

Meeting of West Berkshire District Council

Thursday, 17th March, 2022

Summons and Agenda



WestBerkshire
C O U N C I L

To: All Members of the Council

You are requested to attend a meeting of
WEST BERKSHIRE DISTRICT COUNCIL
to be held in the
**SECOND FLOOR MEETING AREA,
COUNCIL OFFICES, MARKET STREET,
NEWBURY**
on
Thursday, 17th March, 2022
at 7.00 pm

Sarah Clarke.

Sarah Clarke
Service Director – Strategy & Governance
West Berkshire District Council

Date of despatch of Agenda: Wednesday, 9 March 2022

AGENDA

Part I

1. **APOLOGIES FOR ABSENCE**

To receive apologies for inability to attend the meeting (if any). **(Pages 7 - 8)**

2. **CHAIRMAN'S REMARKS**

The Chairman to report on functions attended since the last meeting and other matters of interest to Members. **(Pages 9 - 10)**

3. **MINUTES**

The Chairman to sign as a correct record the Minutes of the Council meeting held on 2 December 2021 and 18 January 2022. **(Pages 11 - 44)**



WestBerkshire
C O U N C I L

4. 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](#). **(Pages 45 - 46)**

5. PETITIONS

To debate a Petition presented by Councillor Steve Masters on sewage discharge by Water Companies.

Councillors may present other petitions which they have received. These will normally be referred to the appropriate body without discussion. **(Pages 47 - 48)**

6. PUBLIC QUESTIONS

Members of the Executive to answer questions submitted by members of the public in accordance with the Council Procedure Rules contained in the Council's Constitution.

Please note that the list of public questions is shown under Item 6 in the agenda pack. **(Pages 49 - 50)**

7. MEMBERSHIP OF COMMITTEES

The Council to agree any changes to the membership of Committees. **(Pages 51 - 52)**

8. MOTIONS FROM PREVIOUS MEETINGS

To note the following response to a Motion which had been presented to a previous Council meeting.

- Response to the Motion from Councillor Lee Dillon on the Executive acting outside of policies on Green Infrastructure – Item 6, Overview and Scrutiny Management Commission Agenda, 31 August 2021. A copy of the Minutes of this meeting can be obtained from Democratic Services or via the [Council's website](#). **(Pages 53 - 54)**

9. LICENSING COMMITTEE

The Council is asked to note that since the last ordinary meeting of the Council, the Licensing Committee met on 31 January 2022. A copy of the Minutes of this meeting can be obtained from Democratic Services or via the [Council's website](#). **(Pages 55 - 56)**

10. PERSONNEL COMMITTEE

The Council is asked to note that since the last ordinary meeting of the Council, the Personnel Committee met on 14 December 2021 and 21 February 2022. Copies of the Minutes of these meetings can be obtained from Democratic Services or via the [Council's website](#).



11. GOVERNANCE AND ETHICS COMMITTEE

The Council is asked to note that since the last ordinary meeting of Council, the Governance and Ethics Committee met on 17 January 2022. A copy of the Minutes of this meeting can be obtained from Democratic Services or via the [Council's website](#).

12. DISTRICT PLANNING COMMITTEE

The Council is asked to note that since the last ordinary meeting of the Council, the District Planning Committee met on 2 March 2022. A copy of the Minutes of this meeting can be obtained from Democratic Services or via the [Council's website](#).

13. OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION

The Council is asked to note that since the last ordinary meeting of the Council, the Overview and Scrutiny Management Commission met on 25 January 2022. A copy of the Minutes of this meeting can be obtained from Democratic Services or via the [Council's website](#).

14. HEALTH SCRUTINY COMMITTEE

The Council is asked to note that since the last ordinary meeting of the Council the Health Scrutiny Committee has not met.

15. HEALTH AND WELLBEING BOARD

The Council is asked to note that since the last ordinary meeting of the Council, the Health and Wellbeing Board met on 9 December 2021 and 17 February 2022. Copies of the Minutes of these meetings can be obtained from Democratic Services or via the [Council's website](#).

16. JOINT PUBLIC PROTECTION COMMITTEE

The Council is asked to note that since the last ordinary meeting of the Council, the Joint Public Protection Committee met on 13 December 2021 and 14 March 2022. Copies of the Minutes of these meetings can be obtained from Democratic Services or via the [Council's website](#).

17. STATUTORY PAY POLICY 2022 (C4021)

Purpose: In accordance with the requirement of section 38 of the Localism Act 2011 to publish an annual pay policy statement, to approve the Statutory Pay Policy Statement for publication from 1st April 2022. **(Pages 57 - 82)**

18. MEMBER REQUEST FOR INFORMATION (C4183)

Purpose: To consider a request by a Member of Council for access to information, under a procedure detailed in the Council's Constitution at paragraph 13.3.7, seeking disclosure of an operational document setting out enforcement options in relation to a Community Infrastructure Levy Liability. **(Pages 83 - 96)**

19. NOTICES OF MOTION

Please note that the list of Motions is shown under Item 19 in the agenda pack. **(Pages 97 - 102)**

20. MEMBERS' QUESTIONS

Members of the Executive to answer questions submitted by Members of the Council in accordance with the Council Procedure Rules contained in the [Council's Constitution](#).

Please note that the list of Member questions is shown under Item 20 in the agenda pack. **(Pages 103 - 104)**

21. EXCLUSION OF PRESS AND PUBLIC

RECOMMENDATION: That members of the press and public be excluded from the meeting during consideration of the following items as it is likely that there would be disclosure of exempt information of the description contained in the paragraphs of Schedule 12A of the Local Government Act 1972 specified in brackets in the heading of each item. **(Pages 105 - 106)**

Part II

22. MEMBER REQUEST FOR INFORMATION (C4183)

Part II Appendix.

(Pages 107 - 112)

If you require this information in a different format or translation, please contact Vicki Yull on telephone 07824 824867.

This page is intentionally left blank

Council – 17 March 2022

Item 1 – Apologies for Absence

Verbal Item

This page is intentionally left blank

Council – 17 March 2022

Item 2 – Chairman's Remarks

Verbal Item

This page is intentionally left blank

Agenda Item 3.

DRAFT

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

COUNCIL

MINUTES OF THE MEETING HELD ON THURSDAY, 2 DECEMBER 2021

Councillors Present in the Chamber: Clive Hooker (Chairman), Rick Jones (Vice-Chairman), Adrian Abbs, Steve Ardagh-Walter, Dennis Benneyworth, Dominic Boeck, Jeff Brooks, Hilary Cole, James Cole, Carlyne Culver, Lynne Doherty, Billy Drummond, Owen Jeffery, Tony Linden, Ross Mackinnon, Tom Marino, David Marsh, Erik Pattenden, Claire Rowles, Richard Somner and Tony Vickers.

Councillors Present remotely: Phil Barnett, Jeff Beck, Graham Bridgman, Jeff Cant, Alan Law, Alan Macro, Steve Masters, Geoff Mayes, Andy Moore, Graham Pask, Jo Stewart, Martha Vickers and Howard Woollaston.

Also Present: Honorary Alderman Paul Bryant, Honorary Alderman Andrew Rowles, Honorary Alderman Quentin Webb, Nigel Lynn (Chief Executive), Sue Halliwell (Executive Director (Place)), Joseph Holmes (Executive Director (Resources)), Andy Sharp (Executive Director (People)), Sarah Clarke (Service Director, Strategy & Governance (Monitoring Officer)), Shiraz Sheikh (Service Lead, Legal & Democratic Services) and Vicki Yull (Principal Democratic Services Officer).

Apologies for inability to attend the meeting were received from: Councillor Jeremy Cottam, Councillor Lee Dillon, Councillor Gareth Hurley, Councillor Andrew Williamson and Councillor Keith Woodhams, Honorary Alderman Adrian Edwards and Honorary Alderman Graham Jones.

PART I

56. Chairman's Remarks

The Chairman welcomed the new Chief Executive, Mr Nigel Lynn, to his first meeting of Council.

The Chairman held a Minutes Silence in respect for Councillor Peter Argyle and former Councillor Bob Judge. Tributes were paid to Councillor Argyle by the Chairman, Councillor Richard Somner, Councillor Lynne Doherty, Councillor Tony Linden, Councillor Graham Bridgman, Councillor Jeff Beck and Councillor Jeff Brooks. Tributes were paid to Mr Judge by the Chairman and Councillor Owen Jeffery.

The Chairman reported that he had attended 17 civic events since the last Council meeting.

- The Chairman attended a celebratory gathering to mark Sue Campbell's 40 year voluntary service at the Newbury Volunteer Centre where the Lord Lieutenant presented her with a certificate of achievement to mark the occasion.
- The Chairman met Jane Westrop of the Newbury British Legion at the dedication of their new banner. She has orchestrated their events and ceremonies for many years.
- The Chairman met David Jones who spends hundreds of hours making models which are displayed to raise money for charity.

COUNCIL - 2 DECEMBER 2021 - MINUTES

- The Chairman is in discussion with Gabriel Mancini to display his latest creation celebrating NHS at West Berkshire Community Hospital to raise money for medical equipment.
- The Vice-Chairman attended the launch of the Louise Purton Toy Appeal which raises money to buy toys for disadvantaged children.
- The Chairman attended the High Sheriff's judicial service at St James Roman Catholic Church in Reading to celebrate the start of the judicial year.
- The Chairman attended the British Horse Society Annual Awards ceremony where he was presented to the Princess Royal.
- The Chairman attended the county Service of Thanksgiving for the life of the Duke of Edinburgh where people spoke of their recollections of the Duke.
- The Chairman was joined by the Chief Executive at the Remembrance Sunday Service held in Market Square on 14th November to pay respects to those who had made the ultimate sacrifice.

The Chairman thanked Jo Watt for her support both to him and former Chairmen and wished her well in her new role.

57. Minutes

The Minutes of the meeting held on 9 September 2021 were approved as a true and correct record and signed by the Chairman.

58. Declarations of Interest

Councillors Owen Jeffery, Jeff Brooks, Tony Vickers and Billy Drummond declared an interest in Agenda Item 22 Notices of Motion (Motion (g) West Berkshire Council Pensions Divestment from Fossil Fuels refers) due to being in receipt of a Royal County of Berkshire Pension and reported that, as their interests were disclosable pecuniary interests or an other registrable interest, they would be leaving the meeting during the course of consideration of the matter.

Councillor Tony Linden declared an interest in Agenda Item 22 Notices of Motion (Motion (g) West Berkshire Council Pensions Divestment from Fossil Fuels refers) due to having had a councillors pension policy but not currently being in receipt of it and reported that, as the interest was a disclosable pecuniary interests or an other registrable interest, he would be leaving the meeting during the course of consideration of the matter.

Councillor Graham Bridgman declared an interest in Agenda Item 22 Notices of Motion (Motion (g) West Berkshire Council Pensions Divestment from Fossil Fuels refers) due to his wife being in receipt of a Berkshire pension and reported that, as the interest was a disclosable pecuniary interests or an other registrable interest, he would be leaving the meeting during the course of consideration of the matter.

59. Petitions

Councillor Steve Masters presented a petition containing almost 2000 signatures which asked the Council to write to Berkshire MPs regarding their recent vote on placing greater legal duties on water companies to make improvements to sewage systems and to demonstrate reductions in the discharge of untreated sewage. The petitioners also requested that the Overview and Scrutiny Management Commission robustly challenge Thames Water at its scheduled appearance in March 2022, and that the Council condemns the discharge of raw sewage into local waterways.

The Chairman stated that this petition would be reviewed by officers who will confirm to Councillor Masters within ten days what action will be taken on it.

COUNCIL - 2 DECEMBER 2021 - MINUTES

60. Public Questions

A full transcription of the public and Member question and answer sessions are available from the following link: [Transcription of Q&As](#).

- (a) A question standing in the name of Graham Storey on the subject of a Council Housing Company was answered by the Portfolio for Housing, Strategic Partnerships and Transformation.
- (b) It was agreed that a question standing in the name of Vaughan Miller on the subject of increasing the types of plastics for roadside collection would receive a written response, given that he was unable to attend the meeting.
- (c) A question standing in the name of Alison May on the subject of the steps taken by the Council to support a modern, progressive governance structure was answered by the Leader of the Council.
- (d) A question standing in the name of Paul Morgan on the subject of the Council considering other options for the Monks Lane Sports Hub was answered by the Portfolio Holder for Internal Governance, Leisure and Culture.
- (e) It was agreed that a question standing in the name of Vaughan Miller on the subject of spending over £12m on the new AGP at Monks Lane Sports Hub would receive a written response, given that he was unable to attend the meeting.

61. Membership of Committees

Council considered a number of changes to committee membership that had been put forward by the Leader of the Council.

MOTION: Proposed by Councillor Lynne Doherty and seconded by Councillor Ross Mackinnon.

That the following changes be made to Committee appointments for the 2021/2022 Municipal Year:

- 1. Councillor James Cole to join as a member of the Personnel Committee.
- 2. Councillor Tony Linden to join as a member of the Overview and Scrutiny Management Commission.
- 3. Councillor Clive Hooker to join as a member of the Licensing Committee.
- 4. Councillor Steve Ardagh-Walter to replace Councillor Claire Rowles on the membership of the Licensing Committee.
- 5. Councillor Clive Hooker to replace Councillor Hilary Cole on the membership of the District Planning Committee.
- 6. Councillor Howard Woollaston to replace Councillor Clive Hooker as a substitute member for the District Planning Committee.
- 7. Councillor Claire Rowles to replace Councillor Hilary Cole on the membership of the Western Area Planning Committee.
- 8. Councillor James Cole to replace Councillor Garth Simpson as a substitute member for the Western Area Planning Committee.
- 9. Councillor Graham Pask to join as a member of the Corporate Parenting Panel.

The Motion was put to the vote of the Members present in the Chamber and duly **RESOLVED**.

COUNCIL - 2 DECEMBER 2021 - MINUTES

62. **Licensing Committee**

Council noted that, since its last meeting, the Licensing Committee had met on 8 November 2021.

63. **Personnel Committee**

Council noted that, since its last meeting, the Personnel Committee had not met.

64. **Governance and Ethics Committee**

Council noted that, since its last meeting, the Governance and Ethics Committee had met on 27 September and 15 November 2021.

65. **District Planning Committee**

Council noted that, since its last meeting, the District Planning Committee had not met.

66. **Overview and Scrutiny Management Commission**

Council noted that, since its last meeting, the Overview and Scrutiny Management Commission had met on 12 October 2021.

67. **Health Scrutiny Committee**

Council noted that, since its last meeting, the Health Scrutiny Committee had met on 10 November 2021.

68. **Health and Wellbeing Board**

Council noted that, since its last meeting, the Health and Wellbeing Board had met on 30 September 2021.

69. **Joint Public Protection Committee**

Council noted that, since its last meeting, the Joint Public Protection Committee had met on 13 September and 1 November 2021.

70. **Electric Vehicle Chargepoints (EVCP) programme (EX4146)**

Council considered a report (Agenda Item 16) providing an update on the initiative to install Electric Vehicle Chargepoints in West Berkshire Council Car Parks and recommended a charging strategy (fees and charges) for their operation.

MOTION: Proposed by Councillor Richard Somner and seconded by Councillor Steve Ardagh-Walter:

“That the Council:

- (a) Adopts the following fees and charges in 2021/22 for its public chargepoints included in Phase 1 (both those already installed and those due to be installed), and that these charges should be reviewed on an annual basis:
 - For the ‘Rapid’ Charger, 39p per kWh with an overstay fee of £10 an hour after 2 hours.
 - For the ‘Fast’ Chargers, 30p per kWh.
- (b) Agrees that the setting of the annual Fees and Charges for the Chargepoints becomes part of the Council’s annual Fees and Charges approval process as of 2022/23.”

Councillor Richard Somner recommended approval of the Motion as it supported the ongoing delivery of the Council’s Environment Strategy and continued the excellent track record to date on electric vehicle charging options. The Council has committed to expanding the charging network across the district, and the clarification of fees and

COUNCIL - 2 DECEMBER 2021 - MINUTES

charges is a necessary step in that process. Phase 2 of the chargepoint installations could also commence and include the remaining car parks in the Council's portfolio, expressions of interest from Parish Councils, and rapid chargepoints being installed in various locations.

Councillor Adrian Abbs indicated his support of the right type of charging points being placed in as many public places as possible but expressed his concern that charging a high pence per kilowatt price is not the best way to fund the installation of the charging points.

Councillor Tony Vickers indicated his support for the increase in chargepoints but highlighted the 36 on-street charging points in the District which he suggested are under-utilised due to not being designated electric vehicle spaces only. Councillor Vickers stated that the Council could be doing more to assist residents in moving to electric vehicles which would help lower emissions and support the government's aims.

Councillor David Marsh referred to the on-street charging points as having been put in the wrong place because other residents with non-electric vehicles park in them, however designating them as a dedicated space would resolve this matter. Councillor Marsh also noted that there are currently no electric vehicles being used as taxis in the district and no charging points in taxi ranks, and suggested that the Council could have a more dynamic approach to addressing the climate emergency.

Councillor Jeff Brooks queried why this item could not be subject to call in given there was no urgency on a matter of the budget. Ms Sarah Clarke advised that items reserved for decision by Council in law or within the agreed Budget and Policy Framework are not subject to the call in procedures.

Councillor Alan Macro referred to the importance of having as many charging points as possible across the district, and expressed his disappointment that the report did not address the issue of parking charges. Councillor Macro asked that overnight fees for those charging electric vehicles be waived.

Councillor Steve Ardagh-Walter referred to the cost of owning an electric vehicle and highlighted that there are not very many currently in the district. He suggested that the cost per hour of public chargepoints is not a significant consideration when purchasing an electric vehicle, unless the purchaser is unable to charge at home. Councillor Ardagh-Walter also confirmed that the issue of parking spaces will be addressed in the coming months and years as part of the longer term programme. The recommendations in the report are an immediate enabler for charging points, and the Council is doing what it can to encourage take-up, but market forces and the prices of electric vehicles will be a major determinant.

Councillor Richard Somner summed up and confirmed he had noted the points raised during the debate that were not relevant to the report.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the Motion would be supported.

The Motion was put to the vote of the Members present in the Chamber and duly **RESOLVED**.

