

<b>Title of Report:</b>	<b>Changes to Governance Arrangements</b>
<b>Report to be considered by:</b>	Council 02 July 2015
<b>Forward Plan Ref:</b>	C2987

**Purpose of Report:** To present the recommendation to create a Governance and Ethics Committee in place of the Governance and Audit Committee and Standards Committee.

**Recommended Action:**

1. To consider amalgamating the Governance and Audit and Standards Committees to form the Governance and Ethics Committee.
2. To delegate authority to the Monitoring Officer to amend the Constitution (including the terms of reference) to reflect the merge if Members are minded to approve it.
3. To delegate authority to the Head of Strategic Support to amend the Timetable of Meetings for 2015/16 if Members are minded to approve the merge.
4. To appoint three Independent Persons in accordance with S28 of the Localism Act 2011.

**Reason for decision to be taken:** At the request of Corporate Board

**Other options considered:** Not to amalgamate the Committees

**Key background documentation:** West Berkshire Council Constitution  
Annual Standards Committee Report

**Published Works:** Localism Act 2011  
Local Government Act 1972  
Local Government Act 2000

The proposals will help achieve the following Council Strategy principles:	
<input checked="" type="checkbox"/>	<b>CSP6 - Living within our means</b>
<input checked="" type="checkbox"/>	<b>CSP8 - Doing what's important well</b>
The proposals contained in this report will help to achieve the above Council Strategy principles by:	
Ensuring that the Council's governance arrangements are streamlined	

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Gordon Lundie
<b>E-mail Address:</b>	glundie@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	7 April 2015

Contact Officer Details
-------------------------

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

### Implications

<b>Policy:</b>	Will require changes to the Constitution and the terms of reference of the Governance and Ethics Committee if approved.
<b>Financial:</b>	The amalgamation of the two Committees would generate very minor savings (+- £300) arising from a reduction in expenditure on refreshments and Members Travel Allowances.
<b>Personnel:</b>	N/A
<b>Legal/Procurement:</b>	Will require the Constitution to be updated.
<b>Property:</b>	N/A
<b>Risk Management:</b>	N/A

<b>Is this item relevant to equality?</b>	Please tick relevant boxes		<b>Yes</b>	<b>No</b>
Does the policy affect service users, employees or the wider community and:				
• Is it likely to affect people with particular protected characteristics differently?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to an area with known inequalities?			<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Outcome</b> (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at <a href="http://intranet/EqIA">http://intranet/EqIA</a>				<input type="checkbox"/>
Not relevant to equality				<input checked="" type="checkbox"/>

<b>Is this item subject to call-in?</b>	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>

# Executive Summary

---

## 1. Introduction

- 1.1 The workload of the Standards Committee has declined over the last few years. Officers have therefore been asked to look into merging the Governance and Audit and Standards Committees of the Council in order to streamline governance arrangements.
- 1.2 In addition The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have recently been enacted which require the Council to make changes to the Constitution to include certain provisions relating to the potential dismissal or disciplining of the Head of Paid Service, Monitoring Officer or S151 Officer. As part of the procedural changes required a panel needs to be set up to advise on matters relating to the dismissal of these Officers. The Act requires at least two Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 to be appointed to the panel. The roles of the Independent Persons has therefore been updated to reflect this requirement.

## 2. Proposals

2.1 It is proposed that:

- The two Committees are merged to form a Governance and Ethics Committee;
- A revised set of terms of reference of the Governance and Ethics Committee be adopted;
- The membership of the revised Governance and Ethics Committee to comprise ten members (eight District Councillors appointed on a proportional basis and two co-opted non-voting Parish/Town Councillors);
- The structure of agendas be arranged so as to ensure that the Parish Councillors would only need to attend the Standards element of the meeting;
- The Advisory Panel and Independent Persons to be retained;
- Members would not be able to sit on both the Advisory Panel and the Governance and Ethics Committee;
- Authority be delegated to the Monitoring Officer to amend all relevant parts of the Constitution to reflect the new governance structure;
- Authority be delegated to the Head of Strategic Support to amend the timetable of meetings for 2015/16.
- Monitoring Officer be authorised to appoint three Independent Persons who will be used on a rotational basis on the Initial Assessment Panel, Advisory Panel and Standards Committee.

## 3. Equalities Impact Assessment Outcomes

3.1 This item is not relevant to equality.

## 4. Conclusion

4.1 Although the merge of the two Committees will not generate significant financial savings this merger will assist the Council with streamlining its governance arrangements. Council is therefore invited to accept and endorse Officer's

recommendations to combine the Governance and Audit Committee and Standards Committee to create a Governance and Ethics Committee, as detailed above.

