

Notice of Meeting



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Governance and Ethics Committee

Monday, 27th November, 2017 at 5.00 pm
in Council Chamber Council Offices
Market Street Newbury

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Date of despatch of Agenda: Friday, 17 November 2017

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

e-mail: andy.day@westberks.gov.uk / moira.fraser@westberks.gov.uk / stephen.chard@westberks.gov.uk

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Agenda - Governance and Ethics Committee to be held on Monday, 27 November 2017
(continued)

To: Councillors Steve Ardagh-Walter, Jeff Beck (Vice-Chairman),
Graham Bridgman, Paul Bryant, James Cole (Chairman), Barry Dickens,
Lee Dillon, Jane Langford, Geoff Mayes, Anthony Pick and Quentin Webb

Substitutes: Councillors Jason Collis, Billy Drummond and Sheila Ellison and
Jane Langford

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 meeting of this Committee held on 21 August 2017. | 1 - 10 |
| 3 Declarations of Interest To remind Members of the need to record the existence and nature of any personal, disclosable pecuniary or other registrable interests in items on the agenda, in accordance with the Members' Code of Conduct . | |
| 4 Forward Plan <i>Purpose: To consider the Forward Plan for the next 12 months.</i> | 11 - 14 |

Audit Matters

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| 5 Financial Statements 2016/17 - Annual Audit Letter (GE3257) Purpose: To provide Members with the Final Annual Audit Letter 2016/17 from KPMG, which summarised the outcome from their audit work at West Berkshire Council in relation to the 2016/17 audit year. | 15 - 26 |
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Governance Matters

| | |
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| 6 Amendments to the Scheme of Delegation (C3903) Purpose: To amend the Scheme of Delegation which forms Part 3 of the Constitution. | 27 - 182 |
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Agenda - Governance and Ethics Committee to be held on Monday, 27 November 2017
(continued)

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, 21 AUGUST 2017

Councillors Present: Steve Ardagh-Walter, Jeff Beck (Vice-Chairman), Graham Bridgman, Paul Bryant, James Cole (Chairman), Barry Dickens, Jane Langford, Geoff Mayes, Anthony Pick and Quentin Webb

Also Present: Sarah Clarke (Acting Head of Legal Services), Lesley Flannigan (Finance Manager: Financial Reporting), Julie Gillhespey (Audit Manager), Ian Priestley (Chief Internal Auditor), Andy Walker (Head of Finance), Stephen Chard (Principal Policy Officer) and Ian Pennington (KPMG)

Councillor Absent: Lee Dillon

PART I

7 Minutes

The Minutes of the meeting held on 19 June 2017 were approved as a true and correct record and signed by the Chairman.

Matters Arising:

Item 3 – Minutes – Audits of Shared Services/Joint Arrangements – Ian Priestley explained that joint arrangements were considered as and when necessary as part of the Council's audit planning processes regardless of whether they were hosted by the Council or another unitary authority. Where a service was hosted by another authority, such as Child Care Lawyers, Internal Audit would review the controls the client service had in place to ensure that the required service was being delivered, in the same way as an audit of, for example, the Council's Highways Maintenance term contract. Where the Council provided the service, Internal Audit would consider risks such as professional indemnity and affordability of the service.

Ian Priestley reported that there would be little value in considering the internal audit plans of other unitary authorities as they considered risks from different perspectives.

RESOLVED that the response to this action be noted and the action closed.

8 Declarations of Interest

There were no declarations of interest received.

It was noted that Councillors Jeff Beck, Graham Bridgman and Paul Bryant were Members of the Appeals Panel, the new arrangements for which would be discussed under Agenda Item 11.

9 Forward Plan

The Committee considered the Governance and Ethics Committee Forward Plan (Agenda Item 4).

It was noted that the item to consider the outcome of the review of risk management arrangements needed to be added for the meeting scheduled for 27 November 2017.

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

Sarah Clarke confirmed that the review of the Council's licensing policies fell within the remit of the Licensing Committee.

Councillor James Cole pointed out to Members that the meeting that would normally be scheduled for August 2018 would be held in July 2018. It was noted, for this meeting, that the reports for Forward Plan items 13 and 14 (Annual Governance Statement – Statements in Support by the Monitoring Officer and Section 151 Officer) would be appended to the Annual Governance Statement and would not form independent items.

Councillor Graham Bridgman queried the necessity of receiving, on a quarterly basis, an update on ethical matters and whether a less frequent report would be more appropriate. Sarah Clarke acknowledged that this area of work was relatively quiet at present and Corporate Board had recently agreed to only receive an annual report on ethical matters. Committee Members were asked whether they would be satisfied with an annual report.

Councillor Bridgman felt this would be satisfactory on the understanding that matters of particular concern would still be brought before the Committee as and when required. He therefore proposed receipt of an annual report on ethical matters with matters of concern brought to the Committee's attention as and when required. This was seconded by Councillor Paul Bryant.

Barry Dickens supported a reduction in reporting as this would enable staff time to be freed up for more important duties.

RESOLVED that:

1. the Governance and Ethics Committee Forward Plan be noted and amended as discussed.
2. an annual report would be received on ethical matters rather than quarterly updates, with matters of concern brought before the Committee as and when required.

10 Update on Ethical Matters - Quarter 1 of 2017/18

The Committee considered a report (Agenda Item 5) which provided an update on local and national issues relating to ethical standards and which served to bring to the attention of the Committee any complaints or other problems within West Berkshire.

Sarah Clarke reported that during Quarter 1 of 2017/18, one formal complaint was received and no further action was taken on this complaint. There was one outstanding complaint that was still being investigated.

No dispensations were granted during Quarter 1 and no gifts or hospitality had been declared by District Councillors.

A number of Register of Interest forms had been submitted by Parish and Town Councils in cases where they had elected a new Chairman or Vice-Chairman or co-opted new Parish Councillors.

Councillor James Cole queried whether there would be value in sending out a reminder of the need to declare the offer and/or receipt of gifts and hospitality. Sarah Clarke confirmed that a reminder was sent out to Members and Officers on an annual basis in the lead up to Christmas. This could be extended to every six months.

It was noted that all hospitality received by the Chairman whilst undertaking his civic duties was documented and reported to the Monitoring Officer.

Councillor Steve Ardagh-Walter queried the ability to bring to the attention of the Committee information on the receipt of a complaint that, for example, carried reputational risk for the Council outside of a formal meeting.

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

Sarah Clarke reiterated the point made as part of the Forward Plan discussion that if a complaint of significance was received it would be reported formally to the Committee as part of the complaints process. However, she urged caution in relation to the potential to e-mail information regarding complaints. Whilst this could take place, this could prevent Members being involved in determining a resolution to the complaint at a later stage.

Councillor Anthony Pick added his concern should the e-mailing of this information compromise the formal process.

Sarah Clarke concluded by stating that there were no areas of concern to report and the number of complaints received was low. This indicated that the standards of ethical conduct at both District and Parish/Town Council levels continued to be good across West Berkshire.

Councillor Graham Bridgman highlighted two points to amend/clarify within Appendix A. Paragraph 3.3 needed to be corrected to show that the membership of the Governance and Ethics Committee was listed for 2017/18 and not 2016/17.

The Advisory Panel membership listed in paragraph 3.5 appeared incomplete as only six Members were listed when the Panel consisted of eight Members.

Councillor Bridgman added that he also wished to discuss amendments to the Constitution and would do so offline with the Monitoring Officer.

RESOLVED that:

- the report be noted.
- Councillor Bridgman would discuss amendments to the Constitution with the Monitoring Officer.

(Barry Dickens left the meeting at 5.20pm).

11 Internal Audit Annual Report 2016/17 (GE3254)

The Committee considered a report (Agenda Item 6) which provided an update on the outcome of internal audit work carried out during the second half of 2016/17.

The report met the requirement, set out in the Public Sector Internal Audit Standards as adapted by CIPFA's "Local Government Application Note", for the Chief Internal Auditor to present annually an opinion of the Council's Internal Control Framework.

Ian Priestley referred Members to paragraph 5.3 of the report. This provided detail of an audit that was rated as weak – Section 17 Support in Children and Family Services. The report outlined the concerns of Internal Audit, i.e. that due to the lack of an up to date Policy and guidance, inconsistencies were found with how provisions were being made, recorded and reviewed. There were also inconsistencies with the budget codes used to record expenditure for this purpose.

Ian Priestley felt that the response from the Head of Children and Family Services, also contained within the report, was sensible. This stated that following a period of time in which there had been significant structural and financial changes, and to then allow time to fully embed these changes, a greater level of assurance had been gained and priority was being given to address all the issues raised in the audit. A re-profiling of the S17 budgets had already been undertaken. Julie Gillhespey added that follow up work on this audit was ongoing.

Councillor Anthony Pick stated his contentment with the comments of the Head of Children and Family Services.

Councillor James Cole queried whether the Committee was able to question/be informed of when the up to date Policy had been implemented. Sarah Clarke explained that the

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

report was to note, but the Committee was entitled to challenge the outcome of internal audit work. Councillor Quentin Webb added that the Overview and Scrutiny Management Commission had the role of investigating in more detail particular areas of difficulty. The Governance and Ethics Committee needed to be satisfied that systems/processes were in place and working correctly rather than looking at the detail of the Council's policies.

Councillor Cole made reference to Appendix A – current audit work. He questioned the time being taken in some cases to complete audit work with a current piece of work dating back to 2014/15 and others back to 2015/16. Ian Priestley explained that the resources of the audit team had shrunk over recent years. He added that non-planned additions to the work programme were also a factor and a significant amount of Officer time could be taken to conduct detailed investigations. Councillor Cole therefore highlighted the importance of preventing any further reductions to the audit team.

Councillor Paul Bryant added his concerns that some audit work dated back to 2014/15 and 2015/16. He felt it would be useful to include a conclusion date where possible. Julie Gillhespey explained that the timetabling of work was not always in the team's control. For example, audit work would be postponed in the event that a service area was undergoing a review. However, the audit work was still valid and would be completed when possible. Julie Gillhespey added that when the work was conducted after a period of time had elapsed, any new guidance/the latest position of the service would be taken into account.

Councillor Cole suggested that delays were also encountered in cases where it took time to collate/for all necessary information to be provided to Auditors. Julie Gillhespey confirmed this could be the case and added that other priority work could take precedence during this time resulting in further delays in some cases.

Julie Gillhespey felt it would be sensible to state in the document the actual start date of audit work to better reflect the position.

Councillor Steve Ardagh-Walter felt it would be useful to schedule follow up audits of particular documents etc in a set time period. It was noted that this took place when necessary.

Councillor Quentin Webb recalled that a lengthier report had been provided in the past, but stated that he was content with the current report layout. Ian Pennington offered to share alternative ways of presenting audit information with Ian Priestley and his team. They would discuss that further outside of the meeting. Ian Pennington added his view that the Committee could request updates on progress in some areas of work via the Audit team and this could then be shared with Members. Regarding delays in obtaining information, Ian Pennington explained that when he worked in Internal Audit, he had similar difficulties with obtaining information for audit work and suggested that the Committee and Andy Walker could emphasise the requirement for services to provide the information promptly.

Jane Langford queried whether audit work was weighted depending on the area in question/its importance and whether this influenced timeframes. Ian Priestley confirmed that weighting was a consideration in terms of the importance given to and frequency of audits and this was detailed in the separate Audit Plan document.

In summary, Ian Priestley gave the view that the Council's Internal Audit Control Framework was performing well despite the challenges faced by the Council in terms of reduced resources.

RESOLVED that:

- the report be noted.

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

- Ian Pennington and Ian Priestley would discuss alternative ways of presenting audit information.

12 **Annual Governance Statement - Statement in Support by the Section 151 Officer (GE3253)**

The Committee considered a report (Agenda Item 7) which provided evidence and independent verification of governance matters which might impact on the Annual Governance Statement from the viewpoint of the Section 151 Officer.

Andy Walker explained that his view, as S151 Officer, was that all parts of the Council had acted in accordance with the budgetary and policy requirements in connection with the setting of the budget and met financial administration standards as set out in legislation. There had been no need to issue any formal reports to Council on any financial matters of concern, a legislative requirement where necessary, and the Council's finance and budgetary controls were in a healthy position.

Andy Walker added that for the 2017/18 Annual Governance Statement both the S151 Officer and Monitoring Officer reports would be appended to the Statement and not form standalone items.

RESOLVED that the report be noted.

13 **Annual Governance Statement - Statement in Support by the Monitoring Officer (GE3252)**

The Committee considered a report (Agenda Item 8) which provided evidence and independent verification of governance matters which might impact on the Annual Governance Statement from the viewpoint of the Monitoring Officer.

The Monitoring Officer, Sarah Clarke's, view of the Council's governance arrangements was that they were robust and effective. The systematic and regular review of the Council's Constitution and the relatively low level of complaints indicated that there was little, in terms of the governance of the Council, that needed attention if the current arrangements were followed.

Sarah Clarke went on to explain that there was a work programme in place which scheduled the regular review of the Council's Constitution.

Ethical matters did not give any particular cause for concern. A new Code of Conduct had been adopted by Council in September 2016 and Members training had been held on the revised Code.

Risk Registers were also subject to regular reviews by the Monitoring Officer and S151 Officer in their roles as members of the Council's Corporate Board. No significant risks had been identified and where necessary, appropriate measures had been taken to reduce or remove risks.

Councillor Graham Bridgman noted from Appendix A that the reasons why the number of complaints remained low might be due to good ethical behaviour or as a result of the lack of sanctions available under the standards regime. In addition to these reasons, Councillor Bridgman added that complainants might chose to not come forward.

Councillor Bridgman then sought clarity on paragraph 4.5.2 of Appendix A. This paragraph noted that there had been an increase in the number of instructions received by Legal Services from Council service areas. He queried whether this was linked to the point also made in relation to the receipt of formal action letters in connection with potential judicial review proceedings. Sarah Clarke confirmed that there had been a significant increase in litigious activities. Service areas were being challenged more

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

frequently on service delivery at a time when reductions to service provision were being made, resulting in the increased number of instructions received.

Councillor Quentin Webb queried whether this area of work had increased due to a greater awareness of the potential to challenge via judicial reviews. Sarah Clarke reaffirmed that the workload of Legal Services had been altered with an increased requirement for litigation work. The judicial review process did however serve to bring issues to a conclusion.

Councillor Steve Ardagh-Walter made reference to the boundary review and the likely reduction in the number of Members. He queried whether governance arrangements would be reviewed as a result and if so the most appropriate timing of this. Sarah Clarke responded that she did not see an automatic need to alter governance arrangements as a result of the boundary review. Effective governance would always need to be maintained.

Councillor Bridgman felt there would be a need to review arrangements, i.e. the number of committees in place and this would be an appropriate role for the Governance and Ethics Committee. Councillor James Cole added that the concern for Members was the expectation of the same workload but with fewer Members to share the load.

Councillor Anthony Pick queried if there had been an increased number of planning appeals and associated enquiries. Sarah Clarke confirmed there had been a significant increase which impacted on the workloads of Officers in Legal and Planning.

Councillor Bridgman referred to the intervention of the Secretary of State on a planning application and queried whether it was felt that this could reduce the amount of appeals moving forward. Sarah Clarke indicated that this would be likely to have an impact but the full extent of that would take time to show.

RESOLVED that the report be noted.

14 Annual Governance Statement (GE3269)

The Committee considered a report (Agenda Item 9) which set out the Annual Governance Statement (AGS) for the Council for 2016-17.

Ian Priestley introduced the report. The AGS formed part of the Council's Financial Statements and was designed to provide stakeholders of the Council with assurances that the Council had operated within the law and that the Council had met the requirements of the Accounts and Audit Regulations. This formed part of the requirement for the Council to review, at least once in a year, the effectiveness of its systems of internal control.

In addition to the reports on this agenda, this assurance was achieved via the consideration and monitoring of service risk registers and by considering reports from external regulators, i.e. Ofsted and KPMG (the Council's external auditors). Changes required by KPMG had been or were in the process of being implemented.

Ian Priestley explained that there were a couple of errors in the covering report, i.e. a reference to the Governance and Audit Committee, and reference to a review of the AGS by the Risk Management Group that had in fact not taken place.

Ian Priestley then referred to the significant governance issues identified in the report for 2015/16 and 2016/17. For those issues identified in 2015/16, the report detailed the action taken to manage these issues during 2016/17. Work to mitigate 2016/17 issues would continue throughout the coming year as would work to review the Council's governance arrangements to ensure they were fit for purpose in the increasingly complex and challenging environment that the Council was working within.

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

Councillor Quentin Webb was pleased to note that all Heads of Service had returned their Assurance Statements.

Councillor Jeff Beck queried whether there should be an expectation of Portfolio Holders to attend this meeting. Councillor Anthony Pick felt that Portfolio Holders should attend to address particular issues when required. Councillor James Cole agreed Portfolio Holders should attend in these cases, but questioned whether routine attendance was necessary when Officers were already present. Councillor Paul Bryant queried whether there was sufficient time available between receiving reports and alerting Portfolio Holders to attend when necessary. Ian Priestley suggested that Portfolio Holder attendance could be discussed at and arranged if needed following the Chairman's briefing meeting. Councillor Cole gave his agreement to that approach. He would expect Officers to flag up the need for Portfolio Holder attendance.

Councillor Webb reiterated that he was content with this report on the basis that Assurance Statements had been received from all Heads of Service. If this had not been provided then he might have sought the involvement of Portfolio Holders.

Sarah Clarke highlighted the need to recognise those functions which fell in the remit of Council and those which were the responsibility of the Executive. This needed to influence this debate as a Portfolio Holder would introduce an item at Council meetings.

Ian Pennington advised that it was not his experience from equivalent meetings at other local authorities that Portfolio Holders were in attendance as a matter of routine.