71. Adoption of the Statement of Licensing Policy Principles under S.349 of The Gambling Act 2005 (C4045)

Council considered a report (Agenda Item 17) regarding the consultation responses received and the adoption of the Statement of Licensing Policy Principles under the Gambling Act 2005 as set out in Appendix 1 to the report for publication by the 30 January 2022.

MOTION: Proposed by Councillor Hilary Cole and seconded by Councillor Rick Jones:

“That the Council:

- (a) Considers the Statement and the consultation responses received.
- (b) Delegates authority to the Service Director (Development and Regulation), in consultation with the Portfolio Holder, to make any minor corrections to the Statement prior to publication.
- (c) Approves the Statement for adoption and publication by the 30th January 2022.

Councillor Hilary Cole recommended approval of the Motion as the purpose of the Statement is to set out how licensing will be administered in the district, and it ensures an appropriate balance is achieved between the interests of those who wish to take part in gambling and those who may be affected by it. The Statement is published every three years, with the next deadline being the end of January 2022. Officers had undertaken a review of the Statement and proposed a number of minor changes which included the addition of a section on small society lotteries. The revised draft was considered by the Licensing Committee at its meeting in June 2021, followed by a twelve week consultation. Councillor Cole confirmed that three responses had been received, with two having no objections. However, public health and wellbeing had raised concerns regarding the cumulative impact of gambling on mental health and deprivation, but the protection of public health is not currently a function that can be addressed under the Gambling Act. Therefore, the comments cannot be reflected in the Statement but officers will seek to address those issues operationally. Councillor Cole advised that the Licensing Committee had considered the outcome of the consultation and was recommending Council to adopt the revised Strategy.

Councillor Adrian Abbs advised that he had asked for any changes to be made clear in the report so that Members could easily identify them, and queried whether this had been ignored or if no changes had been made.

Councillor Rick Jones confirmed that, as far as he was aware, there had been no changes made since the Licensing Committee had considered this matter, and that any major changes would have been highlighted. Councillor Cole stated that she would defer to Councillor Jones as the Chairman of Licensing on this matter.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the Motion would be supported.

The Motion was put to the vote of the Members present in the Chamber and duly **RESOLVED**.

72. External Audit Appointment Process for Financial Years 2023/24 - 2027/28 (C4147)

Council considered a report (Agenda Item 18) setting out proposals for appointing the external auditor to the Council for the accounts for the five-year period from 2023/24.

COUNCIL - 2 DECEMBER 2021 - MINUTES

MOTION: Proposed by Councillor Ross Mackinnon and seconded by Councillor Tony Linden:

“That the Council accepts the Public Sector Audit Appointments’ invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for five financial years from 1 April 2023.”

Councillor Ross Mackinnon recommended approval of the Motion as it is a continuation of the current policy arrangements whereby Public Sector Audit Appointments manage the procurement and selection of external auditors on behalf of the Council. The benefits include a reduction on procurement costs and it also keeps the overall audit fee as low as possible. Councillor Mackinnon highlighted some risks if the Council were to do this itself which included a lack of interest and the costs of the recruitment process. It is in the best interests for residents for the Council to be audited by independent auditors, at a reasonable fee, which this Motion offers.

Councillor Tony Linden highlighted that this matter had been discussed at Governance and Ethics Committee and had been supported. Councillor Linden also referred to the importance of effective audit and indicated his support of the Motion.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the Motion would be supported.

The Motion was put to the vote of the Members present in the Chamber and duly **RESOLVED**.

73. **Compton Neighbourhood Development Plan (C4156)**

Council considered a report (Agenda Item 19) setting out how the Compton Neighbourhood Development Plan (NDP) had been subject to Independent Examination and, subject to some minor modifications, had been recommended for referendum. However, the independent Inspectors decision is not binding and only West Berkshire Council can decide if the NDP progresses to referendum. The report therefore provided the evidence for Council to make that decision.

Councillor Richard Somner proposed a minor amendment to the Motion as set out in the Summons to include a third recommendation, and this was agreed by the seconder Councillor Carolyne Culver. The amendment was additionally approved by Members present.

AMENDED MOTION: Proposed by Councillor Richard Somner and seconded by Councillor Carolyne Culver:

“That the Council:

- (a) Endorses the Decision Statement on the Compton NDP which concludes that the Compton NDP, with the inclusion of some modifications, meets the Basic Conditions.
- (b) Agrees, because the plan meets the Basic Conditions, that:
 - 73.b.1.** The plan should proceed to referendum; and
 - 73.b.2.** That the Compton NDP, upon a successful ‘yes’ vote at referendum, is adopted immediately after the votes have been counted so that it becomes part of the development plan for West Berkshire.”

COUNCIL - 2 DECEMBER 2021 - MINUTES

- (c) That the authority to make minor alterations and corrections to the Compton NDP, prior to its proceeding to referendum, be delegated to the Service Director, Development and Regulation, in consultation with the Portfolio Holder for Planning and Transport.

Councillor Richard Somner recommended approval of the Motion since it was a matter for this Council to determine whether the NDP should go forward to referendum in line with the recommendation of the Independent Examiner. Councillor Somner noted that work had begun on the NDP by Compton Parish Council in 2017, and that it was a formal planning document allowing a local community to shape the place in which they live.

Councillor Hilary Cole expressed her delight at seeing the NDP come forward and noted the commitment of the local residents to it. It was the second community to create an NDP and Councillor Cole commended Councillor Culver for her contribution to it.

Councillor Tony Vickers indicated his support of the Motion and referred to the forthcoming planning reforms and his hope that government gives its support to NDPs and the move towards localism.

Councillor Carolyn Culver stated that she was proud of all the groups that had been involved in creating the NDP and shared the expressions of thanks from the Chairman of Compton Parish Council. The exercise had been truly democratic, with the Independent Examiner having praised the report. Councillor Culver referred to the forthcoming applications for development in the area and set out how the NDP would be considered as part of the planning process. The NDP would also attract more Community Infrastructure Levy payments for the Parish Council, sets out the Parish Council's approach to affordable housing, and looks at carbon footprint improvements. Councillor Culver understood that a provisional date had been set for the referendum of 10 February 2022.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the Amended Motion would be supported.

The Amended Motion was put to the vote of the Members present in the Chamber and duly **RESOLVED**.

74. **Updates to the Constitution (C4104)**

Council considered a report (Agenda Item 20) notifying it of the work undertaken by the Constitution Review Task Group to date, as reviewed by the Governance and Ethics Committee at its meeting on 15 November 2021. The recommendations propose: an additional ordinary meeting of Council in March 2022; that the meeting of Council scheduled to take place on 3 March 2022 will deal purely with the 2022/23 Council budget and no other business; a response to Motions submitted by Councillor Lee Dillon proposing changes to the Constitution, and; certain changes to the Constitution. The report was in anticipation of wholesale changes to the Constitution, as expanded upon in it, to include making some or all of the proposals set out permanent.

MOTION: Proposed by Councillor Lynne Doherty and seconded by Councillor Tom Marino:

"That the Council:

- (a) notes the progress made so far by the Task Group and that the temporary proposals contained in this report are anticipated to form part of the permanent

COUNCIL - 2 DECEMBER 2021 - MINUTES

proposals coming forward from the Task Group for amendments to the Constitution in due course.

- (b) agrees that the meeting of Council scheduled to take place on 3 March 2022 will be regarded as the 2022 Budget Meeting of Council.
- (c) approves a further ordinary meeting of Council on the 17th March 2022.
- (d) approves the rules of procedure for the 2022 Budget Meeting of Council detailed at Appendix C.
- (e) rejects the Motions submitted by Councillor Lee Dillon proposing changes to the Constitution but notes proposed amendments to related processes.
- (f) approves the proposals for the hosting of a themed debate once per year.
- (g) authorises the Council's appointed Auditors to make representations as appropriate at meetings of the Council's Governance and Ethics Committee and Council.
- (h) delegates to the Monitoring Officer the power to make minor amendments to the Constitution following (i) these changes, and (ii) organisational changes.

Councillor Lynne Doherty recommended approval of the Motion and thanked the Task Group for the work it had done, noting the issues of concern previously raised at Council which had been addressed in the report.

Councillor Howard Woollaston commended the Motion to Council as a short-term proposal for the new Municipal Year which will be incorporated within the revisions that the Constitution Review Task Group is working on.

Councillor Jeff Brooks expressed his opinion that the Motion was a step in the right direction, and referred to what he believed were impractical proposals to limit the debate based on political proportionality rules which had been suggested but rejected.

Councillor Martha Vickers referred to the themed debates being proposed and stated her hope that members of public would be invited to participate, particularly young people from secondary schools who may be inspired to become future councillors.

Councillor David Marsh expressed his opinion that the Motion was a step in the right direction as voting for items on block is not a good way to operate. The themed debates may help improve involvement in the democratic process in a modest way.

Councillor Graham Bridgman, as Chairman of the Task Group, stated his belief that the Council currently operates a democratic process. Councillor Bridgman expressed doubts on whether non-elected members could participate in Council debates but welcomed the thought of organising debates amongst the youth and endorsed the Motion.

Councillor James Cole stated his belief that the proposals were imminently sensible and a good compromise.

Councillor Claire Rowles referred to the themed debates hosted by the Thames Valley Police and Crime Panel and suggested that outside bodies could contribute and enrich any themed debates held by this Council.

Ms Sarah Clarke confirmed that the proposal (as it stands) is for themed debates to be limited to Members of Council. It was noted that this is an interim report with further proposals coming forward in the future, and that the points mentioned during debate would be taken to the Task Group for discussion.

COUNCIL - 2 DECEMBER 2021 - MINUTES

Councillor Tom Marino echoed the supportive comments expressed by fellow councillors on the work undertaken by the Task Group.

Councillor Lynne Doherty referred to the problems experienced at the last Budget Meeting but disagreed that there was a democratic deficit at the Council. Councillor Doherty highlighted that a majority of local authorities have adopted the Cabinet model of decision making as the Committee system can be cumbersome and difficult to achieve momentum within, and she commended the Motion for approval.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the Motion would be supported.

The Motion was put to the vote of the Members present in the Chamber and duly **RESOLVED**.

75. **West Berkshire Council Timetable of Public Meetings 2021-22 (C4154)**

Council considered a report (Agenda Item 21) which recommended a timetable of meetings for the 2022/2023 Municipal Year.

Councillor Lynne Doherty proposed a minor alteration to the Motion as set out in the Summons to include a second recommendation, and this was agreed by the seconder Councillor Rick Jones. The amendment was additionally approved by Members present.

AMENDED MOTION: Proposed by Councillor Lynne Doherty and seconded by Councillor Rick Jones:

“That the Council:

- (a) Approves the timetable of public meetings for the 2022/2023 Municipal Year.
- (b) Notes that the dates for Overview and Scrutiny Management Commission (OSMC) will be clarified by the Service Director for Strategy and Governance in consultation with the Chairman of OSMC and the Leader of Council prior to publication.”

Councillor Lynne Doherty recommended approval of the Motion and thanked officers for their work on the timetable.

Councillor Tony Linden noted that the Health Scrutiny Committee had two entries in March 2023, one of which possibly needed removing.

Councillor Howard Woollaston referred to the clashes experienced in the current year which the draft attempted to avoid for next year. Issues remain in March 2023 due to the pre-election period causing two Council meetings and an Executive meeting to be close together, otherwise an attempt has been made to keep them as far apart as possible. Other non-public meetings will now need to be worked in.

Councillor Tom Marino advised that the start time of the Governance and Ethics Committee should be amended to 6.30pm.

Councillor Alan Law referred to the proposal to schedule the pertinent Overview and Scrutiny Management Commission meetings a few weeks before the Executive meetings at which the quarterly performance and key performance indicators would be discussed, and that this was not reflected in the draft timetable. It was confirmed that these changes would be incorporated into the final version published.

COUNCIL - 2 DECEMBER 2021 - MINUTES

Councillor Claire Rowles suggested that the timetable could indicate the location of meetings.

Councillor Rick Jones referred to the proposed changes mentioned during debate and commended the Motion for approval.

Councillor Lynne Doherty also commended the Motion for approval noting the minor alterations that will be made to the draft before publication in agreement with the Monitoring Officer.

Ms Sarah Clarke clarified that she will have delegated authority to make any small, final amendments to times and dates on the timetable, in consultation with the relevant Chairs, prior to publication.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the Amended Motion would be supported.

The Amended Motion was put to the vote of the Members present in the Chamber and duly **RESOLVED**.

The meeting was adjourned at 8.50pm and reconvened at 8.55pm.

76. **Notices of Motion**

The Chairman indicated the revised order under which the Motions would be taken.

The Council considered the under-mentioned Motion (Agenda Item 22(f) refers) submitted in the name of Councillor Lee Dillon regarding all members returning to in-person meetings.

The Chairman informed the Council that the Motion, if seconded, would be debated at the meeting.

MOTION: Proposed by Councillor Owen Jeffery and seconded by Councillor Jeff Brooks:

“West Berkshire Council needs to return to a fully democratic process in its decision making as soon as possible which must include all 43 members being able to attend meetings in person in order to be able to cast their vote in line with the proper conduct of Council business.

Council notes:

- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ceased in May 2021 which afforded councils the ability to debate and vote electronically.
- Since that time West Berkshire Council has attempted a hybrid solution, allowing some members to attend in person and other electronically; and requiring (as the law permits) for all those voting to be attending in person.
- The current Chamber, under coronavirus safety protocols, cannot accommodate all elected members, staff and public safely.
- This Council is continuing to therefore operate with restricted numbers of members, including at full Council meetings. This action, whilst supported in the

COUNCIL - 2 DECEMBER 2021 - MINUTES

short term, prevents the full and proper interaction of all 43 Councillors representing their wards in vital Council decisions.

Accordingly Council resolves:

- That all members will be able to attend every and any Council meeting with effect from, and including, the Council Budget meeting in March 2022.

Council officers will ensure that a suitable venue is available should there be capacity restrictions in the Market Street Council Chamber due, for example, to legacy safety issues”.

Councillor Owen Jeffery in introducing the Motion referred to the temporary special arrangements put in place by government for councils to conduct business via electronic means. When that had ended, officers proposed further temporary arrangements whereby a proportion of members would be in the Chamber and voting, with the remaining members being at home and unable to vote. Councillor Jeffery felt that officers had trimmed back councillor decision-making, and expressed dissatisfaction that these emergency measures which prevents back bench members from attending Council are still in place. The proposal gives two months for officers to facilitate council meetings in a suitable location, and to plan properly for the reintroduction of a fully representative and democratic debate with effect from the Budget Meeting.

Councillor Tony Linden stated that members have a democratic right to attend and vote at full council meetings but that he understood the limitations on the Council Chamber. Councillor Linden argued that additional funds should be spent to find alternative accommodation and that he is concerned whether the current arrangements could be judged as unlawful if challenged.

Councillor Claire Rowles acknowledged the need to learn to live with Covid but noted that circumstances had changed with the new variant. Councillor Rowles argued the need to be mindful of that, and of not putting elected members at risk. Subject to Covid rules and the new variant, Councillor Rowles believed that the Council should try at least to move back to face to face meetings, if appropriate at the time of the Budget Meeting.

Councillor Tony Vickers argued that there was no technical reason why a fully democratic process could not continue if the legislation was changed to allow hybrid meetings. Councillor Vickers stated that this Motion would incur costs, and suggested that the Conservative Group could speak to government colleagues to lobby for a hybrid solution.

Councillor Steve Masters referred to the support expressed for this Motion by the members of the Governance and Ethics Committee. Councillor Masters acknowledged the potential costs of securing alternative accommodation and the risks around Covid and any new variants but argued that there is a duty to offer a fully democratic process that all can be involved in.

Councillor Dominic Boeck agreed in principle with the Motion but stated that he struggled with the idea of having a hard date by which all members should return to the Chamber given the current uncertainty about the extent of omicron variant.

Councillor Graham Bridgman expressed his disappointment that government had not brought legislation forward to support a fully hybrid situation, and also his concerns that the Motion made no reference to a budget. Councillor Bridgman rejected the idea that the Council is open to challenge on its decisions and stated how, in his view, officers had correctly advised on how to conduct hybrid meetings with legitimate votes. He stated that

COUNCIL - 2 DECEMBER 2021 - MINUTES

Covid safety should not be ignored, and that he could not support the Motion in the current way it was phrased.

Councillor Erik Pattenden stated that having a date of the Budget Meeting to work towards assisted in planning, and provided a means of looking forward and returning to the style of meetings that members would prefer.

Councillor Alan Macro referred to the concerns expressed by other members regarding the hard date in the Motion of the Budget Meeting in March 2022. Councillor Macro highlighted that this is the most important meeting which every councillor should participate in, and that a previous meeting in a school hall had been webcast.

Councillor James Cole disagreed that the democratic process is not working and indicated that he could not support an un-costed open Motion like this.

Councillor Graham Pask indicated his wish to be back in the Chamber but highlighted that safety is paramount and a move to a bigger environment had to be costed. Councillor Pask supported the Motion in principle but not the detail.

Councillor Lynne Doherty disputed that officers were trying to trim back member control as they had worked hard to keep the democratic process in the hands of members. At any time control could have gone directly to the Chief Executive which had not happened. Councillor Doherty indicated that all members had received the opportunity to participate at this meeting, and noted that schools have health and safety measures in place too. Ways of working have changed in the post-Covid era, and there is also more public involvement in meetings now.

Councillor Adrian Abbs expressed his confusion over why councillors were being stopped from attending meetings in the Chamber.

Councillor Richard Somner indicated his support should an amendment to the Motion be proposed that it should be costed.

Councillor Jeff Brooks referred to a £4.6m underspend on the budget in the previous year as well as the £22m in reserves and argued that resources would be available to allow members to meet on a socially distanced basis. Councillor Brooks noted that key meetings in the past had been held in external premises and that the Motion would return Council meetings to normal.

Councillor Howard Woollaston agreed that all members want to be together for decision-making but stated that the omicron variant is an important health and safety issue. Councillor Woollaston stated his opinion that the current system in operation is working well as a temporary measure and indicated that he would not support the Motion.

Councillor Owen Jeffery apologised for misspeaking regarding officer intentions but remarked that the Executive could have made arrangements for this some time ago. The Motion gives two months to put alternative arrangements in place, and Councillor Jeffery argued there was no reason why resources should not be dedicated to get all members together to agree the budget.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the Motion would not be supported.

The Motion was put to the vote of the Members present in the Chamber and declared **LOST**.