# Executive Report

---

## 1. Introduction

- 1.1 The Council, in its constitution, delegates its work in relation to challenge and independent assurance of the Risk Management Framework and associated internal control to the Governance and Audit Committee.
- 1.2 At present, the main roles of the Governance and Audit Committee are to challenge and provide independent assurance on the Risk Management Framework and associated internal controls of the Council, consider and make recommendations to the Council on proposed changes to the Constitution, review the Council's financial statements and review the external auditor's annual audit letter.
- 1.3 The Governance and Audit Committee met five times in the 2014/15 Municipal Year. This Committee currently comprises eight Members appointed on a proportional basis.
- 1.4 The main roles of the Standards Committee are promoting and maintaining high standards of conduct by Councillors and co-opted Members; assisting Councillors and co-opted Members to observe the Members' Code of Conduct; advising the Council on the adoption or revision of the Members' Code of Conduct; monitoring its operation; advising and training Councillors and co-opted Members on matters relating to the Members' Code of Conduct; granting dispensations to Councillors and co-opted Members on requirements relating to interests; ensuring arrangements are in place under which allegations of misconduct in respect of the Members' Code of Conduct can be investigated, to review such arrangements appropriately; and to exercise the above in relation to the Parish and Town Councils in the District.
- 1.5 The Standards Committee also has a role in considering and recommending improvements to the relevant sections of the Constitution covering the conduct of Councillors and ethical standards of the Council.
- 1.6 The Standards Committee met five times in the 2014/15 Municipal Year; the first was to elect the Chairman and Vice-Chairman and four subsequent meetings in the main to receive the quarterly Standards Reports. Two of these meetings were held virtually. This Committee currently comprises eight members comprising six District Councillors and two non-voting co-opted Parish Council representatives. The District Councillors are appointed on a proportional basis.
- 1.7 The number of complaints about Councillors has reduced over the last few years although the workload associated with dealing with and avoiding complaints by Officers is still high. In addition, due to introduction of the revised procedures in 2012, the number of complaints being investigated has reduced significantly. The Standards Committee is only required to consider complaints where the matter has been investigated and a potential breach of the relevant Code of Conduct is identified by the investigator.
- 1.8 Due to the reduced workload of the Standards Committee it is proposed that the Governance and Audit and Standards Committees be merged to create a new Committee to be known as the Governance and Ethics Committee.

- 1.9 Following the enactment of the Localism Act 2011 the Council amended the Standards processes and procedures. The revised governance structures included the appointment of an Advisory Panel and it is proposed that this panel be retained in order to enhance perception around political neutrality.
- 1.10 Under Section 28 of the Localism Act 2011 the Council has to appoint at least one Independent Person who is consulted before any decision is made to investigate an allegation against any Member of the Council or any Parish Councillor. It is proposed that this arrangement is retained and that the Monitoring Officer is authorised to appoint three Independent Persons who will be used on a rotational basis on the Initial Assessment Panel, Advisory Panel and Standards Committee.
- 1.11 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 have recently been enacted which require the Council to make changes to the Constitution to include certain provisions relating to the potential dismissal or disciplining of the Head of Paid Service, Monitoring Officer or S151 Officer. As part of the procedural changes required a panel needs to be set up to advise on matters relating to the dismissal of these Officers. The Act requires at least two Independent Persons who have been appointed under section 28(7) of the Localism Act 2011 to be appointed to the panel. The roles of the Independent Persons have therefore been updated.

## **2. Proposed Revised Terms of Reference**

- 2.1 The purpose of the Governance and Ethics Committee will be to provide effective challenge across the Council including maintaining high standards of conduct and provide independent assurance on the risk management framework and associated internal control environment to Members and the public, independently of the Executive.
- 2.2 It is proposed that the functions of the Governance and Audit Committee and Standards Committee be combined to create the proposed terms of reference for the Governance and Ethics Committee set out in Appendix A.

## **3. Membership**

- 3.1 It is proposed that, in line with the Governance and Audit Committee, the Governance and Ethics Committee shall consist of ten members comprising eight Councillors, reflecting the political balance of the Council and two co-opted non voting Parish/Town Councillors. The Parish Councillors would only be invited to attend the meeting when Standards matters were due to be discussed. Agendas would be structured so that Standards items would be considered at the start of the meetings in order that Parish Councillors would be able to leave the meetings at that point should they wish to. Members would not be able to sit on both the Governance and Ethics Committee and the Advisory Panel.