Councillor Graham Bridgman voiced his concern at the layout and formatting of the AGS. He requested that the document be tidied prior to its publication. Andy Walker agreed to do so.

Councillor Cole referred back to the significant governance issues identified for 2016/17 which related to property investment and the Council's transformation programme. He queried whether these would result in changes to governance arrangements.

Andy Walker explained that following Council approval of the Property Investment Strategy, a Property Investment Board had been established which included Member representation. The transformation programme was an area for ongoing review but would not necessarily result in governance changes. The review of governance arrangements in 2017/18, referred to in paragraph 6.2 of the report, would form a large part of the work of the Finance and Governance Group over the coming year.

Councillor Cole proposed acceptance of the report and the actions it contained to mitigate risks to the Council's governance arrangements. This was seconded by Councillor Webb.

RESOLVED that the report and the actions it contained to mitigate risks to the Council's governance arrangements be approved, subject to a final proof read and tidy of the document.

15 **West Berkshire Council Financial Statements 2016/17 Including External Auditor's Opinion. (GE3251)**

The Committee considered a report (Agenda Item 10) from KPMG which provided their opinion on the Council's Financial Statements, the Council's Value for Money and proposed recommendations.

The Committee would then be asked, following consideration of KPMG's opinion, to approve the Financial Statements for 2016/17 and formally close the accounts.

Ian Pennington presented the ISA260 KPMG report. He explained that in summary, West Berkshire Council's Statement of Accounts, including information provided on use of

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

resources and value for money, provided a sound position for the 2016/17 financial year. Mr Pennington confirmed the KPMG opinion that West Berkshire Council had a clean audit report. This was a good news story for West Berkshire.

Mr Pennington then highlighted the following specific points:

- Pension liability was highlighted as a significant audit risk. However, this was a national issue due to the Local Government Pension Scheme (LGPS) Triennial Valuation system. KPMG had reviewed the processes in place and reviewed the position of the actuary, and found the calculations to be acceptable and in line with the view of the Berkshire Pension Fund.
- Pension Fund assets could improve a local authority's net budget position. However, consideration needed to be given to potential discounts as these varied based on interest rates. The level of liability was an additional factor to consider.
- Fraud risk of revenue recognition was not considered an issue for local authorities.
- KPMG had no issues to report on the management override of financial controls.
- Two areas of audit focus had been identified. Firstly, the changes introduced in the 2016/17 Local Government Accounting Code had been adhered to. Secondly, in terms of assuring the fair value of PPE (Property Plant Equipment), the issue highlighted in relation to asset valuations had been corrected. This error was due to assets not owned by the Council being incorrectly included in the valuation figures. Pre-audit, PPE was reported as £432.1m, post-audit and the correction to asset valuations, this figure reduced to £427.5m. However, subject to adjustments being made, this change had no effect on the Council's General Fund. Recommendations were included in the report for the Council to review its valuations and the processes used to ensure accuracy.
- Mr Pennington confirmed that any investment properties purchased by the Council would form part of the PPE. He also confirmed that the Council's stance on valuations was more conservative than that of the valuer and KPMG were supportive of that.
- Turning to the key judgements made in the report, provisions had moved from £350k to £153k, but this was not considered a material change. A material change would be in the region of £5m, when considering the Council's overall budget.
- The judgement on the Council's reserves was considered by KPMG to be optimistic. The balance on General Fund reserves of £6.3m was largely unchanged from 2015/16 but as this was close to the minimum safe limit set by the S151 Officer it was considered optimistic.
- The Council had good accounting processes in place.
- The accounts had been finalised within an accelerated timeframe and this put the Council in a good position to meet the new 2017/18 deadline. Despite this shortened timeframe, the Council had produced a good set of draft accounts. The documentation would benefit from being proof read prior to publication.

Jane Langford queried whether the increase of judicial reviews gave cause for concern in seeking to maintain safe levels of reserves. Councillor Graham Bridgman commented that it was the outcome of judicial reviews, rather than the reviews themselves, which could create a cost to the Council, i.e. a task introduced or reintroduced which would need to be budgeted for.

Councillor Quentin Webb pointed out that the page numbers provided on the contents page of the KPMG report needed correcting.

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

Within the financial statements document, Councillor Webb referred to the section on 'doubtful receivables' and the need to determine an appropriate provision for debts not likely to be collectable. This provision was to increase and Councillor Webb queried if this was a result of the financial climate and whether this was a trend experienced in other areas. Andy Walker confirmed that an increase in this provision was proposed due to the age of some debts. Mr Pennington confirmed that this was a 'blip' he had observed in other local authorities. He went on to give the view that it was sensible to take this cautious approach for the provision based on the more historic debt.

Mr Pennington did however feel there were more active ways of debt recovery that the Council could employ. Councillor Bridgman confirmed that the debt provision was discussed as part of financial challenge review work and actions identified from this were being implemented which included recovery. Andy Walker added that different tools for debt recovery were being explored.

An amendment was noted on page 99 of the financial statements to clarify the reference made to the Council Tax Base.

Councillor Jeff Beck returned to the KPMG document and specifically the need for management representations. This section of the report noted that the Council was required to present a signed copy of the management representations document to KPMG before it could formally issue its audit opinion and Councillor Beck queried if this had been provided. Mr Pennington advised that this did not form part of these papers. He explained that this was a standard management requirement which confirmed that the necessary procedures had been followed, i.e. in relation to the Council's financial standing and to confirm the legality of the Council's transactions. Mr Pennington confirmed that the Council had followed the procedures as required. If there were matters of concern then the Council would have needed to provide more detailed representations.

In order to complete the representations process, Mr Pennington would forward the template to Andy Walker for completion. Andy Walker agreed that he would then issue the draft document to Committee Members via e-mail for comments before it was signed off and returned to KPMG.

Councillor James Cole proposed that, following consideration of KPMG's report and subject to the completion of the management representations template, West Berkshire Council's Financial Statements for 2016/17 be approved. This was seconded by Councillor Bridgman.

Councillor Beck took the opportunity to thank the Council Officers involved in producing the documentation and KPMG for their assistance.

RESOLVED that following consideration of KPMG's report, West Berkshire Council's Financial Statements for 2016/17 be approved, subject to the completion of management representations and the amendment of any typographical or other minor errors.

16 **New Arrangements for Appeals Panels (C3361)**

(It was noted that Councillors Jeff Beck, Graham Bridgman and Paul Bryant were Members of the Appeals Panel).

The Committee considered a report (Agenda Item 11) which proposed an increase in the number of Members on an Appeals Panel from three to four and to remove the requirement for a substitute.

It was noted that this would be line with the approach which had been agreed for Licensing Sub-Committees. As Appeals Panel meetings were so infrequent the proposal would enable Members to gain more experience. There would be no additional cost as

GOVERNANCE AND ETHICS COMMITTEE - 21 AUGUST 2017 - MINUTES

four Members would be in attendance in any event but the substitute would not currently be used unless necessary.

Councillor Graham Bridgman proposed that the number of Members for future Appeals Panels would consist of four Members with no substitute required and that necessary changes be made as a result to the Council's Constitution. This would be recommended for Council approval at its meeting on 14 September 2017. Councillor Paul Bryant seconded the proposal.

RESOLVED that the Governance and Ethics Committee recommend that Council approve the proposals contained within the report and as detailed above at its meeting on 14 September 2017.

(The meeting commenced at 5.00pm and closed at 6.52pm)

CHAIRMAN

Date of Signature

Governance and Ethics Committee Forward Plan February 2018 –February 2019

| No. | Ref No | Item | Purpose | Lead Officer | Lead Member | Governance/Audit/Ethics |
|------------------------|--------|--|---|---------------|--------------------|-------------------------|
| 5 February 2018 | | | | | | |
| 1. | C3260 | 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. | Sarah Clarke | Corporate Services | Governance |
| 2. | GE3258 | Internal Audit – Interim Report 2017-18 | To update the Committee on the outcome of internal audit work. | Ian Priestley | Corporate Services | Audit |
| 3. | GE3370 | Risk Management - Review for Governance and Ethics Committee | At the meeting of the G&E Committee on the 23rd November 2015 Councillor James Cole, commenting on a report outlining the Council's risk management approach, raised some reservations about the approach taken by the Council. The committee asked Councillor James Cole to review the Council's approach to risk management and report back to the committee in due course. This report outlines the results of that review and makes a number of recommendations for improving the Council's risk management arrangements. | James Cole | Corporate Services | Audit |
| 4. | | Response to Consultation | To hold a discussion on how the Council responds to consultations and how the responses are fed back | All | Corporate Services | Governance |

| No. | Ref No | Item | Purpose | Lead Officer | Lead Member | Governance/Audit/Ethics |
|----------------------|--------|--|--|---------------|---|-------------------------|
| | | | to Members. | | | |
| 23 April 2018 | | | | | | |
| 5. | C3323 | Monitoring Officer's Annual Report to the Governance and Ethics Committee –2017/18 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. | Sarah Clarke | Chairman of Governance and Ethics | Ethics |
| 6. | GE3324 | Internal Audit Plan 2018/19 | To outline the proposed internal audit work programme for the next three years | Ian Priestley | Corporate Services | Audit |
| 7. | GE3325 | External Audit Plan 2018-19 | To provide Members with a copy of the External Audit Plan for 2018-19. | Ian Priestley | Corporate Services | Audit |
| 8. | GE3270 | Outcome of the External Review of Internal Audit | To provide members with the results of the external review of internal audit and seek comments on any proposed actions. | Ian Priestley | Corporate Services | Audit |
| 18 June 2018 | | | | | | |
| 9. | | TBC – any items requiring G&E approval at the July Council meeting will need to come to this meeting | | | | |
| 23 July 2018 | | | | | | |
| 10. | GE3327 | West Berkshire Council Financial Statements 2017/18 including external auditor's Opinion. | To provide Members with the final copy of the Council's Financial Statements | Andy Walker | Finance, Transformation and Economic Development (Cllr Anthony Chadley) | Audit |

| No. | Ref No | Item | Purpose | Lead Officer | Lead Member | Governance/Audit/Ethics |
|-------------------------|--------|---|---|------------------------|---|-------------------------|
| 11. | GE3330 | Internal Audit Annual Report 2017/18 | To provide an opinion on the effectiveness of the Council's internal control framework | Ian Priestley | Corporate Services (Cllr Keith Chopping) | Audit |
| 12. | GE3331 | Annual Governance Statement | To allow the committee to review the Annual Governance Statement before it is signed by the Leader and Chief Executive | Ian Priestley | Corporate Services (Cllr Keith Chopping) | Governance |
| 26 November 2018 | | | | | | |
| 13. | GE3360 | Financial Statements 2017/18 - Annual Audit Letter | To provide Members with the Final Annual Audit Letter 2017/18 from external auditor. The audit letter summarises the outcome from their audit work at West Berkshire Council in relation to the 2017/18 audit year. | Lesley Flannigan | Finance, Transformation and Economic Development (Cllr Anthony Chadley) | Audit |
| 14. | GE3326 | Review of the Revised Scrutiny Arrangements' | To consider the effectiveness of the revised scrutiny arrangements. | Andy Day | Chairman of Governance and Ethics (Cllr James Cole) | Governance |
| 04 February 2019 | | | | | | |
| 15. | C3405 | 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. | Sarah Clarke | Corporate Services | Governance |
| 16. | GE3406 | Internal Audit – Interim Report 2018-19 | To update the Committee on the outcome of internal audit work. | Chief Internal Auditor | Corporate Services | Audit |

Financial Statements 2016/17 - Annual Audit Letter

| | |
|---|---------------------------------|
| Committee considering report: | Governance and Ethics Committee |
| Date of Committee: | 27 November 2017 |
| Portfolio Member: | Councillor Anthony Chadley |
| Date Portfolio Member agreed report: | |
| Report Author: | Lesley Flannigan |
| Forward Plan Ref: | GE3257 |

1. Purpose of the Report

To provide Members with the Final Annual Audit Letter 2016/17 from KPMG, this audit letter summarises the outcome from their audit work at West Berkshire Council in relation to the 2016/17 audit year.

2. Recommendation

2.1 Members are requested to note the Annual Audit Letter.

3. Implications

3.1 **Financial: N/A**

3.2 **Policy: N/A**

3.3 **Personnel: N/A**

3.4 **Legal: N/A**

3.5 **Risk Management:
N/A**

3.6 **Property: N/A**

3.7 **Other: N/A**

4. Other options considered

4.1 None

5. Introduction / Background

- 5.1 The Annual Audit letter summarises the results of the audit of this Council in 2016/17.
- 5.2 Value for Money was given an unqualified conclusion; KPMG concluded that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in the use of its resources.
- 5.2.1 KPMG commented on two areas of Value for money:
- a) The risks of making investments outside the Authority's geographical area.
 - b) The Authority's reserves are sufficient to deliver services and take appropriate risks in amending service delivery models without impacting on the financial viability of the organisation.
- 5.3 KPMG issued an unqualified opinion on the Council's financial statements on 27th September 2017.
- 5.3.1 KPMG have raised no high priority recommendations.
- Three medium priority recommendations were raised.
- 1) Review of asset valuation report; recommended that the report is reviewed by interested and informed parties with in the Authority to ensure it is complete and accurate.
 - 2) Valuation instructions; recommended that the authority review the instructions provided to the valuer to ensure only owned assets are included. In addition KPMG recommended that the authority consider the best approach to gaining external assessments of the useful lives of its assets.
 - 3) Agresso user accounts; recommended the introduction of a monthly user account / leaver review and reconciliation to ensure all user accounts are closed appropriately.
- 5.3.2 Finance and Property has put in place action points for the three recommendations:
- 1) Property, Capital team and Financial reporting team to review the asset valuation report once received.
 - 2) Property has reviewed the instructions provided to valuers and has provided an explanation of what is required regarding the useful life of an asset.
 - 3) All user accounts are now being closed when the user leaves and if the information is not available as to who will authorise on the cost centres looked after by the leaver, these cost centres will now go to the Head of Service until the information is available.
- 5.4 KPMG agreed the Whole of Government Accounts return for central government was consistent with the audited Financial Statements.

6. Proposal

The Governance and Ethics Committee are requested to note the Final Audit letter for the financial year 2016/17.

7. Conclusion

Members are requested to note the Final Audit letter from KPMG for 2016/17.

8. Appendices

8.1 Appendix A –KPMG Final Audit Letter

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Annual Audit Letter 2016/17

West Berkshire Council

—

October 2017



Contents

The contacts at KPMG in connection with this report are:

Ian Pennington
Director
KPMG LLP (UK)

Tel: 029 2046
8087
ian.pennington@kpmg.co.uk

Antony Smith
Manager
KPMG LLP (UK)

Tel: 0207 311
2355
antony.smith@kpmg.co.uk

Page

Report sections

Headlines 3

Appendices

1. Summary of reports issued 5
2. Audit fees 6

This report is addressed to the Authority and has been prepared for the sole use of the Authority. We take no responsibility to any member of staff acting in their individual capacities, or to third parties. Public Sector Audit Appointments issued a document entitled Statement of Responsibilities of Auditors and Audited Bodies summarising where the responsibilities of auditors begin and end and what is expected from audited bodies. We draw your attention to this document which is available on Public Sector Audit Appointment's website (www.psaa.co.uk).

External auditors do not act as a substitute for the audited body's own responsibility for putting in place proper arrangements to ensure that public business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.

We are committed to providing you with a high quality service. If you have any concerns or are dissatisfied with any part of KPMG's work, in the first instance you should contact Ian Pennington, the engagement lead to the Authority, who will try to resolve your complaint. If you are dissatisfied with your response please contact the national lead partner for all of KPMG's work under our contract with Public Sector Audit Appointments Limited, Andrew Sayers (andrew.sayers@kpmg.co.uk). After this, if you are still dissatisfied with how your complaint has been handled you can access PSAA's complaints procedure by emailing generalenquiries@psaa.co.uk, by telephoning 020 7072 7445 or by writing to Public Sector Audit Appointments Limited, 3rd Floor, Local Government House, Smith Square, London, SW1P 3HZ.



Section one

Headlines

This Annual Audit Letter summarises the outcome from our audit work at West Berkshire Council in relation to the 2016/17 audit year.