The Chairman proposed that the meeting be extended until 10.30pm. This was seconded by Councillor Jeff Brooks and duly approved by the members present in the Chamber.

COUNCIL - 2 DECEMBER 2021 - MINUTES

The Council considered the under-mentioned Motion (Agenda Item 22(a) refers) submitted in the name of Councillor Claire Rowles regarding the promotion of civility in public life.

The Chairman informed the Council that the Motion, if seconded, would be debated at the meeting.

Councillor Claire Rowles proposed a minor alteration to the Motion to include noting that Council will take action when Members are victims of abuse, and that Members can request for personal information to be exempt from publication. Councillor Lynne Doherty, seconding, agreed to this minor alteration. The amendment was additionally approved by Members present.

AMENDED SUBSTANTIVE MOTION: Proposed by Councillor Claire Rowles and seconded by Councillor Lynne Doherty:

"The Council recognises the hard work that Councillors do to support their communities and believes they should be able to continue doing so without fear or intimidation. The Council also seeks to achieve greater diversity and inclusion across elected Members and particularly to attract more women candidates.

The Council is therefore committed to promoting civility in public life and supporting the well-being of its elected members.

The Council agrees with the UK Local Government Associations' Joint Statement on Civility in Public Life, which reads:

- "The intimidation and abuse of Councillors, in person or otherwise, undermines democracy; it can prevent elected members from representing the communities they serve, prevent individuals from standing for election and undermine public trust in democratic processes.
- These harmful behaviours, whether occurring towards, between or by elected members are entirely unacceptable."

This Council resolves to treat each other with the respect we all deserve, and to commit to disagree with each other in a polite manner, both in-person and online, in accordance with our Code of Conduct, and to offer support to each other when subjected to online abuse. The Council will take action when its elected Members are victims of abuse, including legal action where necessary and appropriate. Council notes that where a member considers that there is a risk of being subject to violence or intimidation, they can make a request to the Monitoring Officer that personal information be treated as a sensitive interest, making it exempt from publication.

Councillor Claire Rowles, in introducing the Motion, stated that she had been prompted to bring it forward following the murder of Sir David Amess MP who had been kind, warm, civil to all colleagues, and respected the views of others. His untimely death had put a spotlight again on the threat to the safety of local representatives, and councillors should be able to do their jobs without fear and intimidation. The Motion asks all members to abide by the Code of Conduct, and highlights that they should always remind themselves to keep up those standards when going about Council business. Councillor Rowles acknowledged that the livestreaming of meetings had engaged the public more and that she would like to see this harnessed in a positive way. Greater diversity and inclusion across elected members is also aspirational but the confrontational approach to debates can be off-putting. Members should also support each other when subjected to harmful online abuse, and the Council should take legal action where possible if abuse happens.

COUNCIL - 2 DECEMBER 2021 - MINUTES

Personal security should not be compromised whilst speaking and listening to residents, and Councillor Rowles commended the Motion to members.

AMENDED MOTION: Proposed by Councillor Carlyne Culver and seconded by Councillor David Marsh:

“The Council recognises the hard work that Councillors do to support their communities and believes they should be able to continue doing so without fear or intimidation. The Council also seeks to achieve greater diversity and inclusion across elected Members and particularly to attract more women candidates.

The Council is therefore committed to promoting civility in public life and supporting the well-being of its elected members.

The Council agrees with the UK Local Government Associations’ Joint Statement on Civility in Public Life, which reads:

“The intimidation and abuse of Councillors, in person or otherwise, undermines democracy; it can prevent elected members from representing the communities they serve, prevent individuals from standing for election and undermine public trust in democratic processes.

These harmful behaviours, whether occurring towards, between or by elected members are entirely unacceptable.”

This Council resolves to treat each other with the respect we all deserve, and commit to disagree with each other in a polite manner both in-person and online in accordance with our Code of Conduct. Furthermore Council condemns the use of anonymous sock puppet social media accounts by councillors to attack each other or members of the public”.

In introducing the proposed Amendment to the Motion, Councillor Carlyne Culver highlighted how she was seeking to strengthen it by stating that the Council does not accept councillors using sock puppet accounts (anonymous accounts) as they are not being transparent. Councillor Culver noted that it is an increasing problem around the country.

Councillor Dominic Boeck stated that he deplored the practice of anonymous abuse, but it should not be assumed that this behaviour was being instigated by councillors as there is no evidence.

Councillor Graham Bridgman referred to the difficulty in proving who is behind an anonymous account, and that if it is found to be a member it would be a breach of the Code of Conduct. He would therefore not be supporting the proposed amendment as he felt it did not add anything.

Councillor Tony Vickers stated that he would not correspond with anyone using an anonymous account and that he supported the proposed amendment.

Councillor David Marsh stated his opinion that the Council would be ignoring a real problem if the proposed amendment to the Motion was not passed. Anonymous accounts are insidious and councillors should not have them. They are used to make personal attacks to undermine and upset people, leading victims to not like using social media at all, and they should not be encouraged.

COUNCIL - 2 DECEMBER 2021 - MINUTES

Councillor Jeff Brooks recognised the point that Councillor Culver was raising with the proposed amendment but felt that it would be grafting on an aspect already covered by the Code of Conduct which would overcomplicate the Motion.

Councillor Lynne Doherty indicated how she felt about smear campaigns and that she did not condone the use of sock puppets accounts, but that she would not be supporting the proposed amendment as it overcomplicated it.

Councillor Carolyne Culver argued that this was a simple amendment to strengthen the Motion and that not voting for it looks like the Council condones sock puppet accounts.

Councillor Claire Rowles argued that not voting for the amendment did not mean the Council condoned the practice. There are a number of issues on social media which can't all be addressed, and to highlight one issue loses sight that the Motion is regarding the Code of Conduct generally.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the proposed Amendment to the Motion would not be supported.

The proposed Amendment to the Motion was put to the vote of the Members present in the Chamber and declared **LOST**.

Councillor Carolyne Culver suggested that the Motion did not define what civility is (which is open to interpretation) and expressed her fear that the Motion might be used as a way to characterise debate and disagreement as something which is uncivil. Councillor Culver referred to comments made regarding her political party at a previous Council meeting and queried whether they would be regarded as uncivil given this Motion or the normal rough and tumble of debate. Members of the public had indicated that they had not liked the tone of the debate either and that it had discouraged them from wanting to stand for election. Councillor Culver questioned how this Motion would change anything, and said that members should think about tone and the language they use. Conducting themselves in a civil fashion would encourage diversity and increase the numbers of people standing for election.

Councillor Tony Linden noted that the Code of Conduct and its principles are not optional and raised concerns regarding the uncivil, rude and dismissive remarks that members receive via social media.

Councillor Jo Stewart expressed her support of the Motion and her belief that positive behaviour breeds positive behaviour. Were members to control their own behaviour then it would help to address issues in the Chamber, and disagreements could be had in a civil manner.

Councillor Martha Vickers referred to the negative position the media takes regarding politicians which has lowered their status. Most councillors are also generally civil to each other. Government has reduced the power of local authorities leading to people questioning the worth of getting involved, and so Councillor Vickers argued that this Council should fight any further powers being taken away.

Councillor Jeff Brooks indicated his support of the Motion and remarked on the need for civility which was generally achieved in the Chamber more often than not. He referred to the rough and tumble of politics outside the Chamber, such as can be found on doorsteps, and for the need to make candidates aware of the principles.

COUNCIL - 2 DECEMBER 2021 - MINUTES

Councillor Tom Marino referred to the previous statements made with regards to women and those from an ethnic minority background being put off entering politics by debate, and indicated his wish to avoid a narrative of bigotry of lower expectations. Anyone from any gender or background is as capable as another and to mention those specific groups being put off more than others starts to build that narrative.

Councillor Ross Mackinnon indicated his support of the Motion and stated that both local and national politicians, when stating political arguments either in person or via social media, should expect opponents to put forward disagreement. However, personal intimidation and abuse is unacceptable. Councillor Mackinnon believed that it was a small step to start thinking of your opponents as morally wrong and therefore acceptable not to treat them with civility, but that it should be acknowledged that all members wish to do what is right for residents but with differing ideas as to how.

Councillor Lynne Doherty agreed with the sentiment that all members have a duty towards one another, and highlighted how free speech and passion in debates should remain but with respect demonstrated. The Local Government Association has been reviewing the Councillor Code of Conduct which should go towards addressing the points raised by Councillor Culver in her proposed amendment to the Motion, and work being done on digital citizenship should help improve the conduct of people online. Members should lead by example, by treating each other with respect and civility, and Councillor Doherty thanked the councillors involved for their work on this and for championing this cause.

Councillor Claire Rowles thanked members for their cross party support of the Motion and the helpful debate.

An indicative vote of all Members present in the Chamber and those attending remotely suggested that the passing of the Amended Substantive Motion would be supported.

The Amended Substantive Motion was put to the vote of the Members present in the Chamber and declared **CARRIED**.

The Chairman referred to the Motions not considered at this meeting and which will be deferred to the next scheduled meeting of Council at which Motions can be considered.

77. **Members' Questions**

This item was not considered. The full wording of the Members' questions and answers is available from the following link: [Transcription of Q&As](#).

- (a) A question standing in the name of Councillor Tony Vickers on the subject of licensing decisions not being made in public would receive a written response from the Portfolio Holder for Housing, Strategic Partnerships and Transformation.
- (b) A question standing in the name of Councillor Martha Vickers on the subject of the expansion of the service provided through the Family Hubs would receive a written response from the Portfolio Holder for Children, Young People and Education.
- (c) A question standing in the name of Councillor Jeff Beck on the subject of Rough Sleepers currently in West Berkshire would receive a written response from the Portfolio Holder for Housing, Strategic Partnerships and Transformation.
- (d) A question standing in the name of Councillor Phil Barnett on the subject of the maintenance and inspection regime of trees would receive a written response from the Portfolio Holder for Environment and Waste.

COUNCIL - 2 DECEMBER 2021 - MINUTES

- (e) A question standing in the name of Councillor Martha Vickers on the subject of what the Council is doing to encourage local businesses to reduce their carbon footprint would receive a written response from the Portfolio Holder for Environment and Waste.

(The meeting commenced at 7.00 pm and closed at 10.25 pm)

CHAIRMAN

Date of Signature

DRAFT

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

COUNCIL

MINUTES OF THE MEETING HELD ON TUESDAY, 18 JANUARY 2022

Councillors present in the Second Floor Meeting Area: Clive Hooker (Chairman), Rick Jones (Vice-Chairman), Adrian Abbs, Steve Ardagh-Walter, Dennis Benneyworth, Dominic Boeck, Jeff Brooks, James Cole, Carolyne Culver, Lee Dillon, Lynne Doherty, Billy Drummond, Gareth Hurley, Owen Jeffery, Alan Law, Tony Linden, Royce Longton, Steve Masters, Geoff Mayes, Biyi Oloko, Claire Rowles, Andrew Williamson and Keith Woodhams.

Councillors present remotely: Councillor Phil Barnett, Councillor Jeff Beck, Councillor Graham Bridgman, Councillor Jeff Cant, Councillor Nassar Hunt, Councillor Alan Macro, Councillor Thomas Marino, Councillor David Marsh, Councillor Andy Moore, Councillor Graham Pask, Councillor Erik Pattenden, Councillor Richard Somner, Councillor Joanne Stewart, Councillor Martha Vickers, Councillor Tony Vickers and Councillor Howard Woollaston.

Also Present: Honorary Aldermen Paul Bryant and Andrew Rowles, Nigel Lynn (Chief Executive), Sue Halliwell (Executive Director (Place)), Joseph Holmes (Executive Director (Resources)), Andy Sharp (Executive Director (People)), Sarah Clarke (Service Director, Strategy & Governance (Monitoring Officer)), Shiraz Sheikh (Service Lead, Legal & Democratic Services) and Vicki Yull (Principal Democratic Services Officer).

Apologies for inability to attend the meeting were received from: Councillor Hilary Cole, Councillor Jeremy Cottam and Councillor Ross Mackinnon, and Honorary Aldermen Adrian Edwards, Graham Jones and Keith Chopping.

PART I

78. Declarations of Interest

The Chairman opened the meeting by taking a moment to reflect on the recent passing of former Councillor John Farrin who had been a Liberal Democrat Member for Burghfield from 2003 – 2007. Councillor Lee Dillon spoke in remembrance of Mr Farrin.

The Chairman then welcomed Councillor Biyi Oloko to the Council. Councillor Oloko had been elected as a Conservative Councillor on 16th December 2021 for the Tilehurst South and Holybrook Ward and this was his first Council meeting. Councillor Oloko briefly introduced himself.

The Chairman then invited Members to make any declarations of interest.

Councillors Owen Jeffery, Jeff Brooks, Tony Vickers, Phil Barnett, Royce Longton and Billy Drummond declared an interest in Agenda Item 3 (To consider and deal with Item 22 of the Agenda as specified in the Summons to the Council Meeting of 2 December 2021 pertaining to the unfinished business - Notices of Motion (Motion (C) West Berkshire Council Pensions Divestment from Fossil Fuels refers)) due to being in receipt of a Royal County of Berkshire Pension and reported that, as their interests were disclosable pecuniary interests or an other registrable interest, they would be leaving the meeting during the course of consideration of the matter.

Councillor Tony Linden declared an interest in Agenda Item 3 (To consider and deal with Item 22 of the Agenda as specified in the Summons to the Council Meeting of 2

COUNCIL - 18 JANUARY 2022 - MINUTES

December 2021 pertaining to the unfinished business - Notices of Motion (Motion (C) West Berkshire Council Pensions Divestment from Fossil Fuels refers)) due to having had a councillors pension policy but not currently being in receipt of it and reported that, as the interest was a disclosable pecuniary interests or an other registrable interest, he would be leaving the meeting during the course of consideration of the matter.

Councillors Graham Bridgman and Andy Moore declared an interest in Agenda Item 3 (To consider and deal with Item 22 of the Agenda as specified in the Summons to the Council Meeting of 2 December 2021 pertaining to the unfinished business - Notices of Motion (Motion (C) West Berkshire Council Pensions Divestment from Fossil Fuels refers)) due to their spouses being in receipt of a Berkshire pension and reported that, as the interest was a disclosable pecuniary interests or an other registrable interest, they would be leaving the meeting during the course of consideration of the matter.

79. To consider and deal with Item 22 of the Agenda as specified in the Summons to the Council meeting of 2 December 2021 pertaining to the unfinished business

The Chairman indicated the order under which the Motions would be taken.

The Council considered the under-mentioned Motion (Agenda Item 3(a) refers) submitted in the name of Councillor Jeff Brooks regarding the integrity of West Berkshire Council.

The Chairman informed the Council that the Motion, if seconded, would be debated at the meeting.

MOTION: Proposed by Councillor Jeff Brooks and seconded by Councillor Owen Jeffery:

“This Council will act with the utmost integrity at all times and will ensure that all of its actions put our residents first. Where mistakes are made we will put them right. Where injustices are apparent we will act to resolve them.

In everything we do, the needs of our residents will be uppermost in our policies and actions. We will never take short term gains over the interests of the people we are here to serve”.

Councillor Brooks in introducing the Motion explained how the Motion related to values that the Council demonstrated in everything it did, in every policy developed, and in every decision it made. In putting the Motion before Council, Councillor Brooks did not believe it would find unanimous support as he felt the Leader of the Council and several of the Executive would not vote for something they did not evidence in their actions. Councillor Brooks stated that several members were discomforted by this Motion, and were not convinced that their leadership would evidence the behaviour called upon in the Motion. In particular he highlighted that the Council should never take short term gains over the interests of residents. Councillor Brooks provided examples of when he believed residents had not been put first in both the actuality and the spirit of this Motion:

- Hundreds of fines totalling tens of thousands of pounds had been levied on drivers for crossing over the Parkway Bridge and were refused reimbursement when the signage (and thus those fines) were found to be illegal. Several members of the current administration were in charge at that time.
- A grant was made to an important local transport provider conditional on a gagging order which was not reciprocal, and there had been no consultation on the withdrawal of the grant which the Council had yet to apologise for.
- Grudgingly, residents were given some financial relief on the green bin charge when the green bins were not emptied last winter, after showing no enthusiasm for the

COUNCIL - 18 JANUARY 2022 - MINUTES

budget amendments put forward by Councillor Brooks to provide that financial relief. Already this winter there had been missed collections and it was yet to be seen how the Council would react to that.

- The Council had insisted on the collection of nearly £100,000 of Community Infrastructure Levy (CIL) whilst also admitting that no levy would be chargeable if the private individuals in Lambourne and Kintbury had completed their CIL forms correctly. Amongst the collection techniques was visiting the debtor – or not debtor, as no charge should be levied – and attaching a letter outside their home on the public highway stating the value of the debt. Visits were made in twos so that one Officer could photograph and film the debtor, and the debt was discussed with a neighbour. Councillor Brooks questioned if this was the behaviour of a Council which addressed mistakes, that always acted with the utmost integrity, and that never took short term gains over the interests of the people they served.

Councillor Brooks highlighted that should the Leader of the Council and the Executive Members vote to support this Motion there was an expectation they would right the wrongs as outlined, particularly the reimbursement of the two CIL debts. Councillor Brooks therefore asked the Leader of the Council to think carefully before supporting the Motion as it spoke to the ethos, principles and values of the Council which should not be taken lightly.

Councillor James Cole said most of his experience with the Council had been very positive and that Officers put the needs of residents to the fore. There was some dissatisfaction and some improvements could be made, in particular with regard to the Planning service where too many refusals had been made in error. Matters related to CIL came under Planning and had been raised under Governance and Ethics Committee during which Councillor Cole made clear his unhappiness at the handling of the CIL case in Kintbury where, in his view, more help should have been given. In the same way that the Inland Revenue helped people to get their tax forms right, he would prefer West Berkshire Council to take this approach with CIL's. Councillor Cole said that despite these issues, he would be supporting this Motion.

