

CONFIDENTIAL

Annual Governance Statement – Statement in support by the Monitoring Officer – Supporting Information

1. Introduction

- 1.1 As part of the Annual Governance Statement, CIPFA guidance recommends that the Monitoring Officer and Section 151 Officer provide "a key source of assurance that the Council's systems and procedures of internal control which are in operation are effective, efficient and being complied with". In essence this requires the Monitoring Officer, as the Officer charged with ensuring that the Council, and every part of it, acts legally and is not acting in a manner thought to constitute maladministration or injustice. In addition, the Chief Financial Officer/S151 Officer similarly ensures that all parts of the Council act in accordance with the budgetary and policy requirements in connection with the setting of the budget and financial administration standards within the Council.
- 1.2 This report reviews the Annual Governance Statement and its requirements, in particular relating to ethical and probity matters, any changes to the Constitution regarding regulation and guidance, together with an assessment of risks and liabilities.

2. The Role of the Monitoring Officer

- 2.1 Section 5 of the Local Government and Housing Act 1989 requires the Monitoring Officer to prepare a formal report to full Council where it appears that the Council, a committee or an Officer has acted or is likely to act illegally, or in a manner such as to constitute maladministration or injustice. The Monitoring Officer's role in essence is to ensure the legality of local governance arrangements based upon statutory requirements and guidance from Government and other outside bodies. As mentioned above, this role complements that of the Section 151 Officer and the Head of Paid Service (the Chief Executive) whose roles are also established by statute. The Monitoring Officer is part of the Council's Corporate Board and attends meetings of the Finance and Governance Group which looks at use of resources and has taken on the role of reviewing the constitution in a systematic way. If changes are necessary due to legislative impacts or administrative arrangements these are reported to Corporate Board, the Governance and Ethics Committee and ultimately Council for member adoption. The process is open and transparent.
- 2.2 The formal report process under Section 5 is one which should be approached with extreme caution and should not be undertaken lightly. If such action is proposed it is generally the view that outside advice from Counsel should be sought by the Monitoring Officer. During 2015/16 there have been no reports or investigations necessary which fall within the requirements of Section 5 of the 1989 Act.

- 2.3 The Monitoring Officer's advice has been sought in connection with a number of day-to-day administrative matters and in particular advice in connection with the Code of Conduct for Members and Officers. Training has been provided for Members and Officers on the Council's Code of Conduct and Officer Code. In addition support regarding the Code has been provided for Town and Parish Councils and on occasion for individual parishes following recommendations from Governance and Ethics Committee if considered appropriate.
- 2.4 During the year a Task Group of the Governance and Ethics Committee was established to review and revise the Code of Conduct and make it more user friendly for those using it. The outcome of the review will be considered by Council in September and it is anticipated that training will be provided to members of the Council and those Parishes which have adopted the Council's Code.

3. Robustness of corporate governance arrangements

- 3.1 As Members will be aware, the Governance and Ethics Committee considers reports throughout the year regarding certain amendments which have been required in connection with changes to the Constitution.
- 3.2 During 2010/11 following an audit of the Constitution and its processes the Finance and Governance Group of Officers which includes the Monitoring Officer, S151 Officer, Chief Internal Auditor and Head of Strategic Support began a systematic review of each part of the Constitution. This process has resulted in a number of changes to various parts some brought about due to legislative changes and others as a result of administrative arrangements within the Council. This process continued into 2015/16 and has taken into account the impacts of new legislation which introduced changes to service provision at various levels within the Council.
- 3.3 This systematic review of the Constitution ensures that the Council's administrative arrangements remain effective and efficient bearing in mind changes imposed by government and other bodies as well as improving transparency and openness. This process has been recognised as good best practice.