Although it is addressed to Members of the Authority, it is also intended to communicate these key messages to key external stakeholders, including members of the public, and will be placed on the Authority's website.

| | |
|-----------------------------------|--|
| VFM conclusion | <p>We issued an unqualified conclusion on the Authority's arrangements to secure value for money (VFM conclusion) for 2016/17 on 27 September 2017. This means we are satisfied that during the year the Authority had appropriate arrangements for securing economy, efficiency and effectiveness in the use of its resources.</p> <p>To arrive at our conclusion we looked at the Authority's arrangements to make informed decision making, sustainable resource deployment and working with partners and third parties.</p> |
| VFM risk areas | <p>We undertook a risk assessment as part of our VFM audit work to identify the key areas impacting on our VFM conclusion and considered the arrangements you have put in place to mitigate these risks.</p> <p>Our work did not identify any significant matters. We did however comment that:</p> <ul style="list-style-type: none"> The Authority is planning to invest up to £50 million in commercial and residential property (by the end of 2018) to generate new income streams. This is a route being taken by a significant number of local authorities and specific governance arrangements have been put in place. We have supplied the Head of Finance and Property with some general comments as to what steps the Authority needs to consider when going through key decision-making steps, and specific comments about the risks or making investments outside the Authority's geographical area. Although the Authority's financial position remains challenging, there is a balanced budget for 2017/18 and plans are being made to deal with the gap identified for 2018/19 and 2019/20. The Authority's budget also includes capital investment to ensure that core assets are maintained and protected. The Authority has reviewed its reserves to ensure they are sufficient for the Authority to deliver services and take appropriate risks in amending service delivery models without impacting on the financial viability of the organisation. <p>We will monitor the Authority's progress in both of the above areas as part of our 2017/18 audit.</p> |
| Audit opinion | <p>We issued an unqualified opinion on the Authority's financial statements on 27 September 2017. This means that we believe the financial statements give a true and fair view of the financial position of the Authority and of its expenditure and income for the year.</p> |
| Financial statements audit | <p>Our audit identified one audit adjustment with a total value of £4.6 million, although there was no impact on the Authority's usable reserves of General Fund balance. The adjustment was caused by the investment property revaluation balance containing upwards revaluations related to assets contained in the valuation report but not owned by the Authority.</p> <p>We did not identify any other significant matters as part of our audit of the financial statements.</p> |



Section one

Headlines (cont)

We have issued our certificate to confirm the completion of our audit responsibilities for the 2016/17 audit year.

| | |
|--|---|
| Other information accompanying the financial statements | Whilst not explicitly covered by our audit opinion, we review other information that accompanies the financial statements to consider its material consistency with the audited accounts. This year we reviewed the Annual Governance Statement and Narrative Report. We concluded that they were consistent with our understanding and did not identify any issues. |
| Whole of Government Accounts | We reviewed the consolidation pack which the Authority prepared to support the production of Whole of Government Accounts by HM Treasury. We reported that the Authority's pack was consistent with the audited financial statements. |
| High priority recommendations | <p>We raised no high priority recommendations as a result of our 2016/17 audit work. We did identify three medium priority recommendations in the following areas:</p> <ul style="list-style-type: none"> — Asset valuation report: ensuring that the report is reviewed by interested and informed parties within the Authority to ensure it is complete and accurate; — Valuation instructions: ensure only owned assets are included and consider the best approach to obtaining assurance about the useful lives of Authority owned buildings; and — User accounts for the General Ledger: ensuring that there is a regular check to ensure all staff who have left have had their user account closed. <p>We will formally follow up these recommendations as part of our 2017/18 work.</p> |
| Certificate | We issued our certificate on 27 September 2017. The certificate confirms that we have concluded the audit for 2016/17 in accordance with the requirements of the Local Audit & Accountability Act 2014 and the Code of Audit Practice. |
| Audit fee | Our fee for 2016/17 was £96,653, excluding VAT. This was the same as the planned fee and the fee for the previous year. Further detail is contained in Appendix 2. |



Appendices

Appendix 1: Summary of reports issued

This appendix summarises the reports we issued since our last Annual Audit Letter.

These reports can be accessed via the Governance and Ethics Committee pages on the Authority's website at www.westberks.gov.uk.

External Audit Plan (March 2017)

The External Audit Plan set out our approach to the audit of the Authority's financial statements and to work to support the VFM conclusion.

Audit Fee Letter (April 2017)

The Audit Fee Letter set out the proposed audit work and draft fee for the 2017/18 financial year.

Auditor's Report (September 2017)

The Auditor's Report included our audit opinion on the financial statements along with our VFM conclusion and our certificate.

2017

January

February

March

April

May

June

July

August

September

October

November

Certification of Grants and Returns (January 2017)

This report summarised the outcome of our certification work on the Authority's 2015/16 grants and returns.

Report to Those Charged with Governance (August 2017)

The Report to Those Charged with Governance summarised the results of our audit work for 2016/17 including key issues and recommendations raised as a result of our observations.

We also provided the mandatory declarations required under auditing standards as part of this report.

Annual Audit Letter (October 2017)

This Annual Audit Letter provides a summary of the results of our audit for 2016/17.

Appendices

Appendix 2: Audit fees

This appendix provides information on our final fees for the 2016/17 audit.

To ensure transparency about the extent of our fee relationship with the Authority we have summarised below the outturn against the 2016/17 planned audit fee.

External audit

Our final fee for the 2016/17 audit of the Authority was £96,653, which is in line with the planned fee.

Certification of grants and returns

Under our terms of engagement with Public Sector Audit Appointments we undertake prescribed work in order to certify the Authority's housing benefit grant claim. The scale fee for this work is £12,391 and has been set by Public Sector Audit Appointments. This certification work is still ongoing. The final fee will be confirmed through our reporting on the outcome of that work in January 2018.

Other services

We expect to charge £3,300 for additional audit-related services for the certification of the Teachers' Pensions grant claim which is outside of Public Sector Audit Appointment's certification regime. This certification work is still ongoing. The final fee will be confirmed through our reporting on the outcome of that work in January 2018.



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The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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Amendments to the Scheme of Delegation

| | |
|---|----------------------------|
| Committee considering report: | Council on 7 December 2017 |
| Portfolio Member: | Councillor Keith Chopping |
| Date Portfolio Member agreed report: | 09 November 2017 |
| Report Author: | Shiraz Sheikh |
| Forward Plan Ref: | C3093 |

1. Purpose of the Report

- 1.1 To amend the Scheme of Delegation which forms Part 3 of the Constitution.

2. Recommendation

- 2.1 The Council resolves to approve the amendments to Scheme of Delegation, Part 3 of the Constitution and adopts the version contained in Appendix A.

3. Implications

- 3.1 **Financial:** None. The Scheme of Delegation operates in conjunction with other key documents such as the Financial and Contract Rules of Procedure.
- 3.2 **Policy:** None
- 3.3 **Personnel:** None
- 3.4 **Legal:** Section 101 of the Local Government Act 1972 states that a local authority may delegate authority for the discharge of its functions to a committee, sub-committee or officer. Similarly, the Local Government Act 2000 authorises the Leader of the Executive to make arrangements for the discharge of executive functions by a member or committee of the Executive, or by officers. The Scheme of Delegation is therefore a key Constitutional document as it details who is authorised to take operational decisions on behalf of the Council.
- 3.5 **Risk Management:** As a matter of good governance, the Council reviews the Constitution on an annual basis. Regularly reviewing the Constitution ensures that it is amended to reflect legislative and organisational change, which reduces the risk of successful litigation against the Council.
- 3.6 **Property:** None
- 3.7 **Other:** None

4. Other options considered

- 4.1 Do not change the Scheme.

Executive Summary

5. Introduction / Background

- 5.1 During 2010/11 following an audit of the Constitution and its processes the Finance and Governance Group of Officers which includes the Monitoring Officer, S151 Officer, Chief Internal Auditor and Head of Strategic Support began a systematic review of each part of the Constitution.
- 5.2 This systematic review of the Constitution ensures that the Council's administrative arrangements remain effective and efficient bearing in mind changes imposed by government and other bodies as well as improving transparency and openness. This process has been recognised as good best practice.
- 5.3 The changes introduced as part of the Senior Management Review implemented on the 1st April 2017 meant that the Scheme of Delegation had to be amended to accurately reflect the revised Council structure.

6. Proposal

- 6.1 It is proposed that the amendments to the Scheme of Delegation as detailed at Appendix C be adopted. The amendments reflect the current organisational structure of the Council.
- 6.2 The previous version of the Scheme had been subject to various amendments over a period of time, which meant that the specific delegations given to different Heads of Service was not consistent in style or format. Whilst some of those differences still exist, it is considered that the proposed revisions help to align the delegations to all Heads of Service in all service areas.
- 6.3 One significant change is that the proposed amendments will grant a general delegation to each customer facing service area to undertake all the day to day functions necessary for that service area to fulfil its statutory duties and obligations. It is considered that this should provide greater flexibility and certainty about the powers exercisable by each Head of Service.
- 6.4 The general delegations and reservations remain largely the same as the previous version of the scheme, which should ensure that the general delegation of powers are exercised in an appropriate manner and are subject to appropriate controls.

7. Conclusion

- 7.1 It is considered that the proposed amendments to the Scheme of Delegation provide greater certainty and flexibility for the Council to operate in an effective and efficient manner. It is therefore recommended that the Council adopts the amended version of the Scheme of Delegation at Appendix C.

8. Appendices

- 8.1 Appendix A – Equalities Impact Assessment.
- 8.2 Appendix B – Supporting Information
- 8.3 Appendix C – Scheme of Delegation
- 8.4 Appendix D – Scheme of Delegation – Track Changes

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- “(1) A public authority must, in the exercise of its functions, have due regard to the need to:**
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:**
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;**
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.**
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.”**

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

| | |
|---|--------------------------------|
| What is the proposed decision that you are asking the Council to make: | Amend the Scheme of Delegation |
| Summary of relevant legislation: | Local Government Act 1972 |
| Does the proposed decision conflict with any of the Council's key strategy priorities? | No |
| Name of assessor: | Shiraz Sheikh |
| Date of assessment: | 18.10.17 |

| Is this a: | | Is this: | |
|------------|-----|--------------------------------------|-----|
| Policy | No | New or proposed | No |
| Strategy | No | Already exists and is being reviewed | Yes |
| Function | Yes | Is changing | Yes |
| Service | No | | |

| 1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it? | |
|--|--|
| Aims: | To ensure that the Scheme of Delegation remains up to date and fit for purpose. |
| Objectives: | To provide greater certainty to staff and the communities that we serve as to how the Council will operate when exercising its powers. |
| Outcomes: | Clear and lawful decision making |
| Benefits: | Clear understanding of who is responsible for exercising the Council's powers and duties. |

| 2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this. | | |
|--|----------------------------------|------------------------------------|
| (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.) | | |
| Group Affected | What might be the effect? | Information to support this |
| Age | None | |
| Disability | None | |

| | | |
|--|------|--|
| Gender Reassignment | None | |
| Marriage and Civil Partnership | None | |
| Pregnancy and Maternity | None | |
| Race | None | |
| Religion or Belief | None | |
| Gender | None | |
| Sexual Orientation | None | |
| Further Comments relating to the item: | | |
| The changes to the policies will impact all staff equally. The policies seek to clarify obligations which are in fact imposed by legislative requirements. | | |

| | |
|--|-----------|
| 3 Result | |
| Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality? | No |
| Please provide an explanation for your answer: | |
| Will the proposed decision have an adverse impact upon the lives of people, including employees and service users? | No |
| Please provide an explanation for your answer: | |

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage Two Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the [Equality Impact Assessment guidance and Stage Two template](#).

| | |
|--|----|
| 4 Identify next steps as appropriate: | |
| Stage Two required | No |
| Owner of Stage Two assessment: | |
| Timescale for Stage Two assessment: | |

Name:

Date:

Please now forward this completed form to Rachel Craggs, Principal Policy Officer (Equality and Diversity) (rachel.craggs@westberks.gov.uk), for publication on the WBC website.

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Amendments to the Scheme of Delegation – Supporting Information

1. Introduction/Background

- 1.1 During 2010/11 following an audit of the Constitution and its processes the Finance and Governance Group of Officers which includes the Monitoring Officer, S151 Officer, Chief Internal Auditor and Head of Strategic Support began a systematic review of each part of the Constitution.
- 1.2 This systematic review of the Constitution ensures that the Council's administrative arrangements remain effective and efficient bearing in mind changes imposed by government and other bodies as well as improving transparency and openness. This process has been recognised as good best practice.
- 1.3 The Scheme of Delegation also needed to be amended to accurately reflect the revised Council structure which was implemented with effect from the 1st April 2017.

2. Supporting Information

- 2.1 The proposed amendments to the Scheme are contained at Appendix C. The amendments reflect the new organisational structure together with provision for greater flexibility to respond to legislative changes.
- 2.2 Prior to reviewing the Council's Scheme of Delegation, regard was had to the adopted Schemes of Delegation in force in other local authorities. Some of these had schemes which sought to list every individual statutory provision under which an officer would be given delegated powers. Others had Schemes which were very brief and simply gave a general delegation to a particular officer to undertake the duties, powers and functions of that authority relating to an area of work such as housing or planning.
- 2.3 The difficulty with being overly prescriptive about the powers being delegated is that there is a significant risk that provisions which are necessary for the day to day operation of a Service may be overlooked. This could impact on the ability to function on a day to day basis and could lead to more frequent revisions to the Scheme being necessary. This would also require regular updates to take account of any and all legislative changes.
- 2.4 The current version of the Scheme has been subject to various amendments over a period of time and the specific delegations given to different Heads of Service is no longer consistent in style or format. Some Services have very general delegations whilst others are very specific although most list specific powers delegated to the Head of Service.
- 2.5 The proposed amendments therefore grant a general delegation to each customer facing service area to undertake all the day to day functions necessary for that

service area to fulfil its statutory duties and obligations. Some of the more specific details and narratives have also been retained.

- 2.6 The Scheme contains delegation (subordinate) to each Head of Service and for the Chief Executive and Directors to act in the absence of their Heads of Services. Heads of Service have the ability to delegate any powers given to them to any other officer.
- 2.7 A number of third tier officers raised concerns following the consultation about their desire to have specific powers delegated to them, as per the existing version of the Scheme. Given that both the existing and proposed versions of the Scheme explicitly permit Heads of Service to authorise other officers to perform powers delegated to them on their behalf, it is considered that it is unnecessary to specifically delegate powers to some third tier officers. It is considered that the Scheme should be consistent across all Services.
- 2.8 The statutory appointments of the director of children services and adult social care as required under the Children Act 2004 and Local Authority Social Services Act 1970 has been clarified under the delegation to the Corporate Director (Communities).
- 2.9 The role of Head of Finance & Property and attendant responsibility under Section 151 of the Local Government Act 1972 to act in accordance with all relevant legislation pertaining to proper administration of the financial affairs of the Council is expressly stated with flexibility to act in accordance with duties and powers contained in legislation.
- 2.10 It is proposed that the power to institute or otherwise engage in legal proceedings is reserved to the Head of Legal, along with the power to authorise officers to appear in any legal proceedings. This will not prevent service areas from continuing to perform their current roles, but it will necessitate appropriate authorisations. This should ensure that the Monitoring Officer retains oversight of any legal action taken on behalf of or against the Council.
- 2.11 The amendments to the Scheme of Delegation will be subject to Council approval.

3. Options for Consideration

3.1 The options for consideration are as follows:

- (1) We continue to operate under the existing scheme
- (2) We implement the revised Scheme of Delegation

4. Proposals

4.1 It is proposed that the proposed amendments to the Scheme of Delegation as detailed in Appendix C be adopted by Council.

5. Conclusion

- 5.1 It is hoped that the proposed revisions to the Scheme of Delegation will accurately reflect the current organisational structure of the Council and provide greater flexibility for each Service area to undertake its day to day functions.

6. Consultation and Engagement

- 6.1 All Heads of Service, Moira Fraser, Ian Priestly, Melanie Ellis, Sean Murphy
-

Subject to Call-In:

Yes: No:

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

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**
-

Officer details:

Name: Shiraz Sheikh
Job Title: Interim Legal Services Manager, Governance & Environment
Tel No: 2456
E-mail Address: shiraz.sheikh@westberks.gov.uk

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Part 3

Scheme of Delegation

Document Control

| | | | |
|-----------------------|--|-----------------------|----------|
| Document Ref: | WB/P&C/MF/2008-11 | Date Created: | May 2007 |
| Version: | 26 | Date Modified: | |
| Revision due | | | |
| Author: | Maira 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 | |

| Version | Date | Description | Change ID |
|---------|----------------|---|--|
| 8 | December 2012 | Amended Paragraph 3.13.2 | |
| 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 |
| 21 | March 2016 | 3.1.3, 3.3.3, 3.3.6, 3.4, 3.5.3, 3.5.7, 3.7.3 (new), 3.8.10 (Energy Act 2011), 3.8.10 (Disability), 3.12.2, 3.14.5 (Berkshire Act 1986), 3.14.16 (Section 1 Burial Act 1986), 3.14.17 (Section 215 Local Government Act 1972), 3.15.1, 3.15.3, 3.15.8 (Berkshire Act 1986), 3.15.17 (Section 1 of the Burial Act 1853), 3.15.18 (Section 215 Local Government Act 1972), 3.16.2,3.16.3 and 3.16.15 | As per the Council Report March 2016 |
| 22 | April 2016 | Update the Schedule of Proper Officer Appointments | Monitoring Officer under delegated authority |
| 23 | April 2016 | 3.15.3 - addition of Psychoactive Substances Act 2016 | Monitoring Officer under delegated authority |
| 24 | July 2016 | 3.16.14 | Monitoring Officer under delegated authority |
| 25 | October 2016 | 3.3.3 and 3.5.3 | Monitoring Officer under delegated authority |

| Version | Date | Description | Change ID |
|---------|-----------------------|--|--|
| 26 | January 2017 | 3.15 | Monitoring Officer under delegated authority |
| 27 | June to November 2017 | Update to take into account changes in processes, legislation and corporate structure. | DMO |

If you require this information in a different format, such as audio tape or in another language, please ask an English speaker to contact

Moir Fraser on 01635 519045 who will be able to help.