Councillor Rowles wholeheartedly agreed with Councillor Cole's comments in relation to having a generally positive experience with the Council in putting the customer first. In relation to the subject of CIL and in the context of the case in her Ward in Kintbury and the other in Lambourne, she had seen no evidence of the Council putting the customer first and had made it very clear publicly that the Council's stance in both cases was morally and ethically wrong as the Council had failed to help the residents by highlighting the missing paperwork. In the case in Kintbury, it was one of the first CIL cases seen by the Council when CIL was first introduced in 2015 and she believed a duty was owed to that resident to help and guide them through a newly introduced process. The Council had made a mistake in calculating the amount of CIL payable in Chieveley but in this case the Council went over and above to assist the resident by highlighting the missing paperwork and sending the resident's Agent the appropriate forms to complete to claim an exemption from CIL. It appears that if the Council made a mistake then the resident was helped but if the resident made a mistake then they were not helped which showed that cases were being treated very differently. Councillor Rowles indicated she would be supporting this Motion.

Councillor Masters said he would be supporting the Motion and that he agreed wholeheartedly with comments made by the proposer and previous speakers. He had also had interactions with a number of residents in his Ward in relation to unsatisfactory CIL payments. Councillor Masters was also in agreement with the broader points made

COUNCIL - 18 JANUARY 2022 - MINUTES

about the Administration due to the number of times they had been seen not to be acting in the best interests of residents and compound the issues by not accepting this as the case and refusing to engage in a constructive manner with opposition parties and residents alike. Councillor Masters said he would be supporting the Motion as he felt less of the blame was aimed at Officer-level, but there was a certain political leadership around this issue.

Councillor Ardagh-Walter said that in terms of the wording of the Motion he was also supportive of it and agreed that the Council did act with the utmost integrity to ensure their actions put the residents first. In relation to the point about green bins, he was disappointed this had been made by Councillor Brooks in support of his case because the issue had arisen in the middle of a pandemic, and that earlier this year an announcement had been made that the service would not be delivered at the time it would normally be done. The use of this point appeared as if Councillor Brooks was trying to take the moral high ground on a perfectly decent and thoroughly researched decision which had been made very carefully by Members, on the advice of Officers, to do the right thing by all residents and did not mean that the Council had acted without integrity. Councillor Ardagh-Walter said he believed the Administration, supported by Officers, acted with integrity and would continue to do so.

Councillor Abbs said he would be supporting the Motion. He had been present at the Governance and Ethics Committee the previous evening at which the issue of CIL had been discussed and which would come to Council for further debate, and had been convinced that a motion like this was much needed and was in support of signing up to a higher level of service to the public.

Councillor Somner said he was largely supportive of the Motion but had a couple of points he wished to raise. With respect to reciprocal agreements, these had been offered in contracts but unfortunately were not accepted as the closing point of the contract. In respect of CIL, it was the wording of the motion that concerned Councillor Somner and the reference to short term gain. Most Members were aware that CIL was not a short term gain for Council but was for the benefit of residents for long term projects and was money reinvested in the area from which it originally came.

Councillor Boeck said he would be supporting the Motion without fear of criticism and was dismayed by the nakedly political stance that Councillor Brooks had taken which had been echoed by previous Members. Differences of opinion would naturally occur from time to time but did not necessarily mean that any wrongdoing had taken place and for Councillor Masters to apportion blame and imply that the Council had been wilful in its decision-making was equally politically motivated.

Councillor Bridgman said he would be supporting the Motion which talked about the interests of all residents, not an individual resident, who might be affected by a particular Council decision which would be for the benefit of residents as a whole. If an individual felt aggrieved at a decision the Council had made, they had the option of approaching the Local Government Ombudsman and going to law and in both the CIL cases the Council had not been found wanting. Councillor Bridgman said the needs of the District were paramount so that, for example, if an individual resident felt aggrieved they were being sued for non-payment of Council Tax, the needs of the District would be put first and the Council would seek to collect that unpaid tax.

COUNCIL - 18 JANUARY 2022 - MINUTES

Councillor Stewart said she would be supporting the Motion and that integrity was a value she held as a priority and underpinned her decision to stand as an elected member as she wanted to support and improve services for her community and the residents she represented. Councillor Stewart said she had always witnessed her fellow Executive Members act with integrity and that whilst not all decisions would be popular, all decisions were made for the benefit of the District.

Councillor Dillon said he did not believe the argument was about the value of CIL across the District but that a large organisation could make mistakes and if mistakes were made then they should be put right. An accusation had been made that Councillor Brooks had taken a political stance on the issues around CIL. However, his concerns had also been echoed by other Members which evidenced some consensus that a mistake had been made by the Council and that it was important to stand up for residents particularly when the impact of the cost imposed on them was so severe. In relation to integrity, Councillor Dillon asked where was the integrity in imposing a gagging order on a local organisation and them being fined about it. Councillor Dillon was pleased to see cross-party support in relation to the motion so that residents of West Berkshire would know that they would be dealt with in the fairest way and with integrity.

Councillor Law said this was a Motion that Council must support and pointed out there was a real difference between integrity and mistakes in that everyone could make mistakes but this was not evidence of a lack of integrity. Councillor Law said he was dismayed by the examples given by Councillor Brooks, in particular how far back he went in order to reference his point. He asked whether the Liberal Democrats were serving the interests of the West Berkshire residents when they were last in this Administration and year on year had raised Council Tax to record levels, higher than any other Unitary Authority.

Councillor Jeffery said having heard the various arguments and points of view put forward, he had heard nothing that made him feel that an administrative error made by an ordinary member of the public should be used to extract cash just because it was possible to do so by constructing a legal right to it. The issue under discussion amounted to a grand total of almost £100,000, not a fine or penalty of £10 or £30 which most individuals would accept as an inconvenience. Councillor Jeffery said that to have imposed such a seriously high charge upon individuals because they had made an error in the way they had completed their paperwork was reprehensible. He was pleased that both the opposition and the governing party were in support of the motion and they should take on board, particularly the Executive, that behaviour needed to be reasonable and that the behaviour taken in the CIL cases had been unreasonable.

Councillor Doherty said she had been delighted to see this Motion and had even offered to second it as she was thankful that the Liberal Democrats had finally recognised the Council's strategy that they all had abstained from supporting in 2019. This strategy had clearly stated the values that existed within the Council and were reflected in this motion. Councillor Doherty felt it was a shame the Liberal Democrats could not have voted for the strategy in the first place which clearly recognised those values that the Council would act with integrity, ensuring all decisions were lawful, transparent, impartial, customer-focused and fair. Councillor Doherty said she was in support of the Motion but could not support Councillor Brooks' attack. Councillor Doherty said she could not comment about the Parkway Bridge charges as it occurred before her tenure. With respect to the gagging clause, she did not legally recognise that term and highlighted that the Council was more than happy to apologise for what they were asked to apologise for which was nothing to

COUNCIL - 18 JANUARY 2022 - MINUTES

do with that term but was in relation to a decision taken in 2018 not to consult with the service users but to consult with the service providers. Councillor Doherty felt the issue of green bins had been adequately covered by Councillor Ardagh-Walter and had herself just had some additional green waste collected.

Councillor Doherty felt the attack by Councillor Brooks had been very subjective, that he had chosen to play politics and suggested that it was unfair to the 635 payees of CIL over the last six years to let two people off payment because Councillor Brooks wanted the Council to do so. There had been three internal and one external review of these cases, all of which concluded that evidence had not, to-date, been received that would conclusively support the assertion that this particular development should have been exempt from CIL. Attempts to draw on similarities between the two cases did not acknowledge the vast differences between them – one was a developer, the other a private owner. It was Councillor Doherty's understanding that one Agent had made some form of payment in recognition of the part that they played. One was a valued community asset that was lost for public use and some might say that it was unfair to the Parish communities coming to West Berkshire asking for community infrastructure support to help them with things like a new cricket facility, resurfacing of car parks, village hall improvements, duck pond restoration, etc. to deny them the community infrastructure that new developments in their area should provide.

Councillor Doherty said the West Berkshire Liberal Democrats had made it clear yet again that they would do and say almost anything in an attempt to discredit the current administration. They continued to put short term gain above the interests of the people they claimed to want to serve as evidenced by the dissatisfaction felt by residents of the recent Tilehurst South and Holybrook election who said they had been told by the Liberal Democrats that their much-loved Linear Park would be built on if the Conservatives came into administration.

Councillor Doherty said she was in support of the principle of the Motion but would be applying it in the way she always had, i.e. with the best interests of all residents in mind and would not be cajoled into changing decisions that had been made because of political pressure to do so. As Leader, Councillor Doherty said she was involved in making decisions that may not be popular but that did not mean they were the wrong decision, nor would it be right to bend to lobbying by others. In the current climate of one rule for one and another for others, Councillor Doherty said she was very conscious of being fair and treating everybody the same and would not change policy or procedure for a select few just because they happened to have friends in high places or loud voices to advocate on their behalf. Councillor Doherty said she would support the Motion because she supported the intent of the Motion, but did not support Councillor Brooks' comments with regards to the Administration.

Councillor Brooks said integrity was about putting something right that was morally wrong. The facts were that neither of those CIL charges would have been imposed had the paperwork been correct, which was verified by the Executive Member at the time. Money had been taken on the basis that some forms were not filled out correctly, this fact was not a political game. Councillor Brooks said he would continue to highlight the facts and intended to raise the method of collection as outlined earlier. Councillor Brooks reiterated that a mistake had been made in relation to the CIL charges and urged the Administration to put right the mistake. Not to do so was disgraceful and the Administration should be held to account as the lives of the people subject to the charges had been adversely changed.

COUNCIL - 18 JANUARY 2022 - MINUTES

Councillor Brooks said the Council, its Officers and the vast majority of Members, including the Leader, did have integrity and asked for that to be shown by admitting a mistake had been made. Councillor Brooks said after 30 years in Local Government, this was the worst case he had seen of a Council benefitting from money they were not entitled to.

An indicative vote of all Members physically present and those attending remotely suggested that the passing of the Motion would be supported.

The Motion was put to the vote of the Members physically present and declared **CARRIED**.

The following Motion on T Levels was withdrawn in the name of Councillor Dominic Boeck.

“That this Council welcomes the Further Education White Paper which has been published by HM Government. This new plan will overhaul the technical education system, help plug skill gaps, level up opportunities and support our economic recovery. The introduction of T Levels, which are high quality technical qualifications on a par with A Levels, is a much needed and once in a generation reform. Building on these reforms, the measures announced in the White Paper will put an end to the illusion that a degree is the only route to success and a good job, and that further and technical education are exciting and challenging options. It puts employers at the heart of the skills system, where they will be given a central role in designing almost all technical courses by 2030, to make sure that the education and training people receive is directly linked to the skills needed for real jobs. The Council also welcomes the Chancellor’s ‘Plan For Jobs’, which includes measures such as the extension of the Kickstart Scheme – which has given 100,000 young people employment, including 13 opportunities to work within West Berkshire Council, and a further 12 with local external partners. The Chancellor’s Plan for Jobs is working and the number of people in employment and average wages are continuing to rise as we recover from the pandemic.”

The Council considered the under-mentioned Motion (Agenda Item 3(c) refers) submitted in the name of Councillor Adrian Abbs regarding West Berkshire Council Pensions Divestment from Fossil Fuels.

Councillors Phil Barnett, Graham Bridgman, Jeff Brooks, Billy Drummond, Owen Jeffery, Tony Linden, Royce Longton, Andy Moore and Tony Vickers left the meeting during consideration of this Motion due to their declarations of disclosable pecuniary interests on this matter.

The Chairman informed the Council that the Motion, if seconded, would be debated at the meeting.

MOTION: Proposed by Councillor Adrian Abbs and seconded by Councillor Lee Dillon.

“Council notes:

- The Berkshire Pension Fund has of the order of £27million invested in fossil fuels.

COUNCIL - 18 JANUARY 2022 - MINUTES

- Divesting this pension fund would be a clear and meaningful action that can be taken at a local government level to positively impact on this Council's green agenda.

Fossil fuel investments are becoming increasingly less attractive because of the global transition to a more sustainable economic and environmental model.

Such investments are now being consistently out-performed by renewables.

In light of this, and supported by the statements below

- Former Bank of England Governor Mark Carney warned in December 2019 that fossil fuel investments risk becoming "stranded assets" (i.e. worthless) as investors exit the sector.
- As continued investments in fossil fuels pose material financial risks to portfolios, funds have fiduciary duties to consider the benefits of decarbonising as part of their investment strategies.
- Pension funds have a legal duty to treat members 'fairly as between them.' Meaning that the longer-term interests of younger members who may well be affected more by the climate transition must be taken into account.

This Council commits to:

- Call on the Berkshire Pension Fund to divest from fossil fuels. This can be done through the Council's representative on the pension fund advisory panel calling for the development, adaptation and adoption of responsible investment policies which:
 - Immediately freezes any new investment in publicly traded fossil fuel companies.
 - Divests the fund within three years from direct ownership of both primary fossil fuel corporations and any commingled funds that include fossil fuel public equities and corporate bonds
 - Actively seeks to invest in companies that are making significant attempts to reduce their greenhouse gas emissions and minimise climate risk.
- Recognise that fossil fuel investments should be considered as part of the council's 'carbon footprint' and the divestment of the Berkshire pension fund is an important step we can take to reduce our impact on our community and the world".

Councillor Abbs in introducing the Motion referred to the COP26 Conference and the associated news coverage as to why the Council must do what could be done to stay below a 1.5° rise in global temperature. Fossil fuel investments were now carrying real financial risks, with emissions becoming constrained which was already being promulgated, fossil fuel companies would have their carbon assets stranded along with the associated investments that may become worthless. Since 28 May 2020 an article in Forbes Magazine entitled 'Just how good an investment is renewable energy?' said the following:

The study found that renewable investments in Germany and France yielded returns of 178% over a five year period compared with just 21% for fossil fuel investments. Over five years in the UK, investments in green energy generated returns of 75% compared with just 9% for fossil fuels. In the US, renewables yielded 200% returns versus 97% for fossil fuels. This clearly showed there were some good opportunities in favour of renewables.

COUNCIL - 18 JANUARY 2022 - MINUTES

With regard to abundance investments, of the 30 investments currently showing on the market place and looking at the company based investment versus the Council investments, bar one there was a minimum 6-15% IIR with an average of 8.2%. The amount of fossil fuel investment in the portfolio was quite small at around 1.3% or £27 million from a £2 billion pot. The motion called to ask the Representative, Councillor Law, to take hard representation to the Pension Board to present the case for the Pension Board to begin divestment now. Any delay would present a risk to the £27 million and when every pension pot was forced to find divestment opportunities and ideally change to renewable ones there was the dual scenario of getting very little or nothing for old fossil investments or getting lower returns on their replacements because there would be lots of pension Funds fighting over renewables. West Berkshire could safely take the lead as it was compatible with its declaration of a climate emergency and showed that it was using all of its available levers to achieve its stated aim. There was also a strong likelihood that members of a pension would enjoy a better performing pension pot.

Councillor Abbs asked Members to note that since sending this Motion to Council some months ago, he understood that the Berkshire Fund had now steered away from new fossil fuel investment which, if correct, made redundant the bullet in the motion relating to freezing any new investment in publicly traded fossil fuel companies.

Councillor Law confirmed he was the Council's Representative on the Berkshire Pension Advisory Panel. He said the short answer to Councillor Abbs' Motion was that it was too late and that his solution was too crude. The reference to the Berkshire Fund steering away from new fossil fuel investment was not accurate as on 22 March 2021 the Fund agreed and adopted a responsible investment policy, as a result of which it instructed LPPI (the Local Pensions Partnership Investment) to deliver on the responsible investment policy. This covered a range of Environmental, Social and Governance issues and one of the Council's two core priorities clearly stated climate change, the other being good governance. The policy included statements 'reducing investment in products such as fossil fuels' and 'where existing investments are in place we expect those companies to demonstrate planning for the global transition to a low carbon economy and to meet future emissions reduction targets'. The policy further stated 'we will not consider new active investments in fossil fuel companies directly engaged in extraction of coal, oil and natural gas which are ignoring the risks of climate change'. In turn, LPPI was a member of IIGCC – the Institutional Investment Group on Climate Change – a global worldwide group representing \$57.4 trillion worth of assets, approximately 50% of all equities in the world. IIGCC's charter 'committed to supporting the goal of net zero by 2050 or sooner'.

Councillor Law said he was left to wonder if Councillor Abbs had researched the position of the pension plan and LPPI before submitting the Motion. Councillor Abbs had not consulted with Councillor Law prior to doing so which would have been the correct and proper way to start before drafting the Motion. As such, he could not agree with Councillor Abbs' proposal to immediately freeze and divest as this was too much of a blunt instrument and a crude approach. It would be preferable to use the considerable combined investment weight and influence via LPPI and the IIGCC to pressure those companies to adapt to meet the new emission targets, divesting only as a last resort. Whilst Councillor Law agreed in principle, he rejected the Motion in terms of its proposed actions.

Councillor Woollaston stated that whilst no-one could dispute the sentiment behind the Motion he took issue with the practicality. The Royal County of Berkshire Pension Fund was originally created by Berkshire County Council and was administered by the Royal

COUNCIL - 18 JANUARY 2022 - MINUTES

Borough of Windsor & Maidenhead and, as such, West Berkshire had no direct control. At the end of 2021, the Fund had a total value of £2.3 billion, £27 million of which was invested in fossil fuel equities, representing 1.3% of the Fund. By comparison, the much larger Greater Manchester pension Fund invested over £1 billion, or nearly 5% of their Fund, in fossil fuels. Investment Managers were instructed to have a responsible investment strategy to get out of investing in fossil fuel equities nearly a year ago within a managed, gradual way to ensure there was no diminish of the Fund which might be caused by a fire sale, thereby protecting value and meeting the financial obligations to pensioners. Councillor Woollaston said he supported the principle of the Motion but could not vote for it as it would attempt to curtail the ability of Fund Managers to extract the Fund from fossil fuel related investment in a controlled and sensible manner protecting value.

Councillor Pattenden said whilst investment in renewables was actually outperforming those in fossil fuels which showed there was inherently more risk in investing in the latter, the approach was too slow, too opaque and did not reflect the nature of the emergency, hence the significance of Councillor Abbs' Motion. As such, Councillor Pattenden recommended Councillors support the Motion.

