Plant and Equipment - straight line allocation over the life of the asset, mainly 10 years
- IT Assets are depreciated over 5 years
- Infrastructure – straight line allocation, between 10 and 40 years.

Revaluation gains are also depreciated, with an amount equal to the difference between current value depreciation charged on assets and the depreciation that would have been chargeable based on their historical cost being transferred each year from the Revaluation Reserve to the Capital Adjustment Account.

Where assets have been componentised, components can be depreciated over different asset lives, but they will always be in the same asset class.

Fixed Assets Held for Sale are initially measured and carried at fair value in the Balance Sheet. Where the asset has fixed or determinable payments, annual credits to the Comprehensive Income and Expenditure Statement for interest receivable are based on the amortised cost of the asset multiplied by the effective rate of interest for the instrument. Where there are no fixed or determinable payments, income (e.g. dividends) is credited to the Comprehensive Income and Expenditure Statement when it becomes receivable by the Council.

Values are based on the following principles:

- Instruments with quoted market prices – the market price
- Other instruments with fixed and determinable payments – discounted cash flow analysis
- Equity shares with no quoted market prices – independent appraisal of company valuations.

Changes in fair value are balanced by an entry in the Capital Adjustment Account and the gain/loss is recognised in the Surplus or Deficit on the Provision of Services. The exception is where impairment losses have been incurred – these are debited to the Comprehensive Income and Expenditure Statement.

Where assets are identified as impaired because of a past event, the asset is written down and a charge made to the Comprehensive Income and Expenditure Statement. Any gains and losses that arise on de-recognition of the asset are credited/debited to the Comprehensive Income and Expenditure Statement. Where fair value cannot be measured reliably, the instrument is carried at cost (less any impairment losses).

Deferred Capital Receipts are amounts derived from the sales of assets, which will be received in instalments over agreed periods of time. They arise principally from mortgages and sales of council houses.

Capital Receipts from the disposal of assets are held in the Usable Capital Receipts Reserve until such time as they are used to finance other capital expenditure or to repay debt.

Under the Local Government and Housing Act 1989 a specific proportion of each capital receipt must be set aside or “reserved”; normally only the usable element is available to the Council.

XIII. Inventories and Work in Progress

Inventories are shown in the Balance Sheet on a cost basis. This is compliant with IAS 2, which recommends valuation at the lower of cost or net realisable value.

XIV. Provisions, Contingent Liabilities and Contingent Assets

Provisions are made where an event has taken place that gives the Council an obligation that probably requires settlement by a transfer of economic benefits, but where the timing of the transfer is uncertain. For instance, the Council may be involved in a court case that could eventually result in the making of a settlement or the payment of compensation.

Provisions are charged to the appropriate service revenue account in the year that the Council becomes aware of the obligation, based on the best estimate of the likely settlement. When payments are eventually made, they are charged to the provision set up in the Balance Sheet. Estimated settlements are reviewed at the end of each financial year and where it becomes more likely than not that a transfer of economic benefits will not now be required (or a lower settlement than anticipated is made), the provision is reversed and credited back to the relevant service revenue account.

Where some or all of the payment required to settle a provision is expected to be met by another party (e.g. from an insurance claim), this is only recognised as income in the relevant service revenue account if it is virtually certain that reimbursement will be received if the obligation is settled.

Contingent Liabilities and Contingent Assets arise where an event has taken place that gives the Council a possible asset or obligation whose existence will only be confirmed by the occurrence or otherwise of uncertain future events not wholly within the control of the Council. Contingent liabilities also arise in circumstances where a provision would otherwise be made but either it is not probable that an outflow of economic benefits will be required or the amount of the obligation cannot be measured reliably.

Contingent liabilities and contingent assets are not recognised in the Balance Sheet but are disclosed in a note to the accounts.

XV. Financial Instruments

The term 'Financial Instrument' covers both financial assets and liabilities and includes debtors, creditors, the Council's borrowings, PFI liabilities and investment transactions. It broadly covers the instruments used in the treasury management activity of the Council, including the borrowing and lending of funds and the making of investments.

Loans raised by the Council are mainly through the Public Works Loans Board (PWLB). All interest is charged to the Comprehensive Income and Expenditure Statement.

As part of its interest and debt management, on occasion the Council may repay loans before their maturity date; usually receiving a discount or incurring a premium. Such gains and losses on premature repayment of debt are recognised in the Comprehensive Income and Expenditure Statement in the year they occur, unless they meet the modification test in The Code (i.e. the present values of the debt restructured has not changed significantly). Otherwise they are adjusted through the Financial Instruments Adjustment Account (FIAA) in accordance with statutory criteria.

Where PWLB borrowing is repaid and replaced on the same day, gains and losses are amortised using the effective interest rate method provided the modification test criteria set out in The Code are met. For financial assets and liabilities carried at fair value, the fair value has been determined using discounted cash flow analysis. The reconciliation of amounts charged to the Comprehensive Income and Expenditure Statement to the net charge required against the General Fund Balance is managed by a transfer to or from the General Fund Balance.

Provisions for Bad Debts have been established in respect of general debtors in accordance with the CIPFA code of practice. The level of the provision has been set to provide adequate cover based upon an aged debt profile as at 31 March 2016.