## **4. Independent Persons**

- 4.1 Under Section 28 of the Localism Act 2011 the Council has to ensure it has appointed at least one Independent Person who is consulted before any decision is made to investigate an allegation against any Member of the Council or any Parish/Town Councillor. It was agreed at the Full Council meeting on the 27 September 2012 that the Independent Person may be consulted directly either by the person

who has made the complaint or the person the complaint has been made about. Two Independent Persons were therefore appointed in order to ensure that a conflict situation did not arise. It is proposed that Monitoring Officer is authorised to appoint three Independent Persons who will be used on a rotational basis on the Initial Assessment Panel, Advisory Panel and Standards Committee.

4.2 It is proposed that in order to accommodate the requirements of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 the role of the Independent Persons be expanded to include a requirement to sit on a panel where the potential dismissal or disciplining of the Head of Paid Service, Monitoring Officer or S151 Officer is discussed. This Panel would make a recommendation to Full Council.

4.3 For the avoidance of doubt a person is not considered to be "independent" if:-

- a) They are or have been, within the last five years, an elected or co-opted Member or officer of the Council or of any Parish Council's within this area. This also applies to committees or sub-committees of the various Councils.
- b) They are a relative or close friend of a current elected, or co-opted, Member or officer of the Council or any Parish Council within its area, or any elected or co-opted member of any committee or sub-committee.
- c) The definition of relative includes the candidate's spouse, civil partner, grandparent, child etc.

## **5. Role of the Advisory Panel**

5.1 The membership of the Governance and Ethics Committee would be appointed on a proportional basis. Current legislation excludes independent members and Parish Council representatives from sitting on Standards Committees. The Advisory Panel makes recommendations to Standards Committee in regards complaints and investigations about both District and Parish Councillors.

5.2 It is therefore proposed that the Governance and Ethics Committee would continue to be supported by the Advisory Panel for the following reasons;

- in order to minimise accusations of political bias;
- and as West Berkshire Council has responsibility for dealing with complaints against elected and appointed members of Parish/ Town Councils.

5.3 It is proposed that the current membership of the Advisory Panel comprising eight members be retained. This would include two members of the Administration, two members of the Opposition, two Parish and two Independent members and is chaired by an independent member

5.4 Members of the Advisory panel could not also be members of the Governance and Ethics Committee.

## **6. Saving**

- 6.1 This amalgamation of the two Committees will generate a small saving (refreshments and travel claims for 4 meetings a year of approximately £300per annum).

## **7. Outcome of the Discussion of this Item at Standards Committee**

- 7.1 This report was discussed at the Standards Committee at their meeting on the 20 April 2015 and they resolved that:

1. A recommendation be made to Full Council not to amalgamate the Governance and Audit and Standards Committees to form the Governance and Ethics Committee for the following reasons:

- a. There was some uncertainty around the outcome of the election;
- b. The impact of the introduction of the Community Infrastructure Levy particularly on Town and Parish Councils was unknown at this point in time;
- c. The merger appeared to be based on administrative expediency rather than having a policy basis.

2. The decision to be reviewed in 12 months time.

- 7.2 As a result of the discussions at the Governance and Audit Committee (27<sup>th</sup> April 2015) and as there was a new Council in place it was agreed that the decision should be reconsidered at the 22 June 2015 Standards Committee. While the majority of the Members of the Committee supported the merger a number of concerns in relation to items (a) and (c) above were raised again.

## **8. Outcome of the Discussion of this Item at Governance and Audit Committee**

- 8.1 This report was discussed at the Governance and Audit Committee at their meeting on the 27 April 2015 and they resolved that they needed more time to consider the implications of the amalgamation of the two Committees and a decision should be delayed until the July 2015 Council meeting.

- 8.2 The proposal was reconsidered at the 22 June 2014 Governance and Audit Committee and they resolved to recommend to Full Council that the recommendations in the report be accepted.

## **9. Conclusion**

- 8.1 Council is invited to support the Officer's recommendations to combine the Governance and Audit Committee and Standards Committee to create a Governance and Ethics Committee, as detailed above.

## **Appendices**

---

Appendix A – Proposed Terms of Reference of the Governance and Ethics Committee



## Consultees

---

**Local Stakeholders:** Governance and Audit Committee, Standards Committee

**Officers Consulted:** Moira Fraser, Andy Day, Sarah Clarke, Joanna Reeves, Ian Priestley, Andy Walker, Corporate Board

**Trade Union:** Not consulted