Councillor Ardagh-Walter applauded the shared desire to achieve a carbon-neutral world where fossil fuel was no longer needed but acknowledged there was no quick fix to achieve this. He said that were he a member of the Berkshire Pension Fund, he would want a professional investor to make decisions on which investments to buy or divest from rather than, however well intentioned, any District Councillors. It was important to understand what long term and wider effects would be if the divestment policy took place. Crisis were influenced by supply and demand and over the last year the wholesale price of gas had tripled and within three or four months most people were going to have an unpleasant experience as their energy bills would increase correspondingly. There would be a significant rise in fuel poverty and unlike the taxes on tobacco or alcohol there was no easy alternative at present for most people to stop using gas and heating their homes. It was hoped that all could reduce their energy usage by driving less and reducing the heating but this was a difficult trade-off between environmental responsibility and a happy and comfortable home life. The effect of divestment, if other pension Funds were to do the same, would be to starve the energy companies of capital and ultimately the sort of action that could drive a company out of business. With rising demand from Asia for gas, which was a good thing because they were starting to wean themselves off coal, the effects would not change how much Berkshire, England and Europe consumed natural gas, it would simply make it more expensive for residents. Councillor Ardagh-Walter urged Members to think very carefully before supporting or abstaining from this Motion as it looked unpleasantly like a virtue signalling activity which came at zero cost to Members but a large amount of potential cost to residents.

Councillor Masters said there had been a lot of talk about how the proposals in the Motion would be disastrous for the Pension Fund, for members of the Fund, and for residents, but in a market-led economy if Pension Funds and professional managers saw the better returns that Councillor Abbs spoke of in the renewables, then any move towards those renewables would be a bigger incentive for those wedded to fossil fuels and the extraction thereof. Many companies advertising a transition away from the fossil fuel industry showed an investment of making little more than a single figure percentage of their overall investment in fossil fuels. The biggest investment to be made was by shedding those shares and investing in renewables that would have the double advantage of encouraging their practises and a weaning off from fossil fuels, encourage

COUNCIL - 18 JANUARY 2022 - MINUTES

investment in green technologies and accelerate the infrastructure projects that were needed. Therefore, Councillor Masters encouraged Members to support the Motion.

Councillor Cant said he felt it was an extraordinarily narrow discussion where Members were trying to substitute their view for that of the Pension Fund whereas to be a bit more open minded it was easy to make the case that investments in companies that had a presence in countries that had oppressive regimes or dictatorships, if you start to make value judgements about the exact nature of the investments in countries in which these investors were made, the entire pension portfolio could be devastated. While sympathising with the sentiment, Councillor Cant was of the belief that there should be a lot less investment in countries like Saudi Arabia who had a significantly more oppressive impact on the world than many others. He did not feel that Members had sufficient information to begin to judge matters without the backdrop of other investments and would therefore be voting against the Motion.

Councillor James Cole said he had not intended to speak but listening to Councillor Cant he agreed entirely with what he had said and whilst he would want to support the Motion he did not feel it was entirely practical to do so as he did not feel Council was qualified to do so. Some steer could be given towards the Berkshire Pension Fund through the Council's representative but not to give an instruction in favour of the Motion.

Councillor Dillon said he thought there had never been a debate in Council about what the Council should want the Fund to do and, as Representative, perhaps Councillor Law could call a special debate of Members so he could be informed in his role as a Representative on the Fund of the pension holders and how they would like to be represented. Councillor Law had already said that West Berkshire were behind the curve and the Fund under its ESG policies at climate change was already reducing investment and that it was transitioning away and not considering coal, oil or natural gas anymore. Councillor Dillon felt that the motion called on the Pension Funds to disinvest from fossil fuels but that was not within the power of Members. A Pension Fund should not all be about values, particularly when it drives so much of the economy. The end of the Motion talked about the impact of the Pension Fund on the Council's carbon footprint which had disappointingly not been responded to by Councillor Ardagh-Walter.

Councillor Abbs said he was disappointed with the direction the debate had taken as the motion had been simply to try to encourage the Representative to talk to the Pension Fund about making a faster move away from invested fuel. Councillor Abbs said he was staggered by Councillor Ardagh-Walters' statement that fossil fuel companies should continue to be supported in case they go bankrupt.

An indicative vote of all Members physically present and those attending remotely suggested that the passing of the Motion would not be supported.

The Motion was put to the vote of the Members physically present and declared **LOST**.

The Council considered the under-mentioned Motion (Agenda Item 3(d) refers) submitted in the name of Councillor Carolyn Culver regarding the Council's response to COP26 in Glasgow.

The Chairman advised that Council would not debate the Motion and, in accordance with Procedure Rule 4.9.8, this would be referred to the Environment Advisory Group for

COUNCIL - 18 JANUARY 2022 - MINUTES

consideration as the detail of the Motion falls within the remit of the Executive. A report would be considered at the Environment Advisory Group and the Executive, and the outcome of that would be reported to Council.

MOTION: Proposed by Councillor Culver and seconded by Councillor Masters:

“Council notes:

That COP26 in Glasgow concluded with the Glasgow Climate Pact, which recognises a crucial role for communities and local authorities. By “recognizing the important role of ... local communities and civil society, including youth and children, in addressing and responding to climate change, and highlighting the urgent need for multilevel and cooperative action” the Pact makes plain the need for action at every level of government and society.

That shortly before the Glasgow conference the UK government published its Net Zero Strategy, which includes the intention to establish a Net Zero Forum to coordinate the strategy with local government.

That COP26 failed to provide the national targets that could put the world on course for limiting global average temperature rise to 1.5C; failed to provide the carbon price mechanisms needed to shift the world economy away from fossil fuels; failed to provide the necessary finance for less developed nations to develop without fossil fuels or to deal with the loss and damage caused to them by wealthier nations that are historically responsible; failed to outlaw all loopholes in ‘offsetting’ mechanisms; and failed to commit to phasing out fossil fuels.

Council believes:

That the chances for a strong outcome from COP26 were weakened by the UK government’s mixed messages on climate action, not least the reduction in tax on internal flights, the continued commitment to new fossil fuel extraction in Cumbria and the North Sea oil fields, and cuts to overseas aid.

If we are to become a carbon neutral district we need new developments to be carbon neutral and we need to divest from all investment in fossil fuels.

Council resolves:

- 1.) To write to Alok Sharma MP to thank him for his work so far and urge him to apply maximum pressure to all parties for the remainder of his presidency.
- 2.) To organise carbon literacy training and briefing sessions for council staff and members to ensure we are consistent in addressing the climate emergency across all our activities.
- 3.) To organise a second climate conference in West Berkshire which brings all stakeholders together.
- 4.) To work with other unitary authorities in Berkshire to divest staff pension funds from fossil fuels, including those who are merely transitioning because we only have nine years left to achieve carbon neutrality. Instead, invest in funds that are contributing to decarbonisation and adaptation to climate change.
- 5.) To require developers to submit a Climate Change Declaration with their planning applications to encourage them to build to higher energy efficiency standards.

COUNCIL - 18 JANUARY 2022 - MINUTES

- 6.) To write to our three local MPs urging them to lobby the government for the following:
- Conduct an independent review into UK fossil fuel subsidies and set out a plan and timetable to phase these out.
 - Commit to no more coal, oil or gas extraction in the UK, and no more UK investments in fossil fuel extraction overseas.
 - Commit to no airport expansion across the UK, and for international aviation and shipping decarbonisation to be included in nationally determined contributions (NDCs) in future trade deals”.

The following Motion on environmental standards was withdrawn in the name of Councillor James Cole.

“The Council has a clear commitment to delivering the objectives set out in its Environment Strategy. This commitment is reflected in its ambitions to ensure the Chestnut Walk development, being progressed through a Joint Venture with Sovereign Housing to deliver 8 affordable homes within Hungerford, achieves the highest possible environmental standards. The Council commits to achieving the highest possible environmental standards of this development balancing it against the best value of the disposal of its land”.

The Council considered the under-mentioned Motion (Agenda Item 3(f) refers) submitted in the name of Councillor Adrian Abbs regarding helping the West Berkshire Taxi trade go greener.

The Chairman advised that Council would not debate the Motion and, in accordance with Procedure Rule 4.9.8, this would be referred to the Environment Advisory Group for consideration as the detail of the Motion falls within the remit of the Executive. A report would be considered at the Environment Advisory Group, in consultation with the Licensing Committee, and the Executive and the outcome of that would be reported to Council.

MOTION: Proposed by Councillor Abbs and seconded by Councillor Dillon:

“Overview:

Given the Council’s declaration of a climate emergency at a district wide level, it is a critical part of the delivery to have any body, company or individual contributing to carbon emissions join West Berkshire Council in achieving its stated goals of net zero by 2030.

Transport is amongst the largest contributors of carbon emissions and the taxi trade is one group over which West Berkshire Council has some direct influence.

During recent meetings with the trade body several key factors were established that have led directly to this motion and, should this motion be adopted, allow West Berkshire Council to encourage the whole trade in going greener at pace.

For the purposes of this motion “Taxis” refers to vehicles licenced for plying for hire on ranks or that can be hailed in the street and private hire vehicles which are vehicles licensed by the Council which must be pre-booked. “Licence fees” refers to those fees

COUNCIL - 18 JANUARY 2022 - MINUTES

associated with Hackney Carriage and Private Hire Licences, plus Private Hire Operators (PHO) licences for both new vehicles / operators and renewal of licences.

Other direct benefits would also result from the adoption of this motion in and around taxi ranks where charging infrastructure is deployed.

- Street vendors that use car parks next to taxi ranks could use direct electricity feeds rather than the petrol and diesel generators currently used.
- Reductions in noise from all vehicle types and street vendors would result from the removal of fossil fuel engines.
- Improvements in Air Quality and specifically a reduction in Nitrous Oxide and fine particulate matter which would lead to a safer environment for all. Council notes:
- 95% of Taxis are still diesel according to the latest survey of the trade.
- That 60% of those that recently responded to a consultation said they are considering changing their vehicle in the next 3 years.
- That 80% of the journeys made in a taxi are less than 50 miles.
- That 80% of taxi drivers drive less than 200 miles a day.
- That poor air quality (especially in built up areas) is a significant risk to health.
- That whilst 50% of respondents would consider electric for personal use, only 30% thought they might choose electric for work.
- That to meet our climate emergency declaration goals by 2030, significant changes in transport modes are needed as quickly as possible.
- That most battery electric vehicles suitable for use as a taxi have ranges of more than 200 miles.
- That full plug-in hybrids often have a range on pure electric exceeding the average journey needed by taxi.
- The upper end of the cost estimates for licences is £36K assuming all 60% of those thinking of a change do so in year 1.

In order to help achieve this:

This Council will introduce an incentive scheme to help all forms of vehicle licensed by West Berkshire for public transport to go green. The incentive scheme would run until the 31 March 2025 and would result in the Council subsidising licence fees over a three-year period for each taxi.

This scheme will introduce a zero-licence fee tariff for any taxi that is powered fully by electricity and a 50% reduction of the licence fee for any taxi that can do a minimum of 50 miles on electric power before switching to fossil fuel - known often as plug-in hybrids. The cost of this proposal for every 10% of fee take up would be a subsidy of:

- £6.5K fully electric
- £3.25K for hybrid

This Council commits to:

- Introducing the subsidised incentive scheme within next year's budget.
- Providing (where practical) fast charging points next to taxi ranks to remove range anxiety for taxi drivers".

(The meeting commenced at 7.00 pm and closed at 8.37 pm)

COUNCIL - 18 JANUARY 2022 - MINUTES

CHAIRMAN

.....

Date of Signature

.....

This page is intentionally left blank

Council – 17 March 2022

Item 4 – Declarations of Interest

Verbal Item

This page is intentionally left blank

Council – 17 March 2022

Item 5 – Petitions

Petition to be presented by Councillor Steve Masters (1,769 signatories). The subject of the Petition is stated as follows:

“We, the undersigned, petition the Council to request a formal explanation from our local MP’s as to why they voted down Lords Amendment 45 to the Environment Bill which would have placed a legal duty on water companies in England and Wales to make improvements to their sewage systems and demonstrate progressive reductions in the harm caused by discharges of untreated sewage. MPs Laura Farris and John Redwood voted to defeat the Lords amendment (Alok Sharma did not vote). We also petition the Council’s OSMC to robustly question Thames Water at their scheduled appearance in March 2022. OSMC should focus on the amount of discharge in local waterways and the proposed investment in improvements to infrastructure. West Berkshire residents urge the Council to condemn the discharging of raw sewage into our waterways and call upon all stakeholders to work together to end this environmentally destructive practice which also damages public health.”

This page is intentionally left blank

Item 6:

Public Questions to be answered at the Council meeting on 17 March 2022.

Members of the Executive to answer the following questions submitted by members of the public in accordance with the Council's Constitution.

(a) **Question to be answered by the Portfolio Holder for Planning and Transport submitted by Mr John Bibbings:**

“Does anyone know that at rush hour, the traffic is grid locked from the A339 via Cheap Street and Market Street to the Sainsbury's round-a-bout? The 5 sets of Traffic Lights are creating the grid lock”

(b) **Question to be answered by the Portfolio Holder for Housing, Strategic Partnerships and Transformation submitted by Mr Dave Allen:**

“Is the council enlisting residents to help support the crisis in Ukraine eg donations in money or goods and in particular requesting residents if they can provide temporary accommodation?”

(c) **Question to be answered by the Portfolio Holder for Planning and Transport submitted by Mrs Joan Stacey:**

“In view of the Council's commitment to green issues etc I would like to raise a question on the problems older people have in accessing information on bus services. The recent handout from Newbury Library had 'maps' on the front of it but there were no maps in it at all. This makes it very difficult for people to know where bus stops are, especially newcomers to the area who are unfamiliar with Newbury. This means that people who don't have access to the internet will not be able to use the buses because of this lack of information. What can the Council do to improve this situation?”

This page is intentionally left blank

Council – 17 March 2022

Item 7 – Membership of Committees

Verbal Item

This page is intentionally left blank

Council – 17 March 2022

Item 8 – Motions from previous meetings

Verbal Item

This page is intentionally left blank

Council – 17 March 2022

Item 9 – Licensing Committee

Item 10 – Personnel Committee

Item 11 – Governance and Ethics Committee

Item 12 – District Planning Committee

**Item 13 – Overview and Scrutiny
Management Commission**

Item 14 – Health Scrutiny Committee

Item 15 – Health and Wellbeing Board

Item 16 – Joint Public Protection Committee

Verbal Items

This page is intentionally left blank

Statutory Pay Policy 2022

Committee considering report:	Council
Date of Committee:	17 March 2022
Portfolio Member:	Councillor Howard Woollaston
Date Portfolio Member agreed report:	10 February 2022
Report Author:	Paula Goodwin
Forward Plan Ref:	C4021

1 Purpose of the Report

- 1.1 The Council is required, in accordance with section 38 of the Localism Act 2011, to publish an annual pay policy statement. This report seeks to secure compliance with that duty, by seeking approval of the Statutory Pay Policy Statement for publication from 1st April 2022.

2 Recommendations

- 2.1 It is recommended that Council adopt and approve the Statutory Pay Policy Statement at Appendix C of this report, for publication from 1st April 2022.
- 2.2 It is further recommended that Council delegate authority to the Service Director, Strategy and Governance, in consultation with the Portfolio Holder for Internal Governance, Leisure and Culture to update the Pay Policy Statement following any pay awards to be effective from 1st April 2021, and the 1st April 2022.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	None.
Human Resource:	The report details the HR implications within it.
Legal:	This report satisfies the Localism Act 2011 in respect of a pay policy statement.

Risk Management:	None.			
Property:	None.			
Policy:	Localism Act 2011.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:		X		
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Environmental Impact:		X		
Health Impact:		X		
ICT Impact:		X		
Digital Services Impact:		X		

Council Strategy Priorities:		X		
Core Business:		X		
Data Impact:		X		The Council is obligated to publish this anonymised salary data by the Localism Act 2011.
Consultation and Engagement:	Corporate Board, Operations Board, Personnel Committee			

4 Executive Summary

- 4.1 Section 38 of the Localism Act 2011 requires local authorities to publish an annual pay policy statement. The method of publication is at the discretion of the authority, but it is expected to comply with the principles set out in the Local Government Transparency Code. The statement must be approved by the full Council.
- 4.2 Council approved the annual publication of the statement, in principle, on 1st March 2012. This report seeks Council's approval, for publication of the 2022 Pay Policy Statement (attached at Appendix C) with effect from 1st April 2022.
- 4.3 The statement should set out the policies in relation to;
- (a) Remuneration of its chief officers
 - (b) The remuneration of its lowest paid employees (and our definition and reasons for defining it)
 - (c) The relationship between the remuneration of its chief officers and those who are not chief officers
- 4.4 The definition of chief officers includes the Chief Executive, the Monitoring Officer, the Section 151 Officer, Executive Directors, as well as those who report directly to any of these post holders. Thus, in West Berkshire Council, this definition would include all Service Directors and Heads of Service.
- 4.5 Chief Officer remuneration includes salary, bonuses, performance-related pay, fees or allowances (including as returning officer), benefits in kind, etc. The policy should also state how chief officer salary will be determined on appointment and any arrangements for payments upon leaving office.
- 4.6 At the time of writing, negotiations are continuing regarding a pay award which would be effective from 1st April 2021. The document will therefore need to be updated to reflect any pay awards that become effective from for 1st April 2021, and 1st April 2022.

- 4.7 This matter was considered at Personnel Committee on the 21st February 2022, which resolved to recommend this policy to Council for adoption.

5 Other options considered

- 5.1 The Council could determine not to publish a pay policy statement but this is not recommended as there is a legal duty to publish this information.

6 Conclusion

- 6.1 It is recommended that the Pay Policy Statement attached as Appendix C should be approved and published on the Council website with effect from 1st April 2022, to comply with our statutory duty under the Localism Act.