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>

Contents

| | | |
|-----|---|----|
| 3.1 | Delegation of Functions | 2 |
| | • Introduction | 2 |
| | • Table 1- Responsibility for Local Choice Functions | 2 |
| | • Table 2 - Responsibility for Council Functions (Schedule 1 of the Functions Regulations) | 5 |
| | • Table 3 - Summary of Licensing Authority functions in accordance with the Licensing Act 2003 (except where delegated below)..... | 8 |
| | • Table 4 - Summary of Executive Functions | 9 |
| | • Table 5 - Summary of Partner Functions | 11 |
| 3.2 | Officers' Scheme of Delegation..... | 11 |
| | • Scope of Scheme..... | 11 |
| | • Consultation | 12 |
| | • Conditions of Delegation..... | 12 |
| | • Overall Limitations..... | 12 |
| 3.3 | General Delegation to Corporate Directors/Heads of Service ... | 13 |
| | • Legal Matters | 13 |
| | • Human Resources | 14 |
| | • Tenders/Contracts | 15 |
| | • Emergencies | 15 |
| 3.4 | Delegation to Specific Directors | 15 |
| | • 16 | |
| 3.5 | Schedule of Proper Officer Appointments | 16 |
| | • Delegations to Heads of Service | 20 |
| 3.6 | Head of Adult Social Care..... | 20 |
| | • Subject to the reservations and exceptions set out in this Scheme, the Head of Adult Social Care shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to Adult Social Care, which shall include but not be limited to the following: | 20 |
| | • Residential and Nursing Home Accommodation | 20 |
| | • Home Care Services: Financial Matters..... | 21 |

| | | |
|------|---|----|
| 3.7 | Head of Children and Family Services | 22 |
| | • Child Protection..... | 22 |
| | • Accommodation, Care, Fostering and Adoption | 22 |
| | • Home Care Services: Financial Matters..... | 22 |
| 3.8 | Head of Customer Services and ICT..... | 23 |
| 3.9 | Head of Development and Planning..... | 23 |
| | • Town and Country Planning Act 1990..... | 24 |
| | • Planning (Listed Buildings and Conservation Areas) Act 1990 | 24 |
| | • Planning (Hazardous Substances) Act 1990 | 24 |
| | • Planning and Compulsory Purchase Act 2004..... | 24 |
| | • Planning Act 2008..... | 24 |
| | • Housing and Planning Act 2016..... | 24 |
| | • Localism Act 2011..... | 24 |
| | • Housing Grants, Construction & Regeneration Act 1996..... | 24 |
| | • Caravan Act 1968 | 24 |
| | • Local Government and Housing Act 1989 | 24 |
| | • Housing Act 1985..... | 24 |
| | • Housing Act 1996..... | 24 |
| | • Housing Act 1988..... | 24 |
| | • Housing Act 2004..... | 24 |
| | • Homelessness Reduction Act 2017 | 24 |
| 3.10 | Head of Education | 27 |
| | • Admissions..... | 28 |
| | • Attendance at School | 28 |
| | • Special Educational Needs (SEN) | 28 |
| | • School Term Dates | 29 |
| | • Name of School | 29 |
| | • Curriculum..... | 29 |
| | • Staffing – in respect of Nursery Schools | 29 |
| | • Staffing – in respect of Maintained Primary, Secondary and Special Schools | 29 |
| | • All Educational Establishments | 29 |

| | | | |
|------|---|--|----|
| | • | Provision of Information Concerning Individual Performance of Pupils | 29 |
| | • | Governance | 30 |
| | • | Miscellaneous | 30 |
| | • | Post 16 Years - Education and Training Provision | 30 |
| 3.11 | | Head of Finance and Property | 30 |
| | • | Designation | 30 |
| | • | Responsibility | 30 |
| | • | Finance General | 31 |
| | • | Loans and Borrowing | 31 |
| | • | Valuation | 32 |
| | • | Matters Relating to Children and Young Persons | 32 |
| | • | Property Matters..... | 32 |
| | • | Insurance | 33 |
| 3.12 | | Head of Legal Services | 33 |
| | • | General | 33 |
| | • | Local Government Act 1972..... | 33 |
| | • | Local Government (Miscellaneous Provisions) Act 1976: | 33 |
| | • | Miscellaneous | 34 |
| | • | Commons Registration..... | 34 |
| | • | Berkshire Act 1986..... | 34 |
| | • | Road Traffic Regulation Act 1984 | 34 |
| | • | Town and Country Planning (General Permitted Development) (England) Order 2015 | 35 |
| | • | Localism Act 2011..... | 35 |
| | • | Property Matters..... | 35 |
| | • | Anti Social Behaviour, Crime and Policing Act 2014..... | 36 |
| 3.13 | | Head of Prevention and Safeguarding | 36 |
| 3.14 | | Head of Public Health and Wellbeing..... | 36 |
| | • | General | 36 |
| | • | Health of the Population..... | 36 |
| | • | General | 37 |
| | • | Dental Health | 37 |

| | | | |
|------|---|---|----|
| | • | Health of Prisoners | 37 |
| | • | Weight Measurement and Children’s Sexual Health Service..... | 37 |
| | • | Violent Offenders | 37 |
| | • | Health Protection | 37 |
| | • | Health Improvement..... | 37 |
| | • | Health Care Public Health | 37 |
| 3.15 | | Head of Public Protection and Culture | 37 |
| | • | 37 | |
| | • | Culture General..... | 41 |
| | • | Anti Social Behaviour, Crime and Policing Act 2014..... | 42 |
| | • | Registration of Births, Deaths and Marriages..... | 42 |
| | • | Civil Contingencies..... | 42 |
| 3.16 | | Head of Strategic Support..... | 42 |
| | • | General | 42 |
| | • | Local Government Act 1972..... | 43 |
| | • | Local Land Charges | 43 |
| | • | Electoral Matters | 43 |
| | • | Localism Act 2011 - Part 5 Chapter 3 - Assets of Community Value | 43 |
| | • | Local Authorities (Members’ Allowances) (England) Regulations 2003 (as amended) | 43 |
| 3.17 | | Head of Transport and Countryside | 43 |
| | • | 45 | |
| | • | Countryside including Rights of Way functions | 47 |

3.1 Delegation of Functions

- 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

- 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 Transport and Countryside or other Heads of Service, depending on the function concerned. See Scheme of Delegation |
| The determination of an appeal against any decision in relation to employment matter made by or on behalf of the Authority | Employment Appeals Panel | Corporate Director, Head of Service and one elected Member | These functions will not be further delegated. |
| The determination of Appeals including council tax, home-to-school transport and Tourist Information Signs against any decision made by or on behalf of the Authority | Appropriate Appeal panel | 4 independent Members | These functions will not be further delegated |
| The appointment of Review Boards under | Council | All Members | These functions will not be further |

| Function | Decision-Making Body | Membership | Delegation of Function |
|---|--------------------------------|----------------------------|---|
| regulations under Subsection (4) of Section 34 (Determination of Claims and Reviews) of the Social Security Act 1998 | | | delegated. |
| 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 (School 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 Public Protection and Culture, 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 Public Protection and Culture in accordance with the Scheme of Delegation |
| The serving of an Abatement Notice in | Licensing Committee | 12 Members | Functions delegated to the Head of Public |

| Function | Decision-Making Body | Membership | Delegation of Function |
|--|---|--|--|
| respect of a statutory nuisance | | | Protection and Culture in accordance with the Scheme of Delegation |
| 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 Public Protection and Culture 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 Public Protection and Culture 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 Public Protection and Culture 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 Development and Planning 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 the Head of Development and Planning 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 Transport and Countryside 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 | 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 |
|---|----------------------|---------------------------------------|---|
| Sub-Committee of such a body, and the revocation of any such appointment | | | |
| 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 |

- 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, severance payments and premature retirements | Council | All Members | These functions will not be delegated further except for requests for the early release of pensions. (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 |
| Miscellaneous functions. Duty to approve Authority's statement of accounts, income and | Governance and Ethics | 8 Members 2 non-voting co-opted Parish | These functions will not be further delegated |

| Functions | Committee | Membership | Delegation of Functions |
|---|-----------------------------------|-------------------|---|
| expenditure and balance sheet or record of receipts and payments (as the case may be) | | Councillors | |
| 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 | 5 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 | 5 Members | These functions will not be further delegated |
| Duty to designate an Officer as the Monitoring Officer, and to provide staff | Personnel Committee | 5 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 Property and to the Head of Legal Services as set out in the Scheme of Delegation |
| Power to make payments or provide other benefits in cases of maladministration, etc. | Council | All Members | This function is delegated to the appropriate Head of Service for payments / benefits up to the value of £2,500 |
| Functions relating to Town and Country Planning and Development Control | District/Area Planning Committees | 12 Members | Functions are delegated to the appropriate Area Planning Committee (Eastern and Western). Where their proposed resolutions are deemed by the Development Control Manager to have a |

| Functions | Committee | Membership | Delegation of Functions |
|---|--------------------------|-------------------|---|
| | | | 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 Development and Planning as set out in the Scheme of Delegation. Some functions are delegated to the Head of Development and Planning 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 Development and Planning as set out in the Scheme of Delegation |
| Licensing and registration functions | Licensing Committee | 12 Members | Functions delegated to the Head of Public Protection and Culture 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 Public Protection and Culture 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 Public Protection and Culture as set out in the Scheme of Delegation |
| Duty to keep and maintain a register of commons | Area Planning Committees | 12 Members | Functions delegated to the Head of Legal Services as set out in the Scheme of Delegation |
| Duty to keep definitive maps and statement under review | Area Planning Committees | 12 Members | Functions delegated to the Head of Transport and Countryside as set out in the Scheme of Delegation |
| Powers relating to the | Area Planning | 12 Members | Functions delegated to |

| Functions | Committee | Membership | Delegation of Functions |
|---|---------------------------------|--|--|
| preservation of important hedgerows | Committees | Members for the relevant Wards | the Head of Transport 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 Transport 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 Transport 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 | 8 District 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 |

- 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 | | If a representation | If no representation |

| Matter to be dealt with | Full Committee | Sub-Committee | Officers |
|--|----------------------------------|----------------------------------|---|
| Licence/Club Premises Certificate (Section 18(3) and 72(3)) | | is made | 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 lead Authority | | | All cases |
| Determination of a Police representation to a temporary event notice (Section 105(2)) | | All cases | |
| Rights of Entry to investigate Licensable activities (Section 179) | | | Licensing Officers |

- **Table 4 - Summary of Executive Functions**

| Responsibility | Member-ship | Delegation of Functions | Onward limits on delegations |
|-----------------------|-----------------------|---|-------------------------------------|
| Executive | Executive Leader plus | The formulation, review and monitoring of the | This function will not be delegated |

| Responsibility | Member-ship | Delegation of Functions | Onward limits on delegations |
|----------------|---------------------------------|---|---|
| | 9 Members | 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 | |
| Executive | Executive Leader plus 9 Members | <p>The implementation of the approved Budget and Policy Framework, except in relation to those functions set out in Tables 1 and 2 of Part 3 of this Constitution which are shown as the responsibility of the Council or its Committees.</p> <p>This will include the management, control and supervision of :</p> <ul style="list-style-type: none"> 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 Services Education Services and the promotion of Lifelong Learning Social Services and Health Environmental Services including planning, countryside, public protection and highway services | <p>Functions will be delegated to the Chief Executive, Corporate Directors and Heads of Service in accordance with the Scheme of Delegation</p> <p>Functions delegated to the Head of Paid Service (Chief Executive in accordance with Scheme of Delegation and in consultation with Members of the Joint Consultative Panel)</p> |
| Executive | Executive | Representing the Council | This function will, in |

| Responsibility | Member-ship | Delegation of Functions | Onward limits on delegations |
|----------------|-----------------------|---|--|
| | Leader plus 9 Members | and the District to the public, other organisations and agencies, both within the District and at a regional / national level | part, be delegated to the Chief Executive under the Scheme of Delegation |

- 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

- 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 (to include but not limited to primary and secondary legislation, Orders and regulations etc.) and shall be deemed to include references to amending, substituted or extending legislation in force from time to time.

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, Section 9E of the Local Government Act 2000 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 of the Council and includes any person engaged as a contractor, consultant or otherwise to perform the functions of an employee of the Council (and includes statutory officers, directors and managers).

- 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, Personnel 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 relevant Committee or to Council for decision.

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

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.

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

- 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 a report of the Section 151 Officer which is produced 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 and entering into contracts must be in accordance with the Finance Rules of Procedure and the Contract Rules of Procedure, detailed at Parts 10 and 11 of the Constitution.

Legal Powers

Any reference to the power to administer or enforce the provisions of any Act, Order or Regulation etc., shall include the power to decide whether to administer or otherwise enforce those provisions. Any reference to the power to commence or institute legal proceedings shall include the decision to commence proceedings or prosecute, as well as all other action in the matter (including in appropriate cases, the power to reach a settlement, withdraw or discontinue proceedings).

3.3 General Delegation to Corporate Directors/Heads of Service

- Legal Matters
- Service of requisitions for information as to ownership of any property under statutory powers.
- Authority to apply for planning permission in respect of 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.

- 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, home working 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 and Property).
- Extension of industrial accident pay (in consultation with the Head of Finance and Property).
- 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.
- In consultation with the Head of Finance and the Head of Legal, 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.
- General organisation of services within policy laid down by Council.
- To determine whether a post falls within the definition of a 'sensitive post' under the Local Government and Housing Act 1989 and should therefore be included on the list of sensitive posts within the Council, which are subject to political restriction.
 - Tenders/Contracts
- No Officer shall place orders or authorise contracts to be awarded, otherwise than in accordance with the Council's Financial Rules of Procedure and Contract Rules of Procedure, as set out in this Constitution.
 - 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.

3.4 Delegation to Specific Directors

The Corporate Director Communities :

- Shall be appointed as a Director of Children Services and carryout functions pursuant to section 18 of the Children Act 2004.
- Shall be appointed as a Director of Adult Social Services and carryout functions pursuant to section 6 of the Local Authority Social Services Act 1970.
- Is authorised 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.
- Is authorised 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.
- Is authorised 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.

- Is authorised to approve the registration of children’s homes under Part VIII of the Children Act 1989.
- Is authorised to agree Service Level Agreements/Joint Arrangements with other agencies in respect of the provision of joint leisure, cultural and information services
- Is authorised to appoint Officers to act as Approved Mental Health Professionals under the Mental Health Act 1983.
-

The Corporate Director Economy and Environment:

- Is authorised to 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 in consultation with the Section 151 Officer and Monitoring Officer and the Portfolio Holder for Waste matters may.
- 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 (Economy and 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.

The Chief Executive:

- Is authorised to approve new and revised HR policies and procedures. The Chief Executive may decide to refer particular HR policies and procedures to the Personnel Committee rather than exercise the delegation.

3.5 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 | Head of Strategic Support |

| Sect | Function | Exercised by |
|--------------|--|---|
| | office of Chairman | |
| 89(1)(b) | Receipt of notice of casual vacancy from two local government electors | The Chief Executive or Head of Legal Services |
| 100B-F | Circulation of Reports and Agendas Supply of Papers to the Press Summaries of Minutes Members' Right to Papers Compilation of Lists Background Papers and Identification of Background papers. | The Head of Strategic Support |
| 115(2) | Receipt of money due from Officers | Head of Finance and Property |
| 146 (1) | Declarations and certificates with and regards to securities | Head of Finance and Property |
| 151 | Officers having responsibility for the administration of the Council's financial matters | Head of Finance and Property or deputy appointed in writing |
| 191 | Functions with respect of Ordnance Survey | Head of Development and Planning |
| 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 and Property |

| 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 Strategic Support |
| 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 Development and Planning |
| Section 41 - Local Government (Miscellaneous Provisions) Act 1976: Certification of minutes and resolutions | | Head of Strategic Support |
| Representation of the People Act 1983 as follows: | | |
| Section 8 - Registration Officer and the Deputy Registration Officer under Section 8 of the Act | | Chief Executive Elections and Land Charges Manager |
| Section 35 - Returning Officer for elections | | Chief Executive |
| To ensure that the Council's policies on | | Head of Strategic |

| Sect | Function | Exercised by |
|-------------|--|--|
| | Data Protection and Freedom of Information are complied with. | 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 |
| | 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 Public Protection and Culture |
| | 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 Public Protection and Culture with Superintendent Registrar as deputy |
| | 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 and Property |
| | 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 Public Protection and Culture |
| | Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997. | Head of Finance and Property (Section 151 Officer) |
| | Neighbourhood Planning (Referendums) | Head of Development |

| Sect | Function | Exercised by |
|--|-----------------|---|
| Regulations 2012 | | and Planning |
| Any proper officer post not specified in the above list. | | The Chief Executive |
| 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 or other officer authorised in writing by the Chief Executive. |
| For the Head of Legal Services | | Legal Services Managers within Legal Services with relevant knowledge |
| For the Head of Finance and Property | | Appropriate Corporate Director or deputy authorised in writing by the s151 Officer. |
| Others | | Appropriate Corporate Director |

- **Delegations to Heads of Service**

Specific delegations are granted to Heads of Service as set out in section 3.6 to 3.17 below.

3.6 Head of Adult Social Care

- Subject to the reservations and exceptions set out in this Scheme, the Head of Adult Social Care shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to Adult Social Care, which shall include but not be limited to the following:

The Care Act 2014

Mental Health Act 1983

Mental Capacity Act 2005

- Residential and Nursing Home Accommodation
- Subject to the Council's Contract Rules of Procedure and Financial Rules of Procedure, to authorise and approve the maintenance costs for the admission of any person to any residential or nursing home accommodation and enter into such contracts.

- To authorise applications 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).
- To act as Financial 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.

Better Care Fund

- Quarterly Performance Reporting
- To approve performance reporting for the Better Care Fund Programme
 - Home Care Services: Financial Matters
- In accordance with procedures approved in advance by the Head of Finance and Property 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 and Property, 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.

Mental Health Act 1983

- To accept a guardianship application and to exercise the powers of guardianship under the Mental Health Act 1983
- To exercise the functions of the Nearest Relative under the powers contained in the Mental Health Act 1983 and the Mental Health Act 2007 in all matters in which it is appropriate for an Officer of the Council so to act.

Deprivations of Liberty

- 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 Legal Services for those being deprived of their liberty falling outside Schedule A1 of the Mental Capacity Act 2005.