Borrowings The loan debt held by Berkshire County Council (BCC) when it was abolished due to local government reorganisation as at the 31 March 1998 amounted to approximately £220m. The portfolio of debt consisted entirely of Public Works Loans Board (PWLB) loans, of which some £40m was deemed to be West Berkshire's liability as part of the disaggregation process. At that time it was agreed by all the Berkshire councils that the total debt would be administered by Reading Borough Council as part of their role as Designated Council overseeing the closure of the BCC accounts.

The Prudential Code presented the opportunity for this Council and other Berkshire councils to take back the direct management of the remaining part of the ex BCC loan debt. The transfer took place with effect from 1 December 2005 and at that time £28.92m of PWLB debt was transferred to West Berkshire Council.

The level of Investment required to fund the Capital Programme currently over and above the level of external funding available is borrowed from the Public Works Loans Board.

Investments are shown in the Balance Sheet at cost.

Interest has been credited to certain reserves at the year-end based on the average level of balances during the year. The balance of the interest received (after the amount credited to reserves) has been credited to the General Fund.

Financial Liabilities are initially measured at fair value and carried at their amortised cost. Annual charges to the Comprehensive Income and Expenditure Statement for interest payable are based on the carrying amount of the liability, multiplied by the effective rate of interest for the instrument.

For most of the borrowings this means that the amount presented in the Balance Sheet is the outstanding principal repayable and the interest charged to the Comprehensive Income and Expenditure Statement is the amount payable for the year in the loan agreement.

Financial Assets: Loans and Receivables are initially measured at fair value and carried at their amortised cost. Annual credits to the Comprehensive Income and Expenditure Statement for interest receivable are based on the carrying amount of the asset multiplied by the effective rate of interest for the instrument.

For the loans that the Council has made, this means that the amount presented in the Balance Sheet is the outstanding principal receivable and interest credited to the Comprehensive Income and Expenditure Statement is the amount receivable for the year in the loan agreement.

Capital Financing: The Prudential Code Framework places the emphasis for capital expenditure on affordability. Local councils themselves decide how much they can afford to borrow, the costs of this borrowing being met from the revenue budget.

Every year, a borrowing limit and annual investment strategy is produced, which is approved by full Council.

Instruments Entered into Before 1 April 2006: The Council entered into a number of financial guarantees that are not required to be accounted for as financial instruments. These guarantees are reflected in the Annual Accounts to the extent that provisions might be required or a contingent liability note is needed.

XVI. Private Finance Initiative (PFI)

PFI contracts are agreements to receive services, where the responsibility for making available the Fixed Assets needed to provide the services passes to the PFI contractor. Payments made by the Council under a contract are charged to revenue to reflect the value of services received in each financial year.

Prepayments: A prepayment for services receivable under the contract arises when assets are transferred to the control of the PFI contractor, usually at the start of the scheme. The difference between the value of the asset at the date of transfer and any residual value that might accrue to the Council at the end of the contract is treated as a contribution made to the contractor and is accounted for as a prepayment. The prepayment is written down (charged) to the respective revenue account over the life of the contract to show the full value of services received in each year. However, as the charge is a notional one, it is reversed out in the General Fund to remove any impact on Council Tax or rents.

Reversionary Interests: The Council has passed control of certain land and buildings over to the PFI contractor, but this property will return to the Council at the end of the scheme (reversionary interests). An assessment has been made of the net present value that these assets will have at the end of the scheme (unenhanced) and a Reversionary Interest Asset has been created in the Council's Balance Sheet.

As the asset is stated initially at net present value, the discount will need to be unwound over the life of the scheme by earmarking (decreasing) part of the unitary payment to ensure the reversionary interest is recorded at current prices when the interests revert to the Council.

Residual Interests: Where assets created or enhanced under the PFI scheme are to pass to the Council at the end of the scheme at a cost less than fair value (including nil) (residual interests), an amount equal to the difference between the fair value and the payment to be made at the end of the contract is built up as a long-term debtor over the contract life by reducing the amount of the payment charged to the revenue.

PFI Credits: Government grants received for PFI schemes, in excess of current levels of expenditure.

XVII. Leases

The Council has acquired a number of assets, mainly vehicles and equipment by means of operating leases. In accordance with current accounting procedures the operating leases are not stated in the Balance Sheet. Rentals are charged to revenue in accordance with the terms of the lease. The Council did not enter into any finance lease agreements during the year.

XVIII. Reserves

The Council sets aside specific amounts as reserves for future policy purposes or to cover contingencies. Reserves are created by appropriating amounts to the General Fund. When expenditure to be financed from a reserve is incurred, it is charged to the appropriate service revenue account in that year and put against the Net Cost of Services in the Comprehensive Income and Expenditure Statement. The reserve is then appropriated back into the General Fund Balance so that there is no net charge against Council Tax for the expenditure.

Certain reserves are kept to manage the accounting processes for Tangible Fixed Assets and Retirement Benefits. These do not represent usable resources for the Council. Both Usable and Unusable Reserves are explained in note 24.

XIX. VAT

Income and expenditure in the Council's accounts excludes any amounts related to VAT. VAT is reconciled and accounted for to HM Revenues and Customs on a monthly basis.