7 Appendices

- 7.1 Appendix A – Equalities Impact Assessment
- 7.2 Appendix B – Data Impact Assessment
- 7.3 Appendix C - Draft Statutory Pay Policy 2022

Background Papers:

None

Subject to Call-In:

Yes: ☐ No: ☒

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

Wards affected: All

Officer details:

Name: Paula Goodwin
Job Title: Service Lead (HR)

Tel No: 07385413479
E-mail: paula.goodwin1@westberks.gov.uk

Appendix A

Equality Impact Assessment (EqIA) - Stage One

What is the proposed decision that you are asking the Executive to make:	To seek Council's approval of the Statutory Pay Policy Statement for publication from 1 st April 2022.
Summary of relevant legislation:	Section 38 of the Localism Act 2011 requires local authorities to publish an annual pay policy statement. The method of publication is at the discretion of the authority, but it is expected to comply with the principles set out in the Local Government Transparency Code. The statement must be approved by the full Council.
Does the proposed decision conflict with any of the Council's priorities for improvement? <ul style="list-style-type: none"> • Ensure our vulnerable children and adults achieve better outcomes • Support everyone to reach their full potential • Support businesses to start develop and thrive in West Berkshire • Develop local infrastructure including housing to support and grow the local economy Maintain a green district • Ensure sustainable services through innovation and partnerships 	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please indicate which priority and provide an explanation
Name of Budget Holder:	
Name of Service/Directorate:	Strategy & Governance
Name of assessor:	Sarah Clarke
Date of assessment:	23 February 2022
Version and release date (if applicable):	

Is this a ?		Is this policy, strategy, function or service ... ?	
Policy	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	New or proposed	Yes <input type="checkbox"/> No <input type="checkbox"/>
Strategy	Yes <input type="checkbox"/> No <input type="checkbox"/>	Already exists and is being reviewed	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Function	Yes <input type="checkbox"/> No <input type="checkbox"/>	Is changing	Yes <input type="checkbox"/> No <input type="checkbox"/>
Service	Yes <input type="checkbox"/> No <input type="checkbox"/>		

(1) What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?

Aims:	To meet statutory obligations in relation to pay transparency.
Objectives:	To publish a statutory pay policy following Council approval.
Outcomes:	Published policy meeting statutory obligations.
Benefits:	Published policy ensures compliance with statutory obligations.

(2) Which groups might be affected and how? Is it 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	
Sex	None	
Sexual Orientation	None	

Further Comments:
The Council's workforce is predominantly female but there are no equality impacts arising from this proposal as the policy reports on the pay to be applied to specified posts.

(3) Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide an explanation for your answer: Pay transparency is just reporting on actual pay for certain posts.	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide an explanation for your answer: Pay transparency is just reporting on actual pay for certain posts.	

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 EqlA 2.

If an EqlA 2 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 EqlA guidance and template – <http://intranet/index.aspx?articleid=32255>.

(4) Identify next steps as appropriate:	
EqlA Stage 2 required	Yes <input type="checkbox"/> No <input type="checkbox"/>
Owner of EqlA Stage Two:	
Timescale for EqlA Stage Two:	

Name: Sarah Clarke

Date: 23 February 2022

Please now forward this completed form to Pamela Voss, Equality and Diversity Officer (pamela.voss@westberks.gov.uk), for publication on the WBC website.

Appendix B

Data Protection Impact Assessment – Stage One

The General Data Protection Regulations require a Data Protection Impact Assessment (DPIA) for certain projects that have a significant impact on the rights of data subjects.

Should you require additional guidance in completing this assessment, please refer to the Information Management Officer via dp@westberks.gov.uk

Directorate:	Resources
Service:	Strategy & Governance
Team:	HR
Lead Officer:	Rebecca Bird
Title of Project/System:	Statutory Pay Policy 2022
Date of Assessment:	14/1/22

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
Will you be processing SENSITIVE or “special category” personal data? <small>Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”</small>	<input type="checkbox"/>	X
Will you be processing data on a large scale? <small>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</small>	<input type="checkbox"/>	X
Will your project or system have a “social media” dimension? <small>Note – will it have an interactive element which allows users to communicate directly with one another?</small>	<input type="checkbox"/>	X
Will any decisions be automated? <small>Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?</small>	<input type="checkbox"/>	X

	Yes	No
Will your project/system involve CCTV or monitoring of an area accessible to the public?	<input type="checkbox"/>	X
Will you be using the data you collect to match or cross-reference against another existing set of data?	<input type="checkbox"/>	X
Will you be using any novel, or technologically advanced systems or processes?	<input type="checkbox"/>	X
<small>Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised</small>		

If you answer “Yes” to any of the above, you will probably need to complete [Data Protection Impact Assessment - Stage Two](#). If you are unsure, please consult with the Information Management Officer before proceeding.

DRAFT Pay Policy Statement – April 2022

Document Control

Document Ref:	Pay Policy Statement 2022	Date Created:	March 2022
Version:	1	Date Modified:	
Revision due	New Policy adopted at least annually		
Author:	Paula Goodwin	Sign & Date:	February 2022
Owning Service	HR		

Contents

1. Purpose	3
2. Definitions used in this document	3
3. Pay Policy from April 2022	4
4. Pay ratios in the Council.....	7
5. Pensions	7
6. Review	8
Appendix 2 – Additional Payments Scheme	12
<u>Additional Payments – General Approvals Flowchart</u>	15

1. Purpose

This document covers the requirements to publish a pay policy statement under s38 of the Localism Act 2011. This Pay Policy Statement does not apply to employees working within schools.

Full Council has approved the Pay Policy Statement.

2. Definitions used in this document

Chief Officers are defined in s43 of the Localism Act as

- the head of the authority's paid service;
- the monitoring officer
- a statutory chief officer, which under the Local Government & Housing Act 1989 means Director of Children's Services, Director of Adult Social Services, Director of Public Health, Chief Education Officer, Chief Social Worker and the Section 151 officer;
- a non-statutory chief officer which under section s2(7) of the 1989 Act means direct reports of the head of paid service (HOPS), a person for whom the HPS is directly responsible, a person who as respects all or most of their duties is required to report directly or is directly accountable to the HOPS, or a person who as respects all or most of their duties is required to report directly or is directly accountable to the local authority themselves, or any committee or sub-committee of the authority;
- a deputy chief officer which under s2(8) of the 1989 Act means a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

In West Berkshire Council these posts are:

- 2.1.1 Chief Executive (Head of Paid Service)
- 2.1.2 Executive Director (People)
- 2.1.3 Executive Director (Resources) (Section 151 Officer)
- 2.1.4 Executive Director (Place)
- 2.1.5 Service Directors:
 - Service Director: Adult Social Care
 - Service Director: Communities & Wellbeing
 - Service Director: Development & Regulation
 - Service Director: Environment
 - Service Director: Strategy & Governance (Monitoring Officer)
- 2.1.6 Heads of Service
 - Head of Finance and Property
 - Head of Education

- Head of Children and Family Services
- Head of Commissioning

2.1.7 All Service Managers reporting to a Head of Service or Service Director.

2.1.8 All Service Leads.

Employees who are not chief officers: all other employees (including those employed on a casual basis) employed directly by the Council.

This policy does not cover the remuneration of other 'workers' employed by the Council, as employees of agencies or as self-employed consultants.

Lowest paid employee: minimum of £9.13 *per hour*. Notes on this definition are set out below:

- 2.1.9 Apprentices aged 16-18, may be paid on the age-related National Minimum Wage. The Apprentice NMW rate is not used. Apprentices have been excluded from this definition on the basis that they are in specific posts created for training purposes.

Median salary: £29,577 (*full time equivalent*). This is a measure of the 'average' salary for employees in the Council. It is defined as the 'midpoint' salary, such that there is an equal probability of falling above or below it.

Mean salary: £32,223 (*full time equivalent*). This is an alternative measure of the 'average' salary for employees in the Council. The arithmetic mean is defined as the sum of all the salaries divided by the number of salaries.

Highest paid employee: the Chief Executive is paid £150,015.

3. Pay Policy from April 2022

All jobs within the Council are paid on salary grades with five or more incremental points.

Job evaluation – employees below grade N

- 3.1.1 The Hay (Local Government) job evaluation scheme is used to establish the grade for each post relative to all other jobs within the Council. The job evaluation procedure is used to evaluate all new jobs and to re-evaluate existing jobs where there have been significant changes.
- 3.1.2 All jobs are assigned to a grade within the West Berkshire Council salary structure on the basis of the job evaluation score. The individual salary scale points are based on the National Joint Council for Local Government Employees (Green Book) salary scale.

Salary structure – employees on Service Lead Grade and above

- 3.1.3 The establishment of any post attracting a total remuneration package of £100,000 or more requires approval from Full Council.

- 3.1.4 A post level called Service Lead was established within the staffing structure in 2020 and may be used by Service Directors as they are appointed, as appropriate. Service Lead posts form part of the fourth tier of management but not all fourth tier posts will be Service Leads. Service Leads will report to a Service Director (third tier). A separate pay grade has been established for these posts.
- 3.1.5 Service Directors are paid on Grade O. Along with the remaining Heads of Service in an emerging structure, they constitute the third tier of management within the Council. Service Directors report to an Executive Director (second tier).
- 3.1.6 Where Heads of Service remain, they are paid on the HOS grade (unless subject to TUPE protections). Along with Service Directors, they constitute the third tier of management and may be allocated new responsibilities as required to meet the needs of the Council at this level, within their grade. Heads of Service report to an Executive Director (second tier).
- 3.1.7 An additional Special Recruitment Payment (SRP) of £5,000 - £8,000 may be paid to any Service Director subject to approval by Head of Paid Service in consultation with the Leader of the Council. If applied, this payment will be reviewed every five years to ensure it remains objectively justifiable. A SRP may be reduced or removed with one year's notice. The value of SRPs will increase with any national pay awards from 1st April 2022 onwards.
- 3.1.8 The Executive Director (Place) and the Chief Executive are both paid on specific grades for those posts. The Executive Directors for People and Resources are paid on a grade for both those posts. The different grades for the three Executive Director posts reflect the difference in responsibilities, including whether a statutory role is part of their portfolio. All four posts (Chief Executive and Executive Directors) may be allocated new responsibilities as required to meet the needs of the Council within their grade.

Salary on appointment – all employees

- 3.1.9 Appointments will normally be made to the minimum point of the grade. Heads of Service/ Service Directors and Managers may take into account the previous experience and skills of the employee to offer appointment above the salary minimum for the post.

Incremental progression – all employees

- 3.1.10 Each employee progresses through the grade band for the post by the award of one increment (or spinal column point (SCP)) on 1st April each year until the maximum of the grade band is reached, subject to six months service in the grade band (whether that band has been attained by appointment, promotion or regrading) and satisfactory performance in the job.

- 3.1.11 Any existing employee who is appointed to a new post within the Council whose salary, on 1st April, would otherwise be less than one column point in excess of the salary they would have received on that day in their old grade band, will be entitled to an increment on that day even if he/she has not been 6 months in the new post, subject to satisfactory performance.
- 3.1.12 An increment may be withheld if an employee is subject to formal capability procedures during the year leading up to the 1st April.
- 3.1.13 An additional increment may be awarded in any one year to an employee, at the discretion of the Head of Service/ Service Director, on the grounds of special merit or ability, provided the maximum of the grade is not exceeded.

Additional payments – all employees

- 3.1.14 Additional payment may be made for additional hours, overtime, undertaking higher responsibilities, and for non-standard working arrangements such as stand-by or evening work, or for exceptional working conditions. Senior Managers are only entitled to overtime payments in exceptional circumstances where regular overtime cannot be practically compensated by time off in lieu, there is no other solution to ensuring the work is covered, the Executive Director believes the payment to be necessary and appropriate and it can be contained within the service budget. See Appendix 2 for details.
- 3.1.15 Car allowance payments for new senior managers ceased to be paid from November 2007. Some senior employees who were already in receipt of such allowances continue to receive them on a protected basis whilst in post.
- 3.1.16 Essential car users (defined as those who travel at least 1,500 business miles per annum) receive an allowance.
- 3.1.17 All employees can claim expenses for essential business travel at the rate of the cost of public transport, or a mileage rate. Subsistence expenses may be claimed at the rates recommended by HMRC.
- 3.1.18 The Council does not operate a separate bonus scheme for its Chief Officers. With the exception of the Special Recruitment Payment mentioned in 3.1.7 above no other charges, fees or allowances or remuneration are payable to Chief Officers in connection with their responsibilities.
- 3.1.19 Fees for Returning Officer duties during elections are payable to the Chief Executive or their nominated representative acting as the Returning Officer. Fees for national elections are set by central Government and vary according to the type of election. Fees for local elections (parish and district elections) are set by the Council.
- 3.1.20 There are no benefits in kind, such as private health insurance, payable to Chief Officers.

- 3.1.21 Chief Officers are eligible to join the Local Government Pension Scheme in the same way as other employees.

Severance arrangements

- 3.1.22 Chief Officers are subject to the same redundancy payment and pension arrangements as other employees. These are set out in the Council's [Employer Statement of Policy on Discretionary Compensation](#) and the [Employer Statement – Local Government Pension Scheme Discretions Policy](#).)
- 3.1.23 All redundancy or severance costs (including the cost of mandatory early payment of pension) of between £10,000 and £99,999 must be approved by the Executive. Severance costs linked to sickness absence can be approved by Head of Service or above, with a maximum cost as defined in [Sickness Absence - Reporting and Management, Procedure and Guidance](#) .
- 3.1.24 An employee who has left the Council, with a redundancy or other severance payment under the discretionary compensation scheme, will not normally be re-engaged by the Council within two years of the termination date. In exceptional circumstances the Head of Human Resources may make a decision, after consultation with the Chief Executive, the Monitoring Officer, the Section 151 Officer, and the Leader and Shadow Leader of the Council, to authorise re-engagement where it is in the interests of the Council to do so. (See the [Re-Employment Policy](#).)

4. Pay ratios in the Council

It is the Policy of the Council to ensure that the ratio of the salary of the highest paid officer and the lowest paid officer is well below the 20:1 ratio recommended as a maximum in the terms of reference for the 2011 Hutton Review of Fair Pay in the Public Sector.

As at 1st April 2021, pay ratios within the Council stand as follows:

- *Highest:lowest = 8.7:1*
- *Highest:median = 5.1:1*

This is based on the following salary packages:

- Highest paid (maximum CX including car allowance) = £150,015
- Lowest paid (minimum grade B) = £17,610
- Median (average excluding car allowances) = £29,577

5. Pensions

5.1 Council employees are entitled to join an occupational pension scheme. Scheme members contribute a percentage of their monthly salary and the council contributes an additional amount into the relevant scheme. Contribution rates vary according to the level of pay.

5.2 New employees are automatically enrolled onto the relevant pension scheme, but may choose to opt out. Employees who have opted out of the scheme may also choose to opt back in.

5.3 Most council employees are eligible to join the [Local Government Pension Scheme](#) (administered by [Berkshire Pensions](#)). Teachers are eligible to join the [Teachers' Pension Scheme](#). Further details of the LGPS scheme and provided at **Appendix 3**.

6. Review

This policy will be reviewed at least annually and more frequently if necessary to respond to any changes.

Appendix 1 – Revised West Berkshire Pay Scales

These are correct at the time of publishing.

NB Scales to be updated once the pay awards effective from 1st April 2021 and 2022 have been agreed.

West Berkshire Pay Scales			with effect from 1st April 2020	
<u>Grade</u>		<u>SCP</u>	<u>Salary</u>	
A				
		1	£	17,842
	B	2	£	18,198
C		3	£	18,562
	4	£	18,933	
	5	£	19,312	
	D	6	£	19,698
E		7	£	20,092
		8	£	20,493
		9	£	20,903
	10	£	21,332	
	F	11	£	21,748
		12	£	22,183
		13	£	22,627
		14	£	23,080
G		15	£	23,541
		16	£	24,012
		17	£	24,491
		18	£	24,982
		19	£	25,481
		20	£	25,991
	21	£	26,511	
	22	£	27,041	
	H	23	£	27,741
		24	£	28,672
		25	£	29,577
I		26	£	30,451
		27	£	31,346
		28	£	32,234
		29	£	32,910

	J	30	£	33,782	
		31	£	34,728	
		32	£	35,745	
		33	£	36,922	
K		34	£	37,890	
		35	£	38,890	
		36	£	39,880	
		37	£	40,876	
		38	£	41,881	
		39	£	42,821	
	L	40	£	43,857	
		41	£	44,863	
42		£	45,859		
		43	£	48,226	
	M	44	£	50,629	
		45	£	52,460	
			46	£	54,285
		47	£	56,127	
		48	£	56,931	
		49	£	59,107	
		50	£	61,275	
		51	£	63,446	
		53	£	65,760	
		54	£	66,788	
	N- Service Lead	55	£	67,815	
		56	£	68,843	
		57	£	69,870	
		58	£	70,898	
		59	£	71,925	
HOS- phasing out		62	£	74,827	
		63	£	77,276	
		64	£	79,703	
		65	£	82,150	
		66	£	84,586	
		67	£	87,033	
	O- Service Directors	68	£	90,420	
			69	£	91,961
		70	£	93,503	
		71	£	95,044	

		72	£	96,585	
P-ED Place		79	£	121,245	
		80	£	122,273	
		81	£	123,300	
		82	£	124,328	
		83	£	125,355	
	Q- ED People/Resources	84	£	126,383	
		85	£	127,410	
		86	£	128,438	
		87	£	129,465	
		88	£	130,493	
		89	£	131,520	
	CEX	90	£	148,988	
		91	£	150,015	
		92	£	151,043	
		93	£	152,070	

Appendix 2 – Additional Payments Scheme

Criteria for making service related additional payments

The scheme provides for additional payments to be made where:

- There is a clear service need to resolve organisational and/or staffing difficulties;
- Other organisational responses (e.g. restructuring or re-allocation of work) will not overcome the difficulties;
- No other provision exists for payments to be made under WBC Conditions of Service;
- Costs can be contained within service budgets;
- The relevant Executive Director is satisfied that payments are necessary and appropriate in all the circumstances.

If the above criteria apply, and other conditions and criteria are met (see sections below) additional payments may be made at the discretion of the Head of Service/ Service Director, in consultation with their Executive Director. Where the Chief Executive is agreeing these payments they should be made in consultation with the Leader of the Council.

Payment for Exceptional Working Patterns

The normal working week will be the working week or regular work pattern defined in the contract of employment, normally based on any five named days out of seven.

Some jobs require regular working patterns which, because of service demands, are particularly disruptive to social or domestic life and these jobs may therefore present difficulties of recruitment and retention e.g. week end working, split duty or sleeping in.

Others may require acceptance of occasional severe disruption to regular work patterns which are not commonly acceptable under normal basic pay arrangements. Where there is clear evidence that such circumstances present service delivery problems, additional payments, based on a maximum of time and a third of basic pay may be made at the discretion of the Head of Service/ Service Director in consultation with their Executive Director. Where the Chief Executive is agreeing these payments they should be made in consultation with the Leader of the Council.

Payment for night work

Time and a third may be paid for night work undertaken between the hours of 10pm and 6am.