3.7 Head of Children and Family Services

- Subject to the reservations and exceptions set out in this Scheme, the Head of Children and Family Services shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to Children and Family Services, which shall include but not be limited to the following:
 - Children Act 1989
 - National Health Service and Community Care Act 1990
 - Children Act 2004
 - Children and Young Persons Act 2008
 - Children and Families Act 2014
 - Children and Social Work Act 2017

- In accordance with procedures agreed in writing in advance with the Head of Finance and Property, 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 Children Act 1989 to the child in question.
 - 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.
- To take such action as is necessary to bring a child or young person before a Court where it is considered that 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.
- To present an application to a Court for a Child Assessment Order, an Emergency Protection Order or a Recovery Order.
 - Accommodation, Care, Fostering and Adoption
- To provide accommodation, care, fostering and adoption services for children in need, including by the arrangement of interest free loans to foster parents.
 - Home Care Services: Financial Matters
- In accordance with procedures approved in advance by the Head of Finance and Property 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 and Property, 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.

3.18 Head of Commissioning

Subject to the reservations and exceptions set out in this Scheme, the Head of Commissioning shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to commissioning, which shall include but not be limited to the following:

- Specifically in relation to Care Act 2014: market shaping, promoting quality & supporting sustainability places statutory duty on LA for Market Shaping and the need to commission effective appropriate commissioned services as well as managing market failure and market interruptions.
- Through the function of Care Quality the Care Quality Commission (Registration Regulations) 2009 (SI 2009/3112) to provide Care Quality Commission with access to information to inform the assessment of quality of care provided to people who use services, the Commissioning Service meets the duty to provide explanation of a relevant matter where so requested by Care Quality Commission.
- Health & Social Care Act 2008: to ensure failing services are improved and to support improvement of services - by ensuring Care Quality Commission views are fed in.
- to make arrangements to secure a range of services as set out in The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012.
- In the delegated function of commissioning services on behalf of CCGs the Commissioning Service meets the NHS Act 2006 (Supply of goods and services by the local authority and the duty to cooperate with the National Health Service.
- commissioning and providing direct support for schools catering in line with the School Standards and Framework Act 1998 Secondary - Education (Nutritional Standards and Requirements for School Food) (England) Regulations Supports statutory function.

3.8 Head of Customer Services and ICT

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

3.9 Head of Development and Planning

- Subject to the reservations and exceptions set out in this Scheme, the Head of Development and Planning shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to town and country planning and housing, which shall include but not be limited to the following:-

- Town and Country Planning Act 1990
 - Planning (Listed Buildings and Conservation Areas) Act 1990
 - Planning (Hazardous Substances) Act 1990
 - Planning and Compulsory Purchase Act 2004
 - Planning Act 2008
 - Housing and Planning Act 2016
 - Localism Act 2011
 - Housing Grants, Construction & Regeneration Act 1996
 - Caravan Act 1968
 - Local Government and Housing Act 1989
 - Housing Act 1985
 - Housing Act 1996
 - Housing Act 1988
 - Housing Act 2004
 - Homelessness Reduction Act 2017
- 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 Development and Planning 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.

Traveller Sites

- To commission professional services in relation to traveller and gypsy sites
- 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.

Housing

- 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 in relation to homelessness.
- To promote energy efficient homes including administering grants for energy efficiency.

- 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
 - To approve discretionary grants and loans as exceptions to the adopted Housing Grants & Loans Policy
 - 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.
 - Carry out repairs to units of temporary accommodation.
 - Repurchase of ex-Council House Stock in Rural Areas
 - To approve exceptions to the application of the local connection criteria for homes subject to s.19 of the Housing Act 1980 and s.157 of the Housing Act 1985
 - 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
 - Service of Notice to Quit on tenants of Council dwellings. Allocation of pitches on Council owned caravan sites.
 - 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
- Future Development Sites
- The Head of Development and Planning 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 Development and Planning be given delegated authority to determine the level of affordable housing financial contribution in line with current policy.

Sites with Existing Planning Permission

- The Head of Development and Planning 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 and in line with adopted planning policies.

3.10 Head of Education

Subject to the reservations and exceptions set out in this Scheme, the Head of Education shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to education, which shall include but not be limited to the following:-

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.

Education and Adoption Act 2016

Schools admission legislation including appeals

Schools exclusion legislation including appeals

- Admissions
- To consult 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 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 agreed policies.
- 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.
 - Attendance at School
- To ensure that appropriate transport arrangements are made having regard to 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 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.
 - 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 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.
 - 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.

 - Name of School

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

 - Curriculum

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

 - 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.
 - Staffing – in respect of Maintained Primary, Secondary and Special Schools
- To appoint persons selected 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 where appropriate 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.
- 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.
 - All Educational Establishments

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

 - 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.

- 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.
 - 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.
- Pursuant to Academies Act 2010 to enter into Commercial Transfer Agreement and property transfer/ lease agreements.
- 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.
 - Post 16 Years - Education and Training Provision

To exercise the powers and duties of the Council under:

- 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,
- the Education and Skills Act 2008
- the Education and Skills Act 2008

3.11 Head of Finance and Property

- Designation

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

- Responsibility

To take all appropriate steps and measures to discharge the functions of the Section 151 officer as having responsibility for the proper administration of the financial affairs of the Council under all appropriate legislation.

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

- Finance General

Subject to the reservations and exceptions set out in this Scheme, the Head of Finance & Property shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to finance, revenues, benefits and property, which shall include but not be limited to the following:-

- Local Government Finance Act 1992
- Local Government Finance Act 1988.
- The power to administer and enforce the collection of council tax.
- The power to calculate the Council's council tax base for the purpose of the calculation of its council tax.
- The power to administer and enforce the collection of business rates (NDR)
- 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 of irrecoverable debt of an amount not exceeding £10,000 and in cases where the debtor is subject to formal insolvency proceedings, sums exceeding £10,000.
- 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 Prevention and Safeguarding).
- Agreement as to reduction in rateable value.
- Investment of surplus funds in accordance with the Council's approved investment policies.

- To make any necessary changes to the Constitution consequent upon amendments to the European thresholds on Procurement (see Contract Rules of Procedure).
 - 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.

- 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.
- 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.
 - Jointly with the Head of Legal Services and the Head of Children and Family Services to invest and administer any funds received by the Council on behalf of a child in care by way of any compensation or settlement or award of damages from legal proceedings ~~and any other relevant statutory provisions acting on behalf of the Council for the benefit of any child.~~
 - Property Matters
 - The day-to-day management of the Council portfolio of land and buildings, including lease renewals, assignments and rent reviews.
 - Making proposals to the Valuation Office Rating List.
 - Agreeing to reductions in rent affecting Council-owned property.
 - Reaching an agreement on compulsory purchase and home loss payment claims up to £15,000.
 - 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.
 - Authority to approve 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.

- Insurance

All insurance arrangements and settlement of claims.

3.12 Head of Legal Services

- General
- On behalf of the Council, to defend, institute, participate in, appeal from, settle or abandon any legal proceedings whether administrative, civil or criminal in any court arbitration or tribunal where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such an action is necessary to protect the Council's interests.
- Pursuant to Section 223 of the Local Government Act 1972 and other relevant legislation and Practice Directions, authorise persons to represent the Council in legal proceedings.
- to instruct external Solicitors or Barristers to represent the Council.
- Make such orders, issue such notices and execute such agreements and instruments as are necessary to give effect to any decision or authorisation of the Council, its Committees, Sub-Committees, the Executive or of an Officer acting within the scope of his or her authorised or delegated powers.
- Determine whether inspection of a document in the possession of the Council should not be allowed on the grounds that it is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
- This role also 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 and to be authorised signatory of behalf of the Council.
- Where appropriate exercise powers in consultation with relevant officers.
 - 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) - Sealing of documents.
 - 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.

- 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 and Property 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.
- 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.
 - Commons Registration
- To exercise the Council's powers and duties in relation to the registration of Commons and Towns and Village Greens.
 - Berkshire Act 1986
- 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.
 - 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 Transport and Countryside).
- 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.

- 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 Development and Planning, 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 s151 Officer to consider any financial implications.
 - Consultation must also take place 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.
 - 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.

- Property Matters

To enter into, in consultation with Head of Finance,

- Agreements for easements and wayleaves to an unlimited value.
- Agreement for leases and licences up to a value of £100,000 per annum.
- Agreements relating to acquisition and disposal of investment properties pursuant to the Council's Investment and Borrowing Strategy accompanying Property Investment Strategy as amendment and/or revised from time to time.
- Agreements to acquire and dispose of land up to consideration of £300,000.
- Surrenders.
- Lifting of all restrictive covenants up to a value of £300,000.
- Agreements relating to deferred payments (including registration of a legal charge) pursuant to the Care Act 2014.

- Anti Social Behaviour, Crime and Policing Act 2014

The Head of Legal Services, in consultation with the relevant Head of Service, 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 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.

3.13 Head of Prevention and Safeguarding

Subject to the reservations and exceptions set out in this Scheme, the Head of Prevention and Safeguarding shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to prevention and safeguarding, which shall include but not be limited to the following:

- Care Act 2014
- Safeguarding Vulnerable Groups Act 2006
- Children Act 1989
- To ensure that a Local Safeguarding Adults Board and a Local Safeguarding Children’s Board are established, to provide representation on such Boards and to ensure compliance with all the statutory functions and objectives of those Boards
- To support the framework of those Boards in relation to Safeguarding Adults Reviews arranged in accordance with the Care Act 2014 and Serious Case Reviews arranged in accordance with the Children Act 1989 and associated Regulations.

3.14 Head of Public Health and Wellbeing

Subject to the reservations and exceptions set out in this Scheme, the Head of Public Health and Wellbeing shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to public health and wellbeing, which shall include but not be limited to the following:

- General

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

- 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”.

- General

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

- Dental Health

Dental health functions for which the Council has responsibility.

- Health of Prisoners

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

- 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.

- Violent Offenders

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

- Health Protection

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

- 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.

- 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.

3.15 Head of Public Protection and Culture

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Subject to the reservations and exceptions set out in this Scheme, the Head of Public Protection and Culture shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to

environmental health, trading standards, licensing, building control and public protection, which shall include but not be limited to the following:

Administration of Justice Act 1970
Agricultural Act 1970
Animal Boarding Establishments Act 1963
Animal Health Act 1981
Animal Welfare Act 2006
Animals Act 1971
Anti Social Behaviour Act 2003
Anti-social Behaviour Crime and Policing Act 2014
Berkshire Act 1980
Breeding of Dogs Act 1973, 1991
Building Act 1984
Cancer Act 1939
Caravan Act 1968, 1985
Caravan Sites and Control of Development Act 1960-1985
Charities Act 1992
Children and Young Persons (Protection from Tobacco) Act 1991
Children and Young Persons Act 1933
Chiropractors Act 1994
Chronically Sick and Disabled Persons Act 1970
Cinema Act 1968-1985
Civil Contingencies Act 2004
Clean Air Acts 1956-1993
Clean Neighbourhoods and Environment Act 2005
Companies Act 2006
Consumer Credit Act 1974, 2006
Consumer Protection Act 1987
Consumer Rights Act 2015
Control of Pollution Act 1974
Copyright Designs and Patents Act 1988
Courts and Legal Services Act 1990
Crime and Disorder Act 1997
Criminal Justice Act 1988
Criminal Justice and Public Order Act 1994
Customs & Excise (Management) Act 1979

Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Disabled Persons Act 1981
Public Space Protection Orders
Education Reform Act 1988
Enterprise Act 2002
Environment Act 1995
Environmental Protection Act 1990
Estate Agents Act 1979
European Communities Act 1972
Explosives Act 1875, 1923
Factories Act 1961
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
Gambling Act 2005
Guard Dogs Act 1975
Hallmarking Act 1973
Health Act 2006
Health and Safety at Work etc. Act 1974
Home Safety Act 1961
Housing Acts 1957, 1985, 1996, 2004
Housing Grants, Construction and Regeneration Act 1996
Intoxicating Substances (Supply) Act 1985
Knives Act 1997
Land Compensation Act 1973
Late Night Refreshment Houses Act 1969
Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1965, 1976, 1982
Local Government Acts 1953-1989
Local Government Act 1972
Local Government and Housing Act 1989
Malicious Communications Act 1988

National Assistance (Amendment) Act 1951
National Assistance Act 1948
National Lotteries etc Act 1993
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops and Railway Premises Act 1963
Olympic Symbols etc. (Protection) Act 1995
Osteopaths Act 1993
Performing Animals (Regulation) Act 1925
Pesticides Act 1996
Pet Animals Act 1951
Pollution, Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Prices Acts 1974
Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002
Proceeds of Crime Act 2002
Protection from Harassment Act 1997
Psychoactive Substances Act 2016
Public Health (Control of Disease) Act 1984
Public Health Act 1936-1984
Radioactive Substances Act 1993
Rag Flock Act 1961
Regulation of Investigatory Powers Act 2000
Regulatory Enforcement and Sanctions Act 2008
Riding Establishments Act 1964, 1970
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic Act 1988, 1991
Road Traffic Regulation Act 1984
Safety of Sports Grounds Act 1975
Scotch Whisky Act 1982
Scrap Metal Dealers Act 1964, 2013
Slaughter of Poultry Act 1967
Slaughterhouses Act 1974
Solicitors Act 1974
Sunbeds (Regulation) Act 2010
Sunday Trading Act 1994

Tattooing of Minors Act 1969
 Theatres Act 1968
 Theft Act 1968
 Tobacco Advertising and Promotion Act 2002
 Tobacco Products Duty Act 1979
 Town Police Clauses Acts 1847-1889
 Trade Descriptions Act 1968
 Trade Marks Act 1994
 Transport Act 1980
 Unsolicited Goods and Services Act 1971, 1975
 Vehicles (Crime) Act 2001
 Video Recordings Act 1984, 2010
 Violent Crime Reduction Act 2006
 Water Acts 1945-1989
 Water Industries Act 1991
 Weights and Measures Act 1985
 Zoo Licensing Act 1981

(a)

- This extends to any offence under any legislation, or at common law, which is of a similar nature or related to the foregoing including offences of aiding, abetting, counselling and procuring, incitement, conspiracy, perverting the course of justice and criminal attempts
 - appoint the Council's Chief Inspector of Weights and Measures ;
 - 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.
- Culture General
 - To grant a licence and associated consents for the annual Michaelmas Fair.
 - Local Government (Miscellaneous Provisions) Act 1982, 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 Transport and Countryside and Head of Development and Planning
 - Admission and exclusion of public to recreation facilities and premises (also Head of Transport and Countryside and Head of Development and Planning) .
 - Acquisition of items under Museum acquisition scheme.
 - Administer Archive Service on behalf of all six Unitary Authorities in Berkshire.

- 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.

- Anti Social Behaviour, Crime and Policing Act 2014

To delegate to the Head of Culture & Public Protection the authority to make a Public Space Protection Order in accordance with Chapter 2 of the Anti Social Behaviour, Crime and Policing Act 2014. The Head of Public Protection and Culture, in consultation with the Head of Legal Services, is authorised to serve Community Protection Notices in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.

- 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 Property, and from time to time vary, the fees payable for the granting or refusal of applications for the approval of said premises.

- Civil Contingencies

Subject to the reservations and exceptions set out in this Scheme, the Head of Public Protection and Culture shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to civil protection and emergency planning, which shall include but not be limited to the following;

- 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). To form and participate in Local Resilience Forums (based on Police areas) which will help co-ordination and co-operation between responders at the local level.

3.16 Head of Strategic Support

- 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.

- 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.
 - Local Land Charges
- To authorise the issue of official certificates of search of the Council's Land Charges Register.
 - Electoral Matters

Designation of Polling Places (in consultation with the Returning Officer and Ward Members).

- 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. The Head of Strategic Support shall be authorised to determine applications which have been properly made.

- 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.

3.17 Head of Transport and Countryside

Subject to the reservations and exceptions set out in this Scheme, the Head of Transport and Countryside shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to transport, highways, street management, street works, waste, countryside and rights of way, which shall include but not be limited to the following:

- Highways Act 1980
- Transport Act 1985
- Transport Act 2000
- Traffic Management Act 2004

- Local Transport Act 2008
- Goods Vehicles (Licensing of Operators) Act 1995
- New Roads and Street Works Act 1991
- Town Police Clauses Act 1847
- Road Traffic Regulations Act 1984
- Berkshire Act 1986
- Clean Neighbourhoods and Environment Act 2005
- Countryside Act 1968
- Countryside and Rights of Way Act 2000
- Criminal Damage Act 1971
- Environmental Protection Act 1990
- 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
- Rights of Way Act 1990
- Town and Country Planning Act 1990
- Wildlife and Countryside Act 1981
- Goods Vehicles (Licensing of Operators) Act 1985
- Flood and Water Management Act 2010
- Local Government Miscellaneous Provisions Act 1976
- Anti Social Behaviour Act 2003
- Anti-social Behaviour, Crime and Policing Act 2014
- Clean Neighbourhoods and Environment Act 2005
- Control of Pollution Act 1974
- Control of Pollution (Amendment) Act 1989
- Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991
- Environment Act 1995
- Environmental Protection Act 1990
- European Communities Act 1972
- Refuse Disposal (Amenity) Act 1978
- Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005

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Agreements, Notices and Orders

- 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.
- 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.
- 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.

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 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.
- 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.
- 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 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 :
 - To grant permits to utility companies to work on the public highway
 - 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 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 carry out minor temporary repairs in private streets required to remove danger to persons or vehicles;
 - To carry out 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 and in

consultation with the Head of Finance), by the scale of the potential legal liability.

- 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.
- 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 objections are received, the matter will be referred back to the relevant decision maker for consideration and determination. 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 objections are received, the matter will be referred back to the relevant decision maker for consideration and determination. Where an order is implemented, the Ward Members will be advised.
- In consultation with the Head of Finance and Property to issue licences and fix and collect fees in relation to the matters governed by the Highways Act 1980.
- In consultation with the Head of Legal Services and the Head of Development and Planning to submit objections to the Traffic Commissioner on behalf of the Council.
- To act as the Traffic Manager in accordance with the requirements of the Traffic Management Act 2004.

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 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.

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 Transport and Countryside in consultation with the Leader, appropriate Portfolio Holder and Opposition Spokesperson.

- 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 Public Protection and Culture).
- Letting of recreation facilities and premises (also Head of Public Protection and Culture).
- To carry out powers in relation to The Hedgerow Regulations 1997.
- To grant a licence and associated consents for the annual Michaelmas Fair.
- 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).
- To keep the definitive maps and statement under review
- In consultation with the Head of Public Protection and Culture to submit objections and such representations considered necessary or permitted in respect of closed churchyard applications under the Section 1 Burial Act 1853.
- To exercise the Council's obligations under the Act in relation to transfers of maintenance responsibilities relating to closed churchyards under Section 215 Local Government Act 1972.

Part 3

Scheme of Delegation

Document Control

| | | | |
|----------------|--|----------------|--------------|
| Document Ref: | WB/P&C/MF/2008-11 | Date Created: | May 2007 |
| Version: | 2526 | Date Modified: | October 2016 |
| 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 | |



| <u>Version</u> | <u>Date</u> | <u>Description</u> | <u>Change ID</u> |
|----------------|---------------|--|------------------|
| 8 | December 2012 | Amended Paragraph 3.13.2 | |
| 9 | July 2013 | Added Head of Public Health and Wellbeing (Paragraph 3.17) | |

| Version | Date | Description | Change-ID |
|---------|----------------|---|--|
| 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 |
| 21 | March 2016 | 3.1.3, 3.3.3, 3.3.6, 3.4, 3.5.3, 3.5.7, 3.7.3 (new), 3.8.10 (Energy Act 2011), 3.8.10 (Disability), 3.12.2, 3.14.5 (Berkshire Act 1986), 3.14.16 (Section 1 Burial Act 1986), 3.14.17 (Section 215 Local Government Act 1972), 3.15.1, 3.15.3, 3.15.8 (Berkshire Act 1986), 3.15.17 (Section 1 of the Burial Act 1853), 3.15.18 (Section 215 Local Government Act 1972), 3.16.2,3.16.3 and 3.16.15 | As per the Council Report March 2016 |
| 22 | April 2016 | Update the Schedule of Proper Officer Appointments | Monitoring Officer under delegated authority |
| 23 | April 2016 | 3.15.3 - addition of Psychoactive Substances Act 2016 | Monitoring Officer under delegated authority |
| 24 | July 2016 | 3.16.14 | Monitoring Officer under delegated authority |
| 25 | October 2016 | 3.3.3 and 3.5.3 | Monitoring Officer under delegated authority |



| <u>Version</u> | <u>Date</u> | <u>Description</u> | <u>Change ID</u> |
|----------------|------------------------------|---|---|
| <u>26</u> | <u>January 2017</u> | <u>3.15</u> | <u>Monitoring Officer under delegated authority</u> |
| <u>27</u> | <u>June to November 2017</u> | <u>Update to take into account changes in processes, legislation and corporate structure.</u> | <u>DMO</u> |

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Moira Fraser on 01635 519045 who will be able to help.

Contents

| | | |
|------------|--|-----------|
| 3.1 | Delegation of Functions | 1 |
| • | Introduction | 1 |
| • | Table 1- Responsibility for Local Choice Functions | 1 |
| • | Table 2 - Responsibility for Council Functions (Schedule 1 of the Functions Regulations) | 4 |
| • | Table 3 - Summary of Licensing Authority functions in accordance with the Licensing Act 2003 (except where delegated below) | 8 |
| • | Table 4 - Summary of Executive Functions | 9 |
| • | Table 5 - Summary of Partner Functions | 10 |
| 3.2 | Officers’ Scheme of Delegation..... | 11 |
| • | Scope of Scheme | 11 |
| • | Consultation | 11 |
| • | Conditions of Delegation..... | 11 |
| • | Overall Limitations | 12 |
| 3.3 | General Delegation to Corporate Directors/Heads of Service ... | 13 |
| • | Legal Matters | 13 |
| • | Human Resources | 13 |
| • | Tenders/Contracts | 15 |
| • | Emergencies..... | 15 |
| 3.4 | Delegation to Specific Directors | 15 |
| • | 17 | |
| 3.5 | Schedule of Proper Officer Appointments | 17 |
| • | Delegations to Heads of Service | 21 |
| 3.6 | Head of Adult Social Care..... | 21 |
| • | Subject to the reservations and exceptions set out in this Scheme, the Head of Adult Social Care shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to Adult Social Care, which shall include but not be limited to the following:..... | 21 |
| • | Residential and Nursing Home Accommodation | 29 |
| • | Home Care Services: Financial Matters | 29 |

| | | |
|-------------|---|-----------|
| 3.7 | Head of Children and Family Services | 32 |
| • | Child Protection | 33 |
| • | Accommodation, Care, Fostering and Adoption | 34 |
| • | Home Care Services: Financial Matters | 34 |
| 3.8 | Head of Customer Services and ICT..... | 35 |
| 3.9 | Head of Development and Planning..... | 36 |
| • | Town and Country Planning Act 1990 | 36 |
| • | Planning (Listed Buildings and Conservation Areas) Act 1990..... | 39 |
| • | Planning (Hazardous Substances) Act 1990 | 39 |
| • | Planning and Compulsory Purchase Act 2004 | 39 |
| • | Planning Act 2008..... | 39 |
| • | Housing and Planning Act 2016 | 39 |
| • | Localism Act 2011 | 39 |
| • | Housing Grants, Construction & Regeneration Act 1996..... | 39 |
| • | Caravan Act 1968 | 39 |
| • | Local Government and Housing Act 1989 | 39 |
| • | Housing Act 1985 | 39 |
| • | Housing Act 1996 | 39 |
| • | Housing Act 1988 | 39 |
| • | Housing Act 2004 | 39 |
| • | Homelessness Reduction Act 2017 | 41 |
| 3.10 | Head of Education | 62 |
| • | Admissions | 63 |
| • | Attendance at School..... | 63 |
| • | Special Educational Needs (SEN) | 64 |
| • | School Term Dates | 64 |
| • | Name of School | 64 |
| • | Curriculum | 64 |
| • | Staffing – in respect of Nursery Schools..... | 64 |
| • | Staffing – in respect of Maintained Primary, Secondary and Special Schools | 64 |
| • | All Educational Establishments..... | 65 |

| | | |
|-------------|---|-----------|
| • | <u>Provision of Information Concerning Individual Performance of Pupils</u> | 65 |
| • | <u>Governance</u> | 65 |
| • | <u>Miscellaneous</u> | 65 |
| • | <u>Post 16 Years - Education and Training Provision</u> | 66 |
| 3.11 | <u>Head of Finance and Property</u> | 66 |
| • | <u>Designation</u> | 66 |
| • | <u>Responsibility</u> | 66 |
| • | <u>Finance General</u> | 66 |
| • | <u>Loans and Borrowing</u> | 67 |
| • | <u>Valuation</u> | 67 |
| • | <u>Matters Relating to Children and Young Persons</u> | 67 |
| • | <u>Property Matters</u> | 68 |
| • | <u>Insurance</u> | 68 |
| 3.12 | <u>Head of Legal Services</u> | 68 |
| • | <u>General</u> | 68 |
| • | <u>Local Government Act 1972</u> | 69 |
| • | <u>Local Government (Miscellaneous Provisions) Act 1976:</u> | 69 |
| • | <u>Miscellaneous</u> | 69 |
| • | <u>Commons Registration</u> | 70 |
| • | <u>Berkshire Act 1986</u> | 70 |
| • | <u>Road Traffic Regulation Act 1984</u> | 70 |
| • | <u>Town and Country Planning (General Permitted Development) (England) Order 2015</u> | 70 |
| • | <u>Localism Act 2011</u> | 71 |
| • | <u>Property Matters</u> | 71 |
| • | <u>Anti Social Behaviour, Crime and Policing Act 2014</u> | 71 |
| 3.13 | <u>Head of Prevention and Safeguarding</u> | 71 |
| 3.14 | <u>Head of Public Health and Wellbeing</u> | 72 |
| • | <u>General</u> | 72 |
| • | <u>Health of the Population</u> | 72 |
| • | <u>General</u> | 72 |
| • | <u>Dental Health</u> | 72 |

| | | |
|-------------|--|-----------|
| • | Health of Prisoners | 72 |
| • | Weight Measurement and Children’s Sexual Health Service | 72 |
| • | Violent Offenders | 73 |
| • | Health Protection | 73 |
| • | Health Improvement | 73 |
| • | Health Care Public Health | 73 |
| 3.15 | Head of Public Protection and Culture | 73 |
| • | 73 | |
| • | Culture General | 77 |
| • | Anti Social Behaviour, Crime and Policing Act 2014 | 77 |
| • | Registration of Births, Deaths and Marriages | 78 |
| • | Civil Contingencies | 78 |
| 3.16 | Head of Strategic Support..... | 78 |
| • | General..... | 78 |
| • | Local Government Act 1972 | 78 |
| • | Local Land Charges..... | 79 |
| • | Electoral Matters..... | 79 |
| • | Localism Act 2011 - Part 5 Chapter 3 - Assets of Community Value | 79 |
| • | Local Authorities (Members’ Allowances) (England) Regulations 2003 (as amended)..... | 79 |
| 3.17 | Head of Transport and Countryside | 79 |
| • | 80 | |
| • | Countryside including Rights of Way functions..... | 83 |

3.1 Delegation of Functions

- 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

- 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 and Countryside or other Heads of Service, depending on the function concerned. See Scheme of Delegation |
| The determination of an appeal against any decision <u>in relation to employment matter</u> made by or on behalf of the Authority | <u>Council (Employment Appeals Panel)</u> | <u>Dependent on nature of appeal: Home/ School-Transport = 3 Members Housing/ Council Tax-Benefit = 3 Members Corporate Director, Head of Service and one elected Member</u> | These functions will not be further delegated. |
| <u>The determination of Appeals including council tax, home-to-school transport and Tourist</u> | <u>Appropriate Appeal panel</u> | <u>4 independent Members</u> | <u>These functions will not be further delegated</u> |

| Function | Decision-Making Body | Membership | Delegation of Function |
|---|--|----------------------------|---|
| <u>Information Signs against any decision made by or on behalf of the Authority</u> | | | |
| 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. |
| 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 (<u>School</u> 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 <u>Public Protection and Culture</u> , in accordance with the |

| Function | Decision-Making Body | Membership | Delegation of Function |
|---|-----------------------------------|------------|--|
| | | | 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 <u>Public Protection and Culture</u> 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 <u>Public Protection and Culture</u> in accordance with the Scheme of Delegation |
| 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 <u>Public Protection and Culture</u> 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 <u>Public Protection and Culture</u> 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 <u>Public Protection and Culture</u> 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 <u>Development and Planning and Countryside</u> 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 the Head of <u>Service Development and Planning</u> 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 and Countryside in accordance with the |

| Function | Decision-Making Body | Membership | Delegation of Function |
|--|--|---|--|
| | | | Scheme of Delegation |
| <p>The appointment of any individual:</p> <p>a) to any office other than an office in which they are employed by the Authority;</p> <p>b) to any other body than:</p> <p>i) the Authority;</p> <p>ii) a Joint Committee or Sub-Committee of two or more Authorities; or</p> <p>c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment</p> | <p>Executive (for specified appointments)</p> <p>Individual Decision Scheme (for local appointments)</p> | <p>Executive Leader plus 9 other Members</p> <p>Leader of the Council</p> | <p>These functions will not be delegated further.</p> |
| <p>The making of agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities</p> | <p>Executive</p> | <p>Executive Leader plus 9 other Members</p> | <p>Function delegated to Chief Executive where an emergency situation exists</p> |

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

| Functions | Committee | Membership | Delegation of Functions |
|---|----------------|--------------------|--|
| <p>Functions relating to elections</p> | <p>Council</p> | <p>All Members</p> | <p>Some of these functions are delegated to the Returning Officer as set out in the Scheme of Delegation</p> |
| <p>Functions relating to the name and status of areas and individuals</p> | <p>Council</p> | <p>All Members</p> | <p>These functions will not be further delegated</p> |
| <p>Power to make, amend, revoke or re-enact bylaws</p> | <p>Council</p> | <p>All Members</p> | <p>These functions will not be further delegated</p> |
| <p>Power to promote or approve local or personal Bills</p> | <p>Council</p> | <p>All Members</p> | <p>These functions will not be further delegated</p> |
| <p>Functions relating to pensions, severance payments and premature retirements</p> | <p>Council</p> | <p>All Members</p> | <p>These functions will not be delegated further except for requests for the early release of pensions.</p> |

| Functions | Committee | Membership | Delegation of Functions |
|--|-----------------------|--|---|
| | | | (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 |
| 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 <u>2 non-voting co-opted Parish Councillors</u> | 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 | <u>65</u> 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 | <u>65</u> Members | These functions will not be further delegated |
| Duty to designate an Officer as the Monitoring Officer, and to provide staff | Personnel Committee | <u>65</u> 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 <u>Property and to</u> |

| Functions | Committee | Membership | Delegation of Functions |
|--|-----------------------------------|-------------|--|
| | | | the Head of Legal Services as set out in the Scheme of Delegation |
| Power to make payments or provide other benefits in cases of maladministration, etc. | Council | All Members | This function is delegated to the appropriate Head of Service for payments / benefits up to the value of £2,500 |
| Functions relating to Town and Country Planning and Development Control | District/Area Planning Committees | 12 Members | Functions are delegated to the appropriate Area Planning Committee (Eastern and Western). Where their proposed resolutions are deemed by the Development Control Manager to have a significant impact on the implementation of the policies and proposals in the Local Development Plan, these will be referred to the District Planning Committee. Functions delegated to the Head of Development and Planning and Countryside as set out in the Scheme of Delegation. Some functions are delegated to the Head of Development and 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 Development and 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 <u>Public Protection and Culture</u> as set out in the |

| Functions | Committee | Membership | Delegation of Functions |
|---|----------------------------|--|--|
| | | | 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 <u>Public Protection and Culture</u> 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 <u>Public Protection and Culture</u> as set out in the Scheme of Delegation |
| Duty to keep and maintain a register of commons | Area Planning Committees | 12 Members | Functions delegated to the Head of Legal Services as set out in the Scheme of Delegation |
| Duty to keep definitive maps and statement under review | Area Planning Committees | 12 Members | Functions delegated to the Head of Planning <u>Transport</u> 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 <u>Transport</u> 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 <u>Transport</u> 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 <u>Transport</u> 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 |

| Functions | Committee | Membership | Delegation of Functions |
|--|---------------------------------|---|--|
| | | | 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 | 68 District 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 |

- 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 | | All cases | |

| Matter to be dealt with | Full Committee | Sub-Committee | Officers |
|---|----------------|---------------|---|
| Premises Licences/Club Premises Licence (Sections 52(2) or (3) and 88(2) or (3)) | | | |
| Decision on whether a complaint is irrelevant, frivolous or vexatious | | | Officer in consultation with the Chairman and Vice-Chairman of the Licensing Committee or other appropriate appointed Members for this purpose. |
| Decision to object when Local Authority is a consultee and not the lead Authority | | | All cases |
| Determination of a Police representation to a temporary event notice (Section 105(2)) | | All cases | |
| Rights of Entry to investigate Licensable activities (Section 179) | | | Licensing Officers |

• Table 4 - Summary of Executive Functions

| Responsibility | Membership | 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 | 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 |

| Responsibility | Member-ship | Delegation of Functions | Onward limits on delegations |
|-----------------------|---------------------------------|--|---|
| | | <p>economic, environmental and social wellbeing of the District</p> <p>the development and review of plans and strategies to support the Council's Budget and Policy Framework and statutory responsibilities</p> <p>the Council's own financial and property resources</p> <p>Revenue Services and Benefits administration</p> <p>Support Services</p> <p>Library and Information Services</p> <p>Education Services and the promotion of Lifelong Learning</p> <p>Social Services and Health</p> <p>Environmental Services including planning, countryside, public protection and highway services</p> | Joint Consultative Panel) |
| 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 |

• 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

- 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 (to include but not limited to primary and any future-re-enactment secondary legislation, Orders and regulations etc.) and shall be deemed to include references to amending, substituted or addition to it extending legislation in force from time to time.

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, Section 9E of the Local Government Act 2000 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 employee of the Council- and includes any person engaged as a contractor, consultant or otherwise to perform the functions of an employee of the Council (and includes statutory officers, directors and managers).

- 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, Personnel 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 relevant Committee ~~the Area Planning Committees~~ or to Council for decision.

- 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. _
- (c) _____ Powers delegated to Heads of Service may be exercised by the appropriate Corporate Director or the Chief Executive.

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.)

- 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 a report of the Section 151 Officer designated which is produced 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 and entering into contracts must be in accordance with the Finance Rules of Procedure and the Contract Rules of Procedure, detailed at Parts 10 and 11 of the Constitution.

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 or any other legal proceedings (such powers being reserved to the Head of Legal Services).~~

Any reference to the power to administer or enforce the provisions of any Act, Order or Regulation etc., shall include the power to decide whether to administer or otherwise enforce those provisions. Any reference to the power to commence or institute legal proceedings shall include the decision to commence proceedings or prosecute, as well as all other action in the matter (including in appropriate cases, the power to reach a settlement, withdraw or discontinue proceedings).

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.~~
- 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.
 - 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, home working 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 [and Property](#)).
- Extension of industrial accident pay (in consultation with the Head of Finance [and Property](#)).
- 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.
- ~~In consultation with the Head of Finance and the Head of Legal, 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 determine whether a post falls within the definition of a 'sensitive post' under the Local Government and Housing Act 1989 and should therefore be included on the list of sensitive posts within the Council, which are subject to political restriction.
 - 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.~~
 - No Officer shall place orders or authorise contracts to be awarded, otherwise than in accordance with the Council's Financial Rules of Procedure and Contract Rules of Procedure, as set out in this Constitution.
- 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.