Payment for stand-by duty

For some jobs, where stand-by duty is a regular requirement, specific stand-by payments may be written into the employment contract. The HR Service Lead or the relevant Head of Service/ Service Director will advise where these apply.

Where there is no contractual requirement or payment for stand-by duty, and stand-by duty is not reflected in the grading of the post, payment of one third of basic pay may be paid. Payment will be at the discretion of the Head of Service/ Service Director in consultation with their Executive Director. Where the Chief Executive is agreeing these payments they should be made in consultation with the Leader of the Council.

Payment for higher responsibility

WBC Conditions of Service provide for an employee, who for reasons other than annual leave of another employee, is called upon to undertake the duties and responsibilities of a higher graded post for a period of at least four weeks may, at the discretion of the Head of Service/ Service Director, receive an honorarium to reflect the additional duties and responsibilities.

In determining the appropriate level of additional payment, the Head of Service/ Service Director should take into account factors like:

- The difference between grading between the absent employee and the employee providing cover
- The duration of the period of absence
- The level of support provided to the covering employee
- Arrangements relating to the employee's normal duties;

Although not normally provided for in WBC Conditions, Heads of Service may, exceptionally, make additional payments to employees covering for absence resulting from annual leave. The above criteria are relevant in deciding to make payments in these circumstances, in particular, the duration of cover and the difference in grading.

Any such payments should only be made in consultation with their Executive Director. Where the Chief Executive is agreeing these payments they should be made in consultation with the Leader of the Council.

Payment for Regular Overtime

Some jobs require regular overtime working that cannot, practicably, be compensated by time off in lieu. These jobs may be held by employees above the normal ceiling for overtime payment (scp26).

Where regular overtime is a feature of the job (e.g. regular requirement for attendance at evening Council and/or Committee meetings), the Head of Service/ Service Director may agree the payment of a flat rate allowance that reflects the regular nature of the demand and the normal basis for calculating additional payments (time and one third). Any such payments should only be made in consultation with their Executive Director. Where the Chief Executive is agreeing these payments they should be made in consultation with the Leader of the Council.

Payment for Exceptional Working Conditions

WBC job evaluation takes account of physical aspects of jobs where they are a regular feature e.g. heavy and awkward working conditions. Normal pay reflects the conditions of such jobs. However, in some jobs such conditions may occur only occasionally and will not, therefore, be reflected in grading.

In other jobs, employees may be required, from time to time, to work in particularly dirty or otherwise unpleasant circumstances.

Where job grading has not taken exceptional working conditions into account, additional payments may be made. Where the exceptional conditions extend over a period of time, payment of time and a third for hours worked in those conditions will be appropriate. In the case of a short, one-off situation, a payment for Other Exceptional Circumstances, as described below, may be paid.

Payment for election duties

Election fees are payable to some staff as and when elections are held for National Elections. The fees are set by HM Government and vary according to type of election.

Payment for Other Exceptional Circumstances

From time to time, other exceptional circumstances may arise that merit an additional payment e.g. short and unusual exposure to particularly unpleasant work conditions, reward for a sustained period of particularly heavy increased responsibility, or exceptional achievement. In such circumstances, an additional payment may be made. Although not a limit in truly exceptional circumstances, the normal ceiling of time and a third for additional payments should be taken into account when determining an appropriate additional payment.

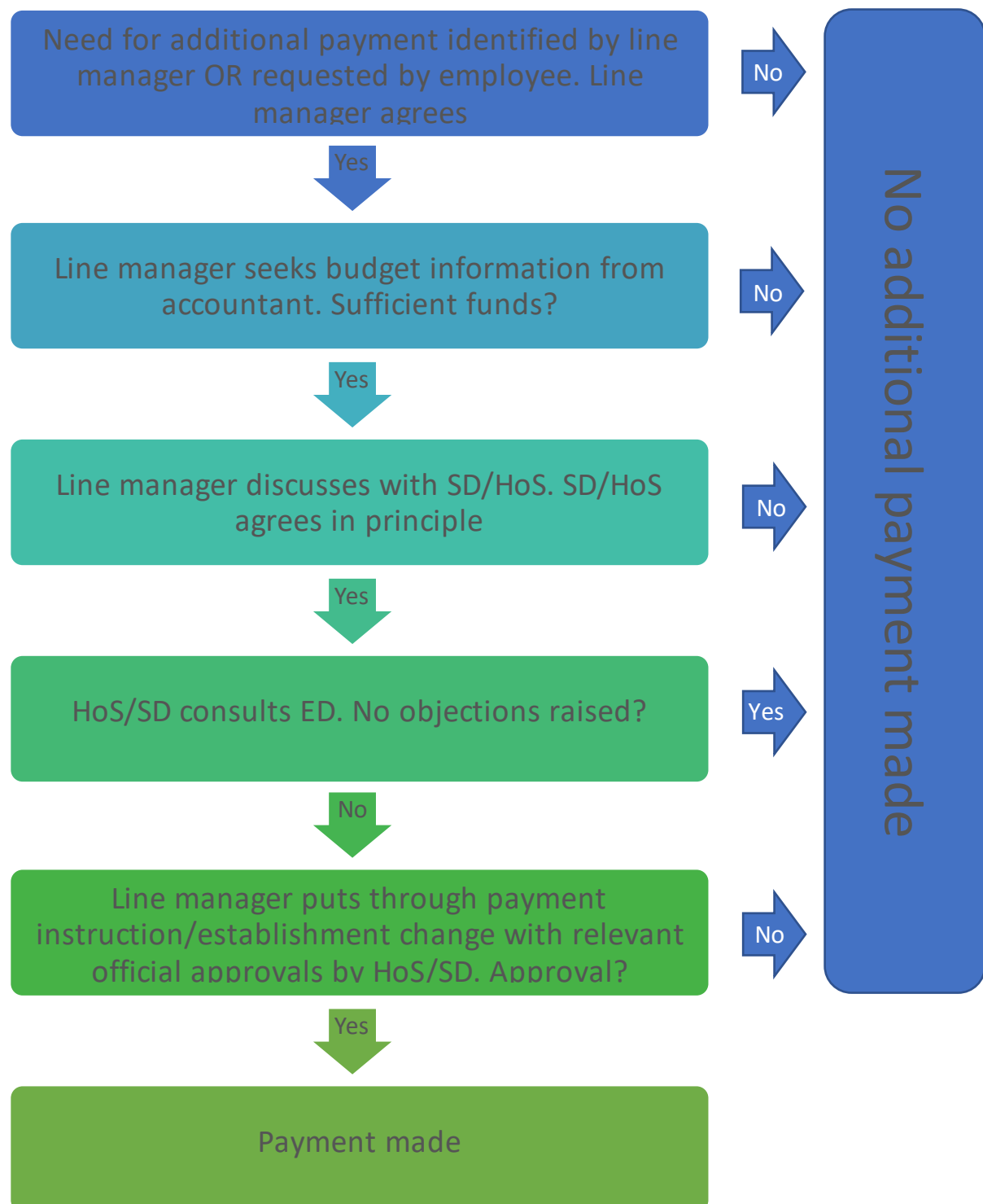
Payment for Emergency Operations Centre (EOC) work

Where the Emergency Operations Centre (EOC) is set up to respond to an emergency, staff carrying out EOC work will be paid as follows:

- All hours worked on EOC duties outside 0800 to 1700 Monday to Friday will be paid at £15 per hour.
- Full time employees working the day shift (8am to 4pm) will receive an honorarium payment of £30 for each day shift worked.
- Part time employees working extra hours on the day shift will be paid £15 per hour for each additional hour worked in addition to the £30 honorarium payment for each day shift worked.
- The hours paid will include the time it takes to come in and go home if the employee would not have had to make this journey in normal circumstances (for example travelling back in for a midnight start or travelling at weekends). However employees cannot claim 'petrol costs'.
- These payments are payable to all employees regardless of grade.

Where employees who have worked weekends, late or night shifts would prefer to take the extra hours they worked as time off in lieu (TOIL) rather than receive £15 per hour they should inform HR by email.

Staff who had booked annual leave but come in for a day shift should swap their leave to another day. If the EOC work occurs towards the end of an annual leave period, and as a result, there is a need to carry forward leave after the end of the leave year, the employee should agree this with his/her line manager. The employee will receive the £30 honorarium for each day shift worked.

Additional Payments – General Approvals Flowchart

Change History

Version	Date	Description	Change ID
1	April 2012	First publication	
2	April 2013	Second publication	
3	April 2014	Third publication	
4	April 2015	Fourth publication	
5	April 2016	Fifth publication	
6	April 2017	Sixth publication	
7	April 2018	Seventh publication	
8	April 2019	Eighth publication	RB
9	April 2020	Ninth publication	RB
10	April 2021	Tenth Publication	RB
11	April 2022	Eleventh Publication	RB

Member Request for Information

Body considering report:	Council
Date of meeting:	17 March 2022
Portfolio Member:	Councillor Ross Mackinnon
Date Portfolio Member agreed report:	8 March 2022
Report Author:	Sarah Clarke
Forward Plan Ref:	C4183

1 Purpose of the Report

- 1.1 This report considers a request by a Member of Council for access to information, under a procedure detailed in the Council's Constitution at paragraph 13.3.7.
- 1.2 The request is seeking disclosure of an operational document, setting out enforcement options in relation to a CIL liability.

2 Recommendations

- 2.1 It is recommended that Council:
- (a) note the legal position with regard to Members rights to access information, and the limitations of that right.
 - (b) confirm that, in the circumstances, the request for information should be refused.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	None
Human Resource:	None
Legal:	The right of Members to access information is set out in legislation and common law, as reflected in the Council's Constitution.

	The legal position is fully considered in the report and is also detailed in the Advice Note produced by James Goudie QC, which is attached at Appendix 3 to this report.			
Risk Management:	Information should not be disclosed or processed without a legal basis for doing so. To do so would give rise to a risk of challenge.			
Property:	No			
Policy:	No			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Environmental Impact:		X		None
Health Impact:		X		None
ICT Impact:		X		None

Digital Services Impact:		X		None
Council Strategy Priorities:		X		
Core Business:		X		
Data Impact:		X		
Consultation and Engagement:	Governance and Ethics Committee Finance and Governance Group Corporate Board			

4 Executive Summary

- 4.1 The legal framework detailing Members rights to access information is set out in the Local Government Act 1972, or the Local Government Act 2000 for matters relating to executive functions.
- 4.2 Further provisions are also contained in the Openness of Local Government Bodies Regulations 2014, and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 for matters relating to executive functions.
- 4.3 Part 8 of the Council's Constitution outlines the legislative framework providing rights to access information, and provides further detail outlining the process by which Members can seek access to information in paragraphs 13.3.6 and 13.3.7 in Part 13.
- 4.4 In addition to the above, Members have a common law right to access information held by the Council on a need to know basis.
- 4.5 On the 21st June 2021, Councillor Rowles requested a copy of a document that had been referred to in an email by the then Head of Development and Planning. Councillor Rowles was advised the following day that the report could not be disclosed as it contained confidential, legally privileged information.
- 4.6 The request for access to the document was considered by the Executive Director, Place, and the Council's Monitoring Officer. Both determined that the report should not be disclosed.
- 4.7 The Member wrote to the Chairman of the Governance & Ethics Committee on 28th September 2021 to request that the matter be reviewed by the Committee, who may refer the matter to Council for debate. It is submitted that there is no legal basis upon

which to justify disclosure of the document in these circumstances, and it is therefore recommended that Council refuse the request that the document be disclosed.

5 Supporting Information

Introduction

- 5.1 There is a detailed legal framework which seeks to support transparency and openness in local government.
- 5.2 The Local Government Act 1972 (sections 100A to 100L), together with the Openness of Local Government Public Bodies Regulations 2014, details the rights of individuals to access relevant documents of local authorities.
- 5.3 In summary, members of the public must be given access to:
 - (a) Agendas and reports for meetings of Council or its committees
 - (b) Minutes of meetings
 - (c) Background papers.
- 5.4 Members of the public do not have the right to access information which is exempt information. The categories of exempt information are detailed in Schedule 12A of the Local Government Act 1972, and a copy of those provisions are detailed in Appendix 1.
- 5.5 In addition to the rights given to individuals to access information, Members are given additional rights under section 100F to inspect documents that are in the possession or under the control of a principal council, and which contain material relating to any business to be transacted at a meeting of the council, or a committee or a sub-committee
- 5.6 The above statutory provision giving additional rights to Members is again restricted to documents containing material that relates to business to be transacted at a meeting of the Council, committee etc. Further, the legislation states that if the proper officer considers that the document includes relevant exempt material, that document does not need to be disclosed. For example, material which is legally privileged, does not need to be disclosed under this provision.
- 5.7 For matters that fall within the responsibility of the Executive, the above provisions are largely replicated by the Local Government Act 2000, and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 5.8 In addition, in accordance with provisions in the Local Government Act 2000 and Part 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Members of overview and scrutiny committees have additional rights to access documents, where the documents relate to a matter that they are reviewing. The Executive can determine not to provide a document to overview and scrutiny, but must provide a written statement detailing the reasons for that decision.

Member Request for Information

- 5.9 Members of local authorities have additional common law rights to access information held by the council of which they are a Member. Such rights are in addition to the statutory rights given to Members to access information detailed above.
- 5.10 Members need to be provided with information to enable them to perform their duties as Member of the council. However, that is not an unfettered right to have a 'roving commission' through council records. Where a Member wishes to access information, they need to be able to demonstrate why they have a 'need to know', and why that is necessary to enable them to perform their duties as an elected Member.
- 5.11 If a Member's motive for accessing the document is indirect, improper or ulterior, there is no obligation on their council to provide access to that.

Background

- 5.12 Councillor Rowles has been communicating with the Portfolio Holder and officers in Development and Regulation, and Legal Services since early 2020 regarding a Community Infrastructure Levy (CIL) case in Lambourn. Lambourn is not within Councillor Rowles' ward.
- 5.13 A meeting was held in February 2020, to provide background details on the case to Councillor Rowles. Following that, there has been extensive correspondence, where Councillor Rowles has raised queries. Detailed responses were provided, and further queries were raised, which were also responded to.
- 5.14 In early 2021, Members were again involved in the matter of CIL liability for the development in question. The then Head of Development and Planning had provided a detailed response to Councillor Rowles on the 30th April and agreed to keep Councillor Rowles updated with progress.
- 5.15 On the 21st June 2021, Councillor Rowles requested a copy of a document that had been referred to in an email by the then Head of Development and Planning. Councillor Rowles was advised the following day that the report could not be disclosed as it contained confidential, legally privileged information.
- 5.16 Councillor Rowles responded to advise that she considered that the document should be disclosed, as that was necessary to help her support XXX (who was not in her ward) and another resident in her ward. Councillor Rowles stated that the facts of both cases were similar and it was necessary to have sight of the document to enable her to assess the matter.
- 5.17 The Executive Director, Place wrote to Councillor Rowles on the 30th June, to advise that the document in question had been prepared for operational purposes, and that it contained restricted information. It was concluded that it was not appropriate to share this with Councillor Rowles.
- 5.18 Following a response from Councillor Rowles challenging the refusal to disclose the report, the Council's Monitoring Officer wrote to Councillor Rowles on the 15th July and this e-mail confirmed that:

"officers will always work on the basis of openness, and will share information with Members whenever it is appropriate to do so. However, Members do not have an

unqualified right to access data held by the Council and in order to require information to be disclosed, a Member would need to demonstrate a 'need to know'. For example, Members would not be automatically entitled to access data held by Children's and Family Services, or Adult Social Care where that relates to specific identifiable cases. Equally, Members do not have an automatic right to access data or information that relates to potential enforcement action that may be contemplated by the Council relating to its functions, where that relates to individuals or legal persons.

The report in question contains sensitive data and legal advice, and in the circumstances, I do not consider that you have demonstrated a need to know in this matter, which would require officers to disclose that report to you. Officers have agreed to ensure that you are updated with progress as soon as appropriate, which will be after the meeting between officers and xxx"

- 5.19 Councillor Rowles responded with further detail of why she considered there to be a need to know. This stated:

This case is very similar to my ward case of YYY; in both cases the applicant indicated that they wanted to claim a CIL exemption; both failed to provide evidence (either through completing a CIL form or providing further documentary evidence in XXX's case); in both cases the Council did not help or guide the applicant; both applicants instructed agents and in both cases the Council has not felt it "appropriate" to review each case under the legislation. How we approach XXX case as a Council is entirely relevant to YYY case and therefore directly relevant if I am to perform my duties as a ward Member.

- 5.20 A response was provided to that email on the 22nd July, where it was stated:

You have indicated that you have a need to know in this matter, to enable you to perform your duty as Ward Member. I note in this regard that the Council has engaged with you regarding this matter over a considerable period of time, responding to queries and keeping you updated as appropriate.

You have requested sight of a document that refers to a case which is not within your Ward, asserting that this is relevant due to similarities between that case and one within your Ward. However, having considered the report, that is not accepted. It is also clear that you are seeking to advocate on behalf of XXX and / or YYY, which puts you in conflict with the Council's position in this matter. This is a further reason why it would not be appropriate to disclose this document to you.

For the reasons previously given, it is not accepted that you have demonstrated a need to know in this matter, which would require disclosure of the document to you.

- 5.21 Councillor Rowles responded to challenge this conclusion on the 4th August, and a further response was provided to Councillor Rowles on the 16th August. On the 28th September, Councillor Rowles requested that the matter be referred to Governance and Ethics Committee for consideration. A copy of the above e-mail exchange was attached as an appendix to the report that was considered by the Governance and Ethics Committee.

Governance and Ethics Committee

5.22 The Governance and Ethics Committee considered this matter on the 17th January and resolved that this request should be referred to Council for consideration.

5.23 During that meeting, it was asserted by Councillor Rowles that she had a right to access the document for the following reasons:

- That she was entitled to access the information pursuant to rule 13.3.6 of the Constitution
- That the refusal to provide that information amounts to officers questioning her integrity
- That the Monitoring Officers decision should be challenged
- That there were similarities between the case of XXX and YYY and that she had a need to access the document to understand why the cases had been treated differently.

5.24 At Appendix 2 is an extract of the relevant provisions from the Council's Constitution. It is clear that Members do not have a right to access all documents, simply by virtue of their status as a Member. Further, there is a clear distinction between being provided with information, and being given access to inspect documents held by the Council. Councillor Rowles has been provided with extensive information in this matter, including information regarding the proposed enforcement action.