3.4 Delegation to Specific Directors

~~(a)~~ The Corporate Director

Communities : _____
 To

- Shall be appointed as a Director of Children Services and carryout functions pursuant to section 18 of the Children Act 2004.
- Shall be appointed as a Director of Adult Social Services and carryout functions pursuant to section 6 of the Local Authority Social Services Act 1970.
- Is authorised 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.

- ~~Tels authorised 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.
- ~~Tels authorised 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.
- ~~Tels authorised to~~ approve the registration of children's homes under Part VIII of the Children Act 1989 ~~in accordance with the Children's Homes Regulations 1994.~~
- ~~Tels authorised 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), 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.~~
- ~~Tels authorised to~~ appoint Officers to act as Approved Mental Health Professionals under the Mental Health Act ~~2007~~1983.
 - ~~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 ____~~

The Corporate Director Economy and Environment:

- Is authorised to 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 in consultation with the Section 151 Officer and Monitoring Officer and the Portfolio Holder for Waste matters may.
- 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 (Economy and 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)~~

The Chief Executive:

- ~~The Power~~Is authorised 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.

3.43.5 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 | Head of Strategic Support |

| Sect | Function | Exercised by |
|----------------|---|--|
| | office of Chairman | |
| 89(1)(b) | Receipt of notice of casual vacancy from two local government electors | The Chief Executive or Head of Legal Services |
| <u>100B-F</u> | <u>Circulation of Reports and Agendas</u> <u>Supply of Papers to the Press</u> <u>Summaries of Minutes</u> <u>Members' Right to Papers</u> <u>Compilation of Lists Background Papers and Identification of Background papers.</u> | <u>The Head of Strategic Support</u> |
| <u>115(2)</u> | <u>Receipt of money due from Officers</u> | <u>Head of Finance and Property</u> |
| <u>146 (1)</u> | <u>Declarations and certificates with and regards to securities</u> | <u>Head of Finance and Property</u> |
| 151 | Officers having responsibility for the administration of the Council's financial matters | Head of Finance <u>and Property</u> or deputy appointed in writing |
| <u>191</u> | <u>Functions with respect of Ordnance Survey</u> | <u>Head of Development and Planning</u> |
| 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 <u>and Property</u> |
| 229(5) | Certification of photographic copies of documents | Appropriate Director or Head of Service from which the document originates |

| Sect | Function | Exercised by |
|---|---|--|
| 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 <u>Strategic Support</u> |
| 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 <u>Development and</u> Planning and Countryside |
| Section 41 - Local Government (Miscellaneous Provisions) Act 1976: Certification of minutes and resolutions | | Head of Strategic Support |
| Representation of the People Act 1983 as follows: | | |
| Section 8 - Registration Officer and the Deputy Registration Officer under Section 8 of the Act | | Chief Executive Elections and Land Charges Manager |
| Section 35 - Returning Officer for elections | | Chief Executive |
| Local Government Act 1972: | | Insert |
| 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 | | Head of Strategic Support |

| Sect | Function | Exercised by |
|--|--|---|
| | Data Protection and Freedom of Information are complied with. | |
| | 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 <u>Public Protection and Culture</u> |
| | 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 Customer Services <u>Public Protection and Culture</u> 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 Section 100d(1)(a) & Section 100D(5)(a) Compilation of Lists Background Papers and Identification of Background papers. | Head of Strategic Support |
| | 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. |

| Sect | Function | Exercised by |
|--|--|--|
| | Signing and authorising all property valuations on behalf of the Council | Head of Finance <u>and Property</u> |
| | 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 <u>Public Protection and Culture</u> |
| | Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997. | Head of Finance <u>and Property</u> (Section 151 Officer) |
| | <u>Neighbourhood Planning (Referendums) Regulations 2012</u> | <u>Head of Development and Planning</u> |
| | <u>Any proper officer post not specified in the above list.</u> | <u>The Chief Executive</u> |
| 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 <u>or other officer authorised in writing by the Chief Executive.</u> |
| For the Head of Legal Services | | Legal Services Managers within Legal Services with relevant knowledge |
| For the Head of Finance <u>and Property</u> | | Appropriate Corporate Director <u>or deputy authorised in writing by the s151 Officer.</u> |
| Others | | Appropriate Corporate Director |

- **Delegations to Heads of Service**

The following ~~Specific~~ delegations are granted to ~~the~~ Heads of Service as set out in section 3.56 to 3.17 below.

~~3.5~~ **Head of Finance**

- ~~Designation~~

~~3.6~~ **Head of Adult Social Care**

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

- ~~Responsibility~~

~~The Head of Finance provides strategic support on commissioning~~

~~Subject to the Council.~~

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

- ~~Finance General~~
 - ~~Local Government Finance Act 1992 S17 reservations 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 £10,000 and exceeding £10,000 in cases where the debtor has been declared bankrupt.~~
- ~~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)~~
 - ~~Leans 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 proscribed limit by way of overdraft.~~
- ~~Raising and repayment of temporary loans in sterling.~~
 - ~~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.~~

~~3.6.1 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).~~

~~3.6.2 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 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.~~

~~3.6.3 Council Tax (Administration and Enforcement) Regulations 1992~~

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

~~3.6.4 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.~~

~~3.6.5 Council Tax (Situation and Valuation of Dwellings) Regulations 1992~~

~~All Local Authority powers/duties contained within the Regulations.~~

~~3.6.6 Council Tax (Reductions for Disabilities) Regulations 1992~~

~~All Local Authority powers/duties contained within the Regulations.~~

~~3.6.7 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 exceptions 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)

~~3.6.8 — 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.~~

- ~~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.~~

~~3.6.9 — Local Government (Miscellaneous Provisions) Act 1976~~

- ~~Section 30 — to forge 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.~~

~~3.6.10 — 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.~~

3.6.11 ~~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.~~
 - ~~Insurance~~

~~All insurance arrangements and settlement of claims.~~

3.6.12 ~~Human Resources~~

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

3.7 ~~Head of Children and Family Services~~

3.7.1 ~~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, shall be authorised to~~
 - ~~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, duties and powers of the Council as set out in any relevant legislation relating to Adult Social Care, which shall include~~
 - ~~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.~~

3.7.2 ~~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).~~
 - ~~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.~~
 - ~~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.~~

3.7.3 ~~Home Care Services: Financial Matters~~

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

3.8 ~~Head of Adult Social Care~~

- ~~not be limited to the following:~~

~~The Care Act 2014~~

~~Mental Health Act 1983~~

~~Mental Capacity Act 2005~~

- Residential and Nursing Home Accommodation
- ~~To~~ Subject to the Council's Contract Rules of Procedure and Financial Rules of Procedure, to authorise and approve the maintenance costs for the admission of any person to any residential or nursing home accommodation and enter into such contracts.

3.8.1 ~~Disability~~

- ~~To authorise the following facilities~~ applications to the Court of Protection 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~~ act as Financial and Property Affairs Deputy (Authorisation for Health and Welfare applications to remain with disabilities imposed upon the Council by community care legislation the Head of Legal Services).
- To act as Financial 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.-

- Better Care Fund

- Quarterly Performance Reporting
- To approve performance reporting for the Better Care Fund Programme
 - ~~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~~

- ~~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~~
 - Home Care Services: Financial Matters
 - In accordance with procedures approved in advance by the Head of Finance and Property 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 and Property, 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.

~~3.9 — Head of Care Commissioning, Housing and Safeguarding~~

- ~~HousingMental Health Act 20041983~~
 - ~~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~~
 - ~~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~~

~~3.9.1 — 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.~~

3.9.2 ~~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.~~

3.9.3 ~~Gypsy Sites~~

- ~~To commission professional services in relation to gypsy sites~~To accept a guardianship application and to exercise the powers of guardianship under the Mental Health Act 1983
 - ~~To exercise the functions of the Nearest Relative 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.~~

3.9.4 ~~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 powers contained in the duties conferred on the Council under Part VII of the Housing~~Mental Health Act 1996 in relation to homelessness.

3.9.5 ~~Home Energy 1983 and Conservation~~the Mental Health Act 1995

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

3.9.6 ~~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.~~

~~3.9.7~~ ~~2007~~ ~~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.~~

~~3.9.8~~ ~~Disability~~

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

~~3.9.9~~ ~~Safeguarding~~

~~Deprivations of Liberty~~

- 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~~ 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).~~

3.103.9 Head of Children and Family Services

3.113.10 Head of Strategic Support

- ~~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.~~

- ~~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 249 — to retain a roll of Freeman.~~
- Subject to the reservations and exceptions set out in this Scheme, the Head of Children and Family Services shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to Children and Family Services, which shall include but not be limited to the following:
 - Children Act 1989~~Civil Contingencies~~
 - National Health Service and Community Care Act 1990
 - Children Act 2004
 - Children and Young Persons Act 2008
 - Children and Families Act 2014
 - Children and Social Work Act 2017
- In accordance with procedures agreed in writing in advance with the Head of Finance and Property, 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 Children Act 1989 to the child in question.
 - Child Protection

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 these 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.~~

- ~~Electoral Matters~~

~~Designation of Polling Places (in consultation with Ward Members):~~

- ~~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.~~

- ~~Anti Social Behaviour, Crime and Policing Act 2014~~

- 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.
- To delegate to the Head of Strategic Support the authority to make take such action as is necessary to bring a child or young person before a Court where it is considered that there are grounds for bringing care proceedings.
- To present an application to a Public Space Protection Court for the variation or discharge of any care order or supervision order.
- To present an application to a Court for a Child Assessment Order, an Emergency Protection Order or a Recovery Order.
 - Accommodation, Care, Fostering and Adoption
- in-To provide accommodation, care, fostering and adoption services for children in need, including by the arrangement of interest free loans to foster parents.
- Home Care Services: Financial Matters
- In accordance with Chapter 2 procedures approved in advance by the Head of Finance and Property 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 and Property, to vary or waive the charges for any service provided by the Council under Part III of the Anti Social Behaviour, Crime and Policing Children Act 1989 where failure to do so would adversely affect the welfare of the child in question.

3.18 Head of Commissioning

Subject to the reservations and exceptions set out in this Scheme, the Head of Commissioning shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to commissioning, which shall include but not be limited to the following:

- Specifically in relation to Care Act 2014:; market shaping, promoting quality & supporting sustainability places statutory duty on LA for Market Shaping and the need to commission effective appropriate commissioned services as well as managing market failure and market interruptions.
 - ~~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.~~
- Through the function of Care Quality the Care Quality Commission (Registration Regulations) 2009 (SI 2009/3112) to provide Care Quality Commission with access to information to inform the assessment of quality of care provided to people who use services, the Commissioning Service meets the duty to provide explanation of a relevant matter where so requested by Care Quality Commission.
- Health & Social Care Act 2008: to ensure failing services are improved and to support improvement of services - by ensuring Care Quality Commission views are fed in.
- to make arrangements to secure a range of services as set out in The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012.
- In the delegated function of commissioning services on behalf of CCGs the Commissioning Service meets the NHS Act 2006 (Supply of goods and services by the local authority and the duty to cooperate with the National Health Service.
- commissioning and providing direct support for schools catering in line with the School Standards and Framework Act 1998 Secondary - Education (Nutritional Standards and Requirements for School Food) (England) Regulations Supports statutory function.

3.12 Head of Customer Services

- ~~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.~~

~~3.133.11~~ **Head of ICT and Corporate Support**

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

~~3.143.12~~ **Head of Highways Development and Transport Planning**

~~3.14.1~~ **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 Subject to the New Roads reservations 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.~~

~~3.14.2~~ **Transport**

- ~~West Berkshire Council is a designated body for the issuing of Section 10 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 exceptions set out in this Scheme, the Head of Legal Services Development and Planning shall be authorised to exercise the functions, duties and 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, as set out in any relevant legislation relating to town and country planning and housing, which shall include but not be limited to the following:-~~
 - ~~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 therefor, 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~~

3.14.3 ~~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 highway 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.~~
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Planning and Compulsory Purchase Act 2004
- Planning Act 2008
- Housing and Planning Act 2016
- Localism Act 2011
- Housing Grants, Construction & Regeneration Act 1996
- Caravan Act 1968
- Local Government and Housing Act 1989
- Housing Act 1985
- ~~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.~~
 - ~~Read Traffic Regulations~~Housing Act 19841996
 - ~~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.~~Housing~~Where an order is implemented, the Ward Members will be advised.~~
 - Berkshire Act 19861988
 - ~~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.~~

3.14.4 ~~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.~~

~~3.14.5 – 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.~~

- ~~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.~~

~~3.14.6 – Environmental Protection Act 1990~~

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

- ~~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.~~

- ~~Traffic Management Housing 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.~~
- ~~Clean Neighbourhoods and Environment Act 2005~~

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

~~3.14.7 – 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.~~

~~3.14.8 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.~~

~~3.14.9 The Traffic Management (West Berkshire Council) Permit Scheme Order 2014~~

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

~~3.15 Head of Legal Services~~

~~3.15.1 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~~
 - ~~• 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 220(5) – Certification of photographic copies of documents.~~
 - ~~• Section 234(1) and (2) – Authorisation of documents.~~
 - ~~• 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.~~
 - ~~• 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.~~
 - ~~Commons Registration~~
- ~~To exercise the Council's powers and duties in relation to Commons and Towns and Village Greens.~~

~~3.15.2 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.~~

~~3.15.3 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.~~

~~3.15.4 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.~~

~~3.15.5 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.~~
 - ~~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 these 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.~~
 - ~~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.~~
 - ~~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 Councillors' (District, Town or Parish) behavior in relation to the Code of Conduct is determined in accordance with the complaints procedure adopted by the Council.~~

 - ~~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)).~~

~~3.15.6 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.~~

~~3.16 Head of Planning and Countryside~~

- ~~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).~~

~~3.16.1 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.~~

~~3.16.2 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.~~

~~3.16.3 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.~~

~~•~~

- ~~• Planning Homelessness Reduction Act 2017~~

~~•~~

- 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 ~~Development and~~ 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.

~~3.16.4 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 Traveller Sites

- ~~To commission professional services in relation to untidy land and consequent action to secure compliance traveller and gypsy sites~~
- 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.

Housing

- To publish an allocations scheme and develop policies to offer choice to applicants in the allocation of housing
 - ~~Enforcement against breaches of Advertisement Regulations.~~
- ~~To carry out powers To exercise the duties conferred on the Council in relation to Part VIII and Part X of the Town and Country Planning Act 1990 homelessness.~~
- To promote energy efficient homes including administering grants for energy efficiency.
 -
- 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

~~To approve~~ ~~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.~~

- ~~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 workgrants and loans as contained in exceptions to the Notice.~~

~~3.16.5 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.~~

3.16.6 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.~~

3.16.7 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.~~

3.16.8 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.~~

~~3.16.9 — 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.~~

- ~~• Planning and Compulsory Purchase Act 2004~~

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

~~3.16.10 — 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.~~

~~3.16.11 — 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.~~

~~3.16.12 — 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.~~

~~3.16.13 — 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.~~

~~3.17 — Head of Culture and Environmental Protection~~

~~3.17.1 — 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;~~
- ~~• 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)~~

~~3.17.2 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.~~

~~3.17.3 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~~
~~Education Reform Act 1988~~
~~Enterprise Act 2002~~
• adopted ~~Environmental Protection Act 1990~~
~~Estate Agents Act 1979~~
~~European Communities Act 1972-~~
~~Explosives Act 1875~~
~~Explosives Act 1923-~~
~~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~~
~~National Lotteries etc Act 1993-~~
~~Olympic Symbols etc. (Protection) Act 1995~~
~~Osteopaths Act 1993-~~
~~Performing Animals (Regulation) Act 1925~~
~~Prices Acts 1974-~~
~~Proceeds of Crime Act 2002*~~
~~Protection from Harassment Act 1997~~
~~Psychoactive Substances Act 2016~~
~~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 1964~~
~~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~~ & Loans Policy
- 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.
 - ~~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 Carry out repairs to units of temporary accommodation.

- Repurchase of ex-Council House Stock in Rural Areas

To approve exceptions to the application of the local connection criteria for homes subject to s.19 of the Housing Act 1989

~~National Assistance (Amendment) Act 1954~~

~~National Assistance Act 1948~~

~~Noise Act 1996~~

~~Noise 1980 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's 157 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 1994~~
- ~~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~~
- ~~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.1985~~
- 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
 - Service of Notice to Quit on tenants of Council dwellings. Allocation of pitches on Council owned caravan sites.
 - 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
 - ~~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.~~
- Anti Social Behaviour, Crime and Future Development Sites
 - The Head of Development and Planning 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 Development and Planning be given delegated authority to determine the level of affordable housing financial contribution in line with current policy.

~~3.17.4 — Sites with Existing Planning Permission Policy Act 2014~~

~~The Head of Culture and Environmental Protection, in _~~

- The Head of Development and Planning 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, ~~be authorised to serve Community Protection Notices and in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014~~ in line with adopted planning policies.