5.25 A refusal to supply a document with restricted or sensitive information to a Councillor does not equate to officers questioning the integrity of Members. The law is that a Member's right to access information is a qualified right. As noted above, the rights of Members to access information as detailed in the Constitution is also qualified.

5.26 In response to the assertion that there are similarities between the case of XXX and YYY, there are also considerable differences between the two cases. It is of note, for example, that the CIL liability in the case of YYY was paid, whereas the CIL liability in the case of XXX remains outstanding. The document being requested by Councillor Rowles considers enforcement options in the case of XXX, to secure recovery of the outstanding debt. This document therefore has no relevance to the case of YYY.

5.27 In order to further assist Council in considering this matter, legal advice has been obtained from James Goudie QC, and this is attached as Appendix 3. Council will note that the legal opinion of James Goudie QC is that the legal position is as set out in this report, and that Councillor Rowles has not demonstrated a 'need to know' in this matter.

Proposals

5.28 The document in question reviewed the different enforcement options available for the Council to secure recovery of the outstanding and overdue CIL liability. It is clear that the document would not meet the criteria in any of the statutory provisions requiring that it be disclosed. The document could therefore only be disclosed under the common law provision of a need to know.

- 5.29 It is clear from the correspondence in this matter, that Councillor Rowles has been given extensive briefings and explanations as to action that the Council has taken in the matter in question.
- 5.30 Councillor Rowles has indicated in correspondence that she disagrees with the Council's position, and has advocated for the CIL charge, that was applied to the development undertaken by XXX, to be removed.
- 5.31 The document in question contains details of the legal implications arising from the various enforcement options available. This document considers the specific facts and circumstances of the case of XXX. Such documents inform decision makers, and provide a helpful audit trail in the event of subsequent legal challenge. Similarly, detailed records will exist in children's or adult social care cases, documenting the reasons why a particular decision is taken. Records will exist at the conclusion of a criminal investigation, which will also consider and document enforcement options and the reasoning for a particular decision. These documents would continue to remain exempt from disclosure in legal proceedings, in the absence of a court order requiring the disclosure thereof.
- 5.32 The Council would not disclose such records containing clearly sensitive information, unless there was a clear need to know.
- 5.33 It is considered that the Council has provided sufficient information in this matter, to enable Councillor Rowles to fully perform her duty as Ward Member and to support XXX and / or YYY as appropriate.

6 Other options considered

- 6.1 Disclosing the document to Councillor Rowles. This is not recommended for the reasons given in the report.

7 Conclusion

- 7.1 There is a clear legislative framework detailing the information held by the Council that individuals, and councillors are able to access. In addition to this, councillors have common law rights to access information where they have demonstrated a need to know.
- 7.2 Councillor Rowles has been provided with detailed and comprehensive responses to her queries in relation to the case in question.
- 7.3 The document in question contains sensitive legally privileged information, which has informed a decision regarding enforcement action in the case of XXX. There is a risk that if this document is disclosed, this will set a precedent that similar documents containing legally privileged material in any future claim or challenge against the Council should also be disclosed.
- 7.4 For all the reasons detailed in this report, it is recommended that Council approve the recommendations set out in paragraph 2 of this report and refuse this request for information.

7.5 The recommendation is proposed on the basis that:

- (a) There is no statutory provision that would require the document in question to be disclosed.
- (b) Councillor Rowles has received detailed information relating to the case in question in accordance with the provisions of rule 13.3.6 of the Constitution. Councillor Rowles has not demonstrated a 'need to know' either as a ward Member or otherwise as a councillor acting as such. The document in question should not therefore be disclosed to her.

8 Appendices

8.1 Appendix 1 – Exempt Material, Schedule 12A of the Local Government Act 1972

8.2 Appendix 2 – Extracts from the Council's Constitution

8.3 Appendix 3 – Advice Note – James Goudie QC.

RESTRICTED

This Appendix is **not for publication** by virtue of exempt information of the description contained in Paragraphs 1,2, 3 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 8.10.4 of the Constitution also refers](#).

Background Papers:

Member Request for Information - Report to Governance and Ethics Committee, 17 January 2022 - <http://wbccommgrapp/mgChooseDocPack.aspx?ID=6194>

Draft minutes of the meeting of Governance and Ethics Committee of 17th January 2022 - <http://decisionmaking.westberks.gov.uk/documents/g6194/Printed%20minutes%2017th-Jan-2022%2018.30%20Governance%20and%20Ethics%20Committee.pdf?T=1>

You Tube Recording of the meeting of Governance and Ethics Committee of 17th January 2022 - <https://www.youtube.com/watch?v=GqbxERJZjo8>

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 ☐

Member Request for Information

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months	<input type="checkbox"/>
Item is Urgent Key Decision	<input type="checkbox"/>
Report is to note only	<input type="checkbox"/>

Wards affected: N/A

Officer details:

Name: Sarah Clarke
Job Title: Service Director, Strategy & Governance
Tel No: 01635 519596
E-mail: sarah.clarke@westberks.gov.uk

Local Government Act 1972, Schedule 12A

Part 1 Descriptions of Exempt Information: England

1

Information relating to any individual.

2

Information which is likely to reveal the identity of an individual.

3

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

4

Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6

Information which reveals that the authority proposes—

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

7

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.]

Extracts from Council Constitution

Part 2 – Articles of the Constitution

2.3.5 Rights and Duties

All Councillors will:

- have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
(NB: Documents dealing with individuals or other confidential matters may not be available.)
- not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence by any person or body to anyone other than a Councillor or Officer entitled to know it.

For these purposes, the terms “confidential” and “exempt” information are defined in the Access by the Public to Information Rules of Procedure in Part 8 of this Constitution.

Part 13 – Codes and Protocols

13.3.6 Member Access to Information

Where a Member seeks information or advice from an Officer, the request should normally be responded to within two working days. If longer time is needed to prepare a substantive response an acknowledgement should be given and a full response should be provided, at the latest, within 10 working days (which is the Council's performance target for answering all enquiries). The response should be provided on a confidential basis to the Member making the enquiry unless the original correspondence was copied to other Members or the Member agrees that this should happen.

Where the relevant Director or Head of Service considers that the cost of providing the information requested is unreasonable, the request may be declined. In such cases the relevant Group Leader should be advised.

If a Member is seeking information or advice on a politically contentious or controversial issue they should direct their request to the relevant Director or Head of Service. If a request is made of an Officer by a Member for information/advice of other than a factual nature, the Officer may need to liaise with their manager.

Where a Director or Head of Service provides general information to individual Group Leaders, spokespersons or Members, this information will also be provided to other Party Groups.

Where Officers consider that information is of a confidential nature which should not be openly available to the public or press, this information will be supplied by Officers to

Members on a private and confidential basis. Any information provided to Members on this basis will be treated as such and will not be circulated outside the Council.

The Council's Access to Information Rules contain the formal legal provisions relating to access to documents by Members. This is supplemented in the Code of Conduct in relation to confidentiality.

13.3.7 Inspection of / Access to Documents (see also Access by the Public to Information Rules of Procedure)

A Member of the Executive, Overview and Scrutiny Commission and other Committees or Sub-Committees, has the right to inspect documents about the business of that body. If not a Member of the specific body, they must satisfy the Chief Executive or the relevant Director why sight of the documents is necessary to perform their duties.

Except as otherwise provided, any Member of Council may inspect any document, or have access to information, held by the Council where such inspection or access is necessary to perform their duties as a Member of the Council.

A Member of Council is not entitled to inspect any document, or have access to any information about a matter in which they have a disclosable pecuniary or prejudicial interest or where the Member is acting against the Council in a professional capacity. However, this does not remove from the Member the basic rights of a member of the public.

The Chief Executive or relevant Director may, with good reason, refuse a Member of the Council access to, or inspection of, a document or other information. This is likely to be in cases where the information is of a highly sensitive or personal nature and the Member has not demonstrated adequately why they have a genuine 'need to know' about the information.

If a Member is not satisfied with a decision of the Chief Executive or relevant Director to refuse access to a document or information, they may refer it to the Monitoring Officer. If a Member remains dissatisfied, they may ask for the matter to be considered by the Governance and Ethics Committee, who may decide to refer the issue to Council for decision.

EXEMPT INFORMATION

Advice Note of James Goudie QC

Note: This document is RESTRICTED.

This Appendix is **not for publication** by virtue of exempt information of the description contained in Paragraphs 1, 2, 3, and 5 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 8.10.4 of the Constitution also refers](#).

Paragraph 1 – information relating to an individual

Paragraph 2 – information identifying an individual

Paragraph 3 – information relating to financial/business affairs of particular person

Paragraph 5 – information relating to legal privilege

Item 19:

Motions submitted for debate at the Council meeting on 17 March 2022

- (a) The following Motion has been submitted in the name of Councillor Lynne Doherty:

Ukraine

“West Berkshire Council is united in its condemnation of the armed attack on Ukraine by the Russian Federation and urges Vladimir Putin to immediately and unconditionally cease this unjust and evil war.

West Berkshire Council would encourage residents that wish to offer financial assistance to do so by donating to the Disasters Emergency Committee or the British Red Cross.

West Berkshire Council will welcome Ukraine Refugees and partake in resettling Ukraine Refugees in West Berkshire when we have details of the scheme through the South East Migration Partnership.

West Berkshire Council stands with the people of Ukraine and expresses its unwavering commitment to democracy, multilevel governance and human rights.”

- (b) **The following Motion has been submitted in the name of Councillor Steve Ardagh-Walter:**

Levels of sewage discharge by water companies

“This Council considers that the level of sewage discharge by water companies into our rivers is unacceptable - sewage contamination can have a devastating impact on fish and other aquatic wildlife. Further, if people swim, bathe or participate in activities in or around sewage contaminated water, there are significant risks to public health such as gastroenteritis, ear, nose and throat infections, skin infections, and worse.

This Council believes that water companies must significantly reduce sewage discharges from storm overflows as a priority.

This Council welcomes the Environment Act 2021, which has created a new duty on HM Government to produce (by September 2022) a statutory plan to reduce discharges from storm overflows, and to produce a report setting out the actions that would be needed to eliminate discharges from storm overflows in England, together with the costs and benefits of those actions.

This Council also welcomes the new statutory duty requiring water companies to produce comprehensive Drainage and Sewerage Management Plans, which means that they must set out how they will manage and develop their drainage and sewerage systems over a minimum 25-year planning horizon, including how storm overflow issues will be addressed.

Of specific local relevance, this Council welcomes Thames Water’s initiation of a significant restoration project, including an end to sewage discharges, for the River Pang. We look forward to seeing results of this work as it unfolds.”

Item 19:

Motions submitted for debate at the Council meeting on 17 March 2022

- (c) **The following Motion has been submitted in the name of Councillor Steve Masters:**

Reduce the impact of the fuel crisis on residents of West Berkshire.

"Council notes:

Residents across West Berkshire are facing a cost-of-living crisis, driven by the dramatic rise in fossil fuel prices. The poorest people are being hit hardest, with many now facing the stark choice between heating and eating.

Council resolves to:

Call on our local MPs to lobby the Government to fund a nationwide retrofit insulation scheme from a windfall tax on the inflated profits of fossil fuel companies.

Furthermore the Council calls on our MPs to lobby the government to suspend VAT on domestic energy bills to reduce the impact on consumers here in West Berkshire."

- (d) **The following Motion has been submitted in the name of Councillor Steve Masters:**

Discharge into rivers and coastal outflows

"Council notes:

Discharge of sewages into our rivers and coastal out flows has become a growing program due to chronic under investment by the private companies who are responsible for maintaining our waste systems

Indeed the privatised companies have paid dividends to extract huge profits while neglecting the infrastructure. £57bn since 1991.

<https://www.theguardian.com/environment/2020/jul/01/england-privatised-water-firms-dividends-shareholders>

It is worth noting that this is over 1/3rd of cost of investment that MP Laura Farris has quoted as needing to have been spent to bring the mostly Victorian infrastructure up to standard.

This is very much a local issue as highlighted by Feargal Sharkey in September 2020.

<https://www.bbc.co.uk/news/uk-england-berkshire-54024479>

https://twitter.com/Feargal_Sharkey/status/1300705626574802945?s=20

The people of West Berkshire are understandably angry about this especially at a time of growing environmental awareness across West Berkshire and the country at large.

When people swim, bath or participate in activities in and around sewage contaminated water there are significant risks to public health such as gastroenteritis, ear, nose and throat infections, skin infections, and even hepatitis and e-coli.

Item 19:

Motions submitted for debate at the Council meeting on 17 March 2022

<https://www.sas.org.uk/water-quality/>

Council resolves to:

1. *Request a formal explanation from our local MP's as to why they voted down Lords Amendment 45* *Lords Amendment 45 to the Environment Bill would have placed a legal duty on water companies in England and Wales "to make improvements to their sewerage systems and demonstrate progressive reductions in the harm caused by discharges of untreated sewage". MPs Laura Farris and John Redwood voted to defeat the Lords amendment (Alok Sharma did not vote).*
2. *We also request that the Council's Oversight and Scrutiny Management Commission (OSMC) robustly question Thames Water at their scheduled appearance. With particular focus on the amount of sewage discharged into local waterways and proposed investment in improvements to infrastructure planned to eliminate such practices.*
3. *West Berkshire Council to condemn the discharging of raw sewage into our waterways, and call upon all stakeholders to work together to end this environmentally destructive practice which also damages public health."*

(e) **The following Motion has been submitted in the name of Councillor Tony Vickers:**

Garage Blocks

"This Council

Notes that -

1. *Standard size garages are too small for modern cars and therefore no longer count as parking spaces in new housing developments or in calculations on the need for Residents Parking Zones;*
2. *The District has many older post-WWII housing developments which include significant areas of garage blocks that are no longer fit for their original purpose of providing secure parking for local residents' cars and are used – if at all – for general storage, while many homes have no street frontage and no parking spaces because these garage blocks were built for them;*
3. *There is no 'use class' in planning law for residential parking;*
4. *Car ownership is much greater now than when these estates were built and that many of them, in all parts of the District, have problems with on-street parking and access for emergency and other larger vehicles;*
5. *Some garage blocks have been attracting anti-social behaviour, have no overall management structure and their appearance has a negative impact on the amenity of residents;*

Item 19:

Motions submitted for debate at the Council meeting on 17 March 2022

6. Others have been bought up by local housing developers resulting in permanent loss of a potential parking area for residents and visitors.

This Council therefore calls for:-

- (1) planning and transport policies to be discussed at the appropriate forums, aimed at achieving:-*
- A. First call on future redevelopment of garage blocks to be for parking for local residents, as was their original purpose;*
 - B. Dedicated Car Club spaces (and EV charging points) within any redeveloped garage blocks;*
 - C. Spaces reserved on-street, where this proves impossible, for properties with no road frontage.*
- (2) Investigation into the ownership of these areas, including approach roads that are not public highways, with a view to pursuing compulsory purchase to bring some of them back into use primarily for parking;*

Furthermore if current legislation does not allow such policies to be adopted locally through our emerging Local Plan and Transport Plans, Council will lobby our MPs and the LGA to change the law so that it can happen.

- (f) The following Motion has been submitted in the name of Councillor Tony Vickers:**

Land Reform

“This Council

Endorses the 2019 report “Grounds for Change” by SHELTER, supported by CPRE, which recognises that:-

- 1. A home is a fundamental human need;*
- 2. In the last 20 years the value of land has risen by 550% and all the increase in total national wealth in the last 10 years is accounted for by land value;*
- 3. Almost all increase in land value comes not from anything the landowner does but from investment in infrastructure, growth in prosperity, enterprise of businesses, earnings of working people, and crucially the granting of planning consent;*
- 4. The crisis in affordable housing supply cannot be solved without land reform that ensures much more of the land value is recovered for public benefit, to pay for essential infrastructure, including measures to tackle the consequences of climate change.*

Council therefore resolves to write formally to the Secretary of State for Levelling Up, Housing & Communities to express its support for further measures to reform the 1961 Land Compensation Act more in line with the policies of other developed countries, which enable public bodies such as Local Authorities to acquire land – especially green field land needed for housing - at prices much closer to existing use value than this Act permits.”

Item 19:

Motions submitted for debate at the Council meeting on 17 March 2022

- (g) **The following Motion has been submitted in the name of Councillor Alan Macro:**

Building of a new hospital

“Council notes that:

- The Royal Berkshire Hospital Foundation Trust has been consulting on various options to re-develop the hospital. Several options involve various levels of redevelopment of the existing site and one option the building of a new hospital on a new site.*
- The existing site is very cramped and contains a mixture of new, old and very old buildings, some of which are pre-fabricated. Many have very poor insulation leading to uncomfortable conditions for patients in hot or cold weather and also to poor energy efficiency.*
- Re-development of the existing site is difficult because of its cramped and dense layout.*
- It is very difficult for residents of some parts of West Berkshire to reach the hospital using public transport.*
- Car parking in and around the hospital is restricted and expensive.*
- It can be time consuming to travel to the hospital by any means, including ambulance, at peak times.*

Council therefore resolves that its preferred option is the building of a new hospital on a new site.”

This page is intentionally left blank

Item 20:

Member Questions to be answered at the Council meeting on 17 March 2022.

Members of the Executive to answer the following questions submitted by Councillors in accordance with the [Council's Constitution](#):

- (a) **Question to be answered by the Executive Member for Planning and Transport submitted by Councillor Martha Vickers:**

“As one of the Council’s aims is to increase active travel what changes are planned as regards the proportion of the highways budget which goes in to maintaining and improving footways (ie. Pavements)?”

- (b) **Question to be answered by the Leader of the Council submitted by Councillor Owen Jeffery:**

“In light of West Berkshire Council having to pay £300 compensation to the Readibus charity because the Leader of Council had promised a consultation, which then failed to take place, I ask the Leader if she either has, or will now, refund to WBC the £300 from her Leader’s allowance to save the Council Tax payers of our District from having to fund the compensation which was for her own failure to do as she had promised.”

- (c) **Question to be answered by the Executive Member for Environment and Waste submitted by Councillor Martha Vickers:**

“What is the Council doing to manage the problems created by the increase in dog ownership, often by people who have never owned a dog before?”

This page is intentionally left blank

Council – 17 March 2022

Item 21 – Exclusion of Press and Public

Verbal Item

This page is intentionally left blank

Agenda Item 22.

Document is Restricted

This page is intentionally left blank