~~3.17.5 — Building Control Functions~~

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

~~3.17.6 — 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.~~

~~3.17.7 — 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~~

~~3.17.8 — 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.~~

~~3.17.9 — Environmental Protection (Controls on Injurious Substances) Regulations 1993~~

- ~~Sections 5 & 6 — Prohibiting the use of timber containing Pentachlorophenol.~~

~~3.17.10 — Local Government (Miscellaneous Provisions) Act 1982~~

- ~~Section 17 — Power of entry.~~
- ~~Section 29 — Protection of buildings.~~

~~3.17.11 — Clean Air Act 1993~~

- ~~Section 16 — Height of chimneys.~~

~~3.17.12 — The Building Regulations 2010~~

- ~~Section 16 — Laying open uninspected work.~~

~~3.17.13 The Building (Local Authority Charges) Regulations 1998~~

~~Section 3 Fix charges for Building Regulation fees.~~

~~3.17.14 Party Walls Act 1996~~

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

~~3.17.15 The Building (Local Authority Charges) Regulations 2010 Scheme of Charges~~

~~Fix charges for Building Regulation Fees.~~

~~3.17.16 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.~~

~~3.17.17 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.~~

3.183.13 Head of Education Services

~~3.18.1 General~~

~~The Subject to the reservations and exceptions set out in this Scheme, the Head of Education Services shall be authorised to exercise the powers and functions, duties and powers of the Council under as set out in any relevant legislation relating to education, which shall include but not be limited to 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.

[Education and Adoption Act 2016](#)

[Schools admission legislation including appeals](#)

[Schools exclusion legislation including appeals](#)

- Admissions
- To consult 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 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 [agreed](#) 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.
 - Attendance at School
- To ensure that appropriate transport arrangements are made ~~in accordance with having regard to~~ 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.

- 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.
 - 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.
 - Name of School

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

To provide on behalf of the Authority any information which the Secretary of State may by regulation require.
 - 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.
 - Staffing – in respect of Maintained Primary, Secondary and Special Schools
- To appoint persons ~~elected~~selected 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 ~~where appropriate~~ 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.

- All Educational Establishments

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

~~3.18.2 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).~~
- 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.
 - 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.
 - 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.
- Pursuant to Academies Act 2010 to enter into Commercial Transfer Agreement and property transfer/ lease agreements.
- 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.

~~• To delegate to the Property Services Manager (in consultation with the Head of Legal Services) the Delegated Authority Decisions to be taken by the Property Service~~

- Post 16 Years - Education and Training Provision

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~~
- Part 3 of the Children and Families Act 2014,
- the Education and Skills Act 2008
- the Education and Skills Act 2008

3.14 Head of Finance and Property

- Designation

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

- Responsibility

To take all appropriate steps and measures to discharge the functions of the Section 151 officer as having responsibility for the proper administration of the financial affairs of the Council under all appropriate legislation.

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

- Finance General

Subject to the reservations and exceptions set out in this Scheme, the Head of Finance & Property shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to finance, revenues, benefits and property, which shall include but not be limited to the following:-

- Local Government Finance Act 1992
- Local Government Finance Act 1988.
- The power to administer and enforce the collection of council tax.
- The power to calculate the Council's council tax base for the purpose of the calculation of its council tax.

- The power to administer and enforce the collection of business rates (NDR)
- 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 of irrecoverable debt of an amount not exceeding £10,000 and in cases where the debtor is subject to formal insolvency proceedings, sums exceeding £10,000.
- 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 Prevention and Safeguarding).
- Agreement as to reduction in rateable value.
- Investment of surplus funds in accordance with the Council's approved investment policies.
-
- To make any necessary changes to the Constitution consequent upon amendments to the European thresholds on Procurement (see Contract Rules of Procedure).
 - 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.
 - 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.
 - 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.
- Jointly with the Head of Legal Services and the Head of Children and Family Services to invest and administer any funds received by the Council on behalf of a child in care by way of any compensation or settlement or award of damages from legal proceedings and any other relevant statutory provisions acting on behalf of the Council for the benefit of any child.
 - Property Matters
- The day-to-day management of the Council portfolio of land and buildings, including lease renewals, assignments and rent reviews.
- Making proposals to the Valuation Office Rating List.
- Agreeing to reductions in rent affecting Council-owned property.
- Reaching an agreement on compulsory purchase and home loss payment claims up to £15,000.
- 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.
- Authority to approve 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.
- Insurance
All insurance arrangements and settlement of claims.

3.15 Head of Legal Services

- General
- On behalf of the Council, to defend, institute, participate in, appeal from, settle or abandon any legal proceedings whether administrative, civil or criminal in any court arbitration or tribunal where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such an action is necessary to protect the Council's interests.
- Pursuant to Section 223 of the Local Government Act 1972 and other relevant legislation and Practice Directions, authorise persons to represent the Council in legal proceedings.
- to instruct external Solicitors or Barristers to represent the Council.

- Make such orders, issue such notices and execute such agreements and instruments as are necessary to give effect to any decision or authorisation of the Council, its Committees, Sub-Committees, the Executive or of an Officer acting within the scope of his or her authorised or delegated powers.
- Determine whether inspection of a document in the possession of the Council should not be allowed on the grounds that it is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
- This role also 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 and to be authorised signatory of behalf of the Council.
- Where appropriate exercise powers in consultation with relevant officers.
 - 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) - Sealing of documents.
 - 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.
 - 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 and Property 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.

- 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.
 - Commons Registration
- To exercise the Council's powers and duties in relation to the registration of Commons and Towns and Village Greens.
 - Berkshire Act 1986
- 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.
 - 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 Transport and Countryside).
- 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.
 - 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 Development and Planning, 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 s151 Officer to consider any financial implications.

- Consultation must also take place 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.
 - 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.
 - Property Matters

To enter into, in consultation with Head of Finance,

- Agreements for easements and wayleaves to an unlimited value.
- Agreement for leases and licences up to a value of £100,000 per annum.
- Agreements relating to acquisition and disposal of investment properties pursuant to the Council's Investment and Borrowing Strategy accompanying Property Investment Strategy as amendment and/or revised from time to time.
- Agreements to acquire and dispose of land up to consideration of £300,000.
- Surrenders.
- Lifting of all restrictive covenants up to a value of £300,000.
- Agreements relating to deferred payments (including registration of a legal charge) pursuant to the Care Act 2014.
 - Anti Social Behaviour, Crime and Policing Act 2014

The Head of Legal Services, in consultation with the relevant Head of Service, 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 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.

3.16 Head of Prevention and Safeguarding

Subject to the reservations and exceptions set out in this Scheme, the Head of Prevention and Safeguarding shall be authorised to exercise the functions, duties and

powers of the Council as set out in any relevant legislation relating to prevention and safeguarding, which shall include but not be limited to the following:

- Care Act 2014
- Safeguarding Vulnerable Groups Act 2006
- Children Act 1989
-
- To ensure that a Local Safeguarding Adults Board and a Local Safeguarding Children's Board are established, to provide representation on such Boards and to ensure compliance with all the statutory functions and objectives of those Boards
-
- To support the framework of those Boards in relation to Safeguarding Adults Reviews arranged in accordance with the Care Act 2014 and Serious Case Reviews arranged in accordance with the Children Act 1989 and associated Regulations.

3.193.17 Head of Public Health and Wellbeing

Subject to the reservations and exceptions set out in this Scheme, the Head of Public Health and Wellbeing shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to public health and wellbeing, which shall include but not be limited to the following:

- General

~~The~~Those matters which 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).

- 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".

- General

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

- Dental Health

Dental health functions for which the Council has responsibility.

- Health of Prisoners

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

- 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.

- Violent Offenders

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

- Health Protection

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

- 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.

- 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.

3.18 Head of Public Protection and Culture

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Subject to the reservations and exceptions set out in this Scheme, the Head of Public Protection and Culture shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to environmental health, trading standards, licensing, building control and public protection, which shall include but not be limited to the following:

Administration of Justice Act 1970

Agricultural Act 1970

Animal Boarding Establishments Act 1963

Animal Health Act 1981

Animal Welfare Act 2006

Animals Act 1971

Anti Social Behaviour Act 2003

Anti-social Behaviour Crime and Policing Act 2014

Berkshire Act 1980

[Breeding of Dogs Act 1973, 1991](#)
[Building Act 1984](#)
[Cancer Act 1939](#)
[Caravan Act 1968, 1985](#)
[Caravan Sites and Control of Development Act 1960-1985](#)
[Charities Act 1992](#)
[Children and Young Persons \(Protection from Tobacco\) Act 1991](#)
[Children and Young Persons Act 1933](#)
[Chiropractors Act 1994](#)
[Chronically Sick and Disabled Persons Act 1970](#)
[Cinema Act 1968-1985](#)
[Civil Contingencies Act 2004](#)
[Clean Air Acts 1956-1993](#)
[Clean Neighbourhoods and Environment Act 2005](#)
[Companies Act 2006](#)
[Consumer Credit Act 1974, 2006](#)
[Consumer Protection Act 1987](#)
[Consumer Rights Act 2015](#)
[Control of Pollution Act 1974](#)
[Copyright Designs and Patents Act 1988](#)
[Courts and Legal Services Act 1990](#)
[Crime and Disorder Act 1997](#)
[Criminal Justice Act 1988](#)
[Criminal Justice and Public Order Act 1994](#)
[Customs & Excise \(Management\) Act 1979](#)
[Dangerous Dogs Act 1991](#)
[Dangerous Wild Animals Act 1976](#)
[Disabled Persons Act 1981](#)
[Public Space Protection Orders](#)
[Education Reform Act 1988](#)
[Enterprise Act 2002](#)
[Environment Act 1995](#)
[Environmental Protection Act 1990](#)
[Estate Agents Act 1979](#)
[European Communities Act 1972](#)
[Explosives Act 1875, 1923](#)

[Factories Act 1961](#)
[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](#)
[Gambling Act 2005](#)
[Guard Dogs Act 1975](#)
[Hallmarking Act 1973](#)
[Health Act 2006](#)
[Health and Safety at Work etc. Act 1974](#)
[Home Safety Act 1961](#)
[Housing Acts 1957, 1985, 1996, 2004](#)
[Housing Grants, Construction and Regeneration Act 1996](#)
[Intoxicating Substances \(Supply\) Act 1985](#)
[Knives Act 1997](#)
[Land Compensation Act 1973](#)
[Late Night Refreshment Houses Act 1969](#)
[Licensing Act 2003](#)
[Local Government \(Miscellaneous Provisions\) Act 1965, 1976, 1982](#)
[Local Government Acts 1953-1989](#)
[Local Government Act 1972](#)
[Local Government and Housing Act 1989](#)
[Malicious Communications Act 1988](#)
[National Assistance \(Amendment\) Act 1951](#)
[National Assistance Act 1948](#)
[National Lotteries etc Act 1993](#)
[Noise Act 1996](#)
[Noise and Statutory Nuisance Act 1993](#)
[Offices, Shops and Railway Premises Act 1963](#)
[Olympic Symbols etc. \(Protection\) Act 1995](#)
[Osteopaths Act 1993](#)
[Performing Animals \(Regulation\) Act 1925](#)
[Pesticides Act 1996](#)
[Pet Animals Act 1951](#)

[Pollution, Prevention and Control Act 1999](#)
[Prevention of Damage by Pests Act 1949](#)
[Prices Acts 1974](#)
[Private Hire Vehicles \(Carriage of Guide Dogs etc.\) Act 2002](#)
[*Proceeds of Crime Act 2002*](#)
[Protection from Harassment Act 1997](#)
[Psychoactive Substances Act 2016](#)
[Public Health \(Control of Disease\) Act 1984](#)
[Public Health Act 1936-1984](#)
[Radioactive Substances Act 1993](#)
[Rag Flock Act 1961](#)
[Regulation of Investigatory Powers Act 2000](#)
[Regulatory Enforcement and Sanctions Act 2008](#)
[Riding Establishments Act 1964, 1970](#)
[Road Traffic \(Foreign Vehicles\) Act 1972](#)
[Road Traffic Act 1988, 1991](#)
[Road Traffic Regulation Act 1984](#)
[Safety of Sports Grounds Act 1975](#)
[Scotch Whisky Act 1982](#)
[Scrap Metal Dealers Act 1964, 2013](#)
[Slaughter of Poultry Act 1967](#)
[Slaughterhouses Act 1974](#)
[Solicitors Act 1974](#)
[Sunbeds \(Regulation\) Act 2010](#)
[Sunday Trading Act 1994](#)
[Tattooing of Minors Act 1969](#)
[Theatres Act 1968](#)
[Theft Act 1968](#)
[Tobacco Advertising and Promotion Act 2002](#)
[Tobacco Products Duty Act 1979](#)
[Town Police Clauses Acts 1847-1889](#)
[Trade Descriptions Act 1968](#)
[Trade Marks Act 1994](#)
[Transport Act 1980](#)
[Unsolicited Goods and Services Act 1971, 1975](#)
[Vehicles \(Crime\) Act 2001](#)

Video Recordings Act 1984, 2010

Violent Crime Reduction Act 2006

Water Acts 1945-1989

Water Industries Act 1991

Weights and Measures Act 1985

Zoo Licensing Act 1981

- This extends to any offence under any legislation, or at common law, which is of a similar nature or related to the foregoing including offences of aiding, abetting, counselling and procuring, incitement, conspiracy, perverting the course of justice and criminal attempts.
- appoint the Council's Chief Inspector of Weights and Measures :
- 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.
 - Culture General
- To grant a licence and associated consents for the annual Michaelmas Fair.
- Local Government (Miscellaneous Provisions) Act 1982, 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 Transport and Countryside and Head of Development and Planning
- Admission and exclusion of public to recreation facilities and premises (also Head of Transport and Countryside and Head of Development and Planning) .
- Acquisition of items under Museum acquisition scheme.
- Administer Archive Service on behalf of all six Unitary Authorities in Berkshire.
- 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.
 - Anti Social Behaviour, Crime and Policing Act 2014
To delegate to the Head of Culture & Public Protection the authority to make a Public Space Protection Order in accordance with Chapter 2 of the Anti Social Behaviour, Crime and Policing Act 2014. The Head of Public Protection and Culture, in consultation with the Head of Legal Services, is authorised to serve Community Protection Notices in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.

3.20

- 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 Property, and from time to time vary, the fees payable for the granting or refusal of applications for the approval of said premises.
- Civil Contingencies
- Subject to the reservations and exceptions set out in this Scheme, the Head of Public Protection and Culture shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to civil protection and emergency planning, which shall include but not be limited to the following:
 - 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). To form and participate in Local Resilience Forums (based on Police areas) which will help co-ordination and co-operation between responders at the local level.

3.213.19 Head of Strategic Support

- 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.
- 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.
 - Local Land Charges
- To authorise the issue of official certificates of search of the Council's Land Charges Register.

- Electoral Matters

Designation of Polling Places (in consultation with the Returning Officer and Ward Members).

- 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. The Head of Strategic Support shall be authorised to determine applications which have been properly made.

- 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.

3.20 Head of Transport and Countryside

Subject to the reservations and exceptions set out in this Scheme, the Head of Transport and Countryside shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to transport, highways, street management, street works, waste, countryside and rights of way, which shall include but not be limited to the following:

- Highways Act 1980
- Transport Act 1985
- Transport Act 2000
- Traffic Management Act 2004
- Local Transport Act 2008
- Goods Vehicles (Licensing of Operators) Act 1995
- New Roads and Street Works Act 1991
- Town Police Clauses Act 1847
- Road Traffic Regulations Act 1984
- Berkshire Act 1986
- Clean Neighbourhoods and Environment Act 2005
- Countryside Act 1968

- [Countryside and Rights of Way Act 2000](#)
- [Criminal Damage Act 1971](#)
- [Environmental Protection Act 1990](#)
- [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](#)
- [Rights of Way Act 1990](#)
- [Town and Country Planning Act 1990](#)
- [Wildlife and Countryside Act 1981](#)
- [Goods Vehicles \(Licensing of Operators\) Act 1985](#)
- [Flood and Water Management Act 2010](#)
- [Local Government Miscellaneous Provisions Act 1976](#)
- [Anti Social Behaviour Act 2003](#)
- [Anti-social Behaviour, Crime and Policing Act 2014](#)
- [Clean Neighbourhoods and Environment Act 2005](#)
- [Control of Pollution Act 1974](#)
- [Control of Pollution \(Amendment\) Act 1989](#)
- [Controlled Waste \(Registration of Carriers and Seizure of Vehicles\) Regulations 1991](#)
- [Environment Act 1995](#)
- [Environmental Protection Act 1990](#)
- [European Communities Act 1972](#)
- [Refuse Disposal \(Amenity\) Act 1978](#)
- [Waste \(Household Waste Duty of Care\) \(England and Wales\) Regulations 2005](#)

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[Agreements, Notices and Orders](#)

- [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.](#)
- [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.](#)
- [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.

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 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.
- 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.

- 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 [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 :
 - To grant permits to utility companies to work on the public highway
 - 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 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 carry out minor temporary repairs in private streets required to remove danger to persons or vehicles;
- To carry out 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 and in consultation with the Head of Finance), by the scale of the potential legal liability.
- 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.

- 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 objections are received, the matter will be referred back to the relevant decision maker for consideration and determination. 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 objections are received, the matter will be referred back to the relevant decision maker for consideration and determination. Where an order is implemented, the Ward Members will be advised.
- In consultation with the Head of Finance and Property to issue licences and fix and collect fees in relation to the matters governed by the Highways Act 1980.
- In consultation with the Head of Legal Services and the Head of Development and Planning to submit objections to the Traffic Commissioner on behalf of the Council.
- To act as the Traffic Manager in accordance with the requirements of the Traffic Management Act 2004.

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 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.

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 Transport and Countryside in consultation with the Leader, appropriate Portfolio Holder and Opposition Spokesperson.
 - 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 Public Protection and Culture).
- Letting of recreation facilities and premises (also Head of Public Protection and Culture).
- To carry out powers in relation to The Hedgerow Regulations 1997.
- To grant a licence and associated consents for the annual Michaelmas Fair.
- 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).
 - To keep the definitive maps and statement under review
 - In consultation with the Head of Public Protection and Culture to submit objections and such representations considered necessary or permitted in respect of closed churchyard applications under the Section 1 Burial Act 1853.
 - To exercise the Council's obligations under the Act in relation to transfers of maintenance responsibilities relating to closed churchyards under Section 215 Local Government Act 1972.
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