4. Ethics & Probity

- 4.1 As in previous years, ethics and probity matters were considered by the Council's Governance and Ethics Committee. Advice for Members of West Berkshire Council and Parish and Town Councils on the Code has been given in order that the Council fulfils its role as "Responsible Authority" under the Local Government Act 2000 and the Localism Act 2011.
- 4.2 Whilst there were complaints and references to the Assessment Panel of Governance and Ethics Committee throughout 2015/16 few required full investigation. There was a slight increase during the year but overall the number of complaints remains low which may be due to better behaviour or as a result of the lack of sanctions available under the standards regime. Complaints have been considered at local level and will continue to be governed under the revised ethical framework introduced by the Council under the 2011 Act.
- 4.3 The number of complaints has remained relatively static. The Council's website provides a complaints form and a detailed process to deal with breaches of the Codes of Conduct adopted at District and Parish level.

5. Implementation of Action Plans from Strategic Risk Register

- 5.1 All strategic risks are placed on a risk register and reviewed by Corporate Board and Management Board throughout the year. All major risks were considered by individual groups of Officers dealing with particular projects and actions arising from the “red risks” on service risk registers have been reviewed to ensure that the council’s risks items are considered at the highest level. Both the Monitoring Officer and S151 Officer sit on the Corporate Board and attend Management Board.

6. Potential Liabilities

- 6.1 Whilst there have been cases considered by various courts during the year, none of these were of significance to warrant particular risks being identified. There have been major cases in the Crown Court and judicial reviews of certain decisions. These cases are closely monitored by Legal staff and where appropriate referred to the relevant Risk Register. Overall there has been an increase in the number of instructions received by Legal Services from services throughout the Council. The Council was challenged in two judicial reviews during the year the outcomes of which may have potential for impacts on services within the Council as well as budgetary implications.
- 6.2 There are outstanding cases where contingent liabilities have been identified by officers and risks recognised and moderated at Service and Council level by various actions.

7. Conclusion

- 7.1 It is the Monitoring Officer’s assessment that the Council’s governance arrangements are robust and effective. As a result of regular reviews of legislation, changes to processes and procedures are covered by Governance and Ethics Committee. The Constitution and its associated rules are reviewed systematically to ensure they are up to date. There is little more in the Monitoring Officer’s opinion that requires attention. There have been no formal reports required by either the Monitoring Officer or S151 Officer to Council under the relevant legislation. Ethical matters relating to probity are being managed on a day to day basis by the Monitoring Officer and if there are complaints regarding behaviour by the Governance and Ethics Committee. The Risk Register does not highlight any specific legal or procedural matters which require investigation.

8. Consultation and Engagement

- 8.1 Officers Consulted: Andy Day; Ian Priestley; Andy Walker; Corporate Board.

Background Papers:

Subject to Call-In:

Yes: No:

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

Item is Urgent Key Decision

Report is to note only

Strategic Aims and Priorities Supported:

The proposals will help achieve the following Council Strategy aim and priority:

X MEC – Become an even more effective Council

X MEC1 – Become an even more effective Council

The proposals contained in this report will help to achieve the above Council Strategy aims and priorities by:

Reviewing and providing assurance on the effectiveness of the Council's governance and other arrangements which may impact on the Annual Governance Statement.

Officer details:

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Appendix B

Equality Impact Assessment – Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity.

Please complete the following questions to determine whether a Stage 2, Equality Impact Assessment is required.

Name of policy, strategy or function:	Annual Governance Statement – Statement in Support by the Monitoring Officer
Version and release date of item (if applicable):	V1
Owner of item being assessed:	David Holling
Name of assessor:	David Holling
Date of assessment:	07.07.2016

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

1. What are the main aims, objectives and intended outcomes of the policy, strategy function or service and who is likely to benefit from it?	
Aims:	To ensure compliance with CIPFA guidance and the legalities of the Local Government Acts and other legislation
Objectives:	To maintain transparency and give assurance that the Council's systems and procedures are effective and are being complied with
Outcomes:	Ensure good practice effective and efficient process within a legal framework
Benefits:	Reduce risk of challenge to process and procedure and maintain compliance with current legislation

2. Note which groups may be affected by the policy, strategy, function or service. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.

(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this
Further Comments relating to the item:		

3. Result	
Are there any aspects of the policy, strategy, function or service, including how it is delivered or accessed, that could contribute to inequality?	No
Please provide an explanation for your answer The review of systems and processes ensure that the Council acts in accordance with current legislation and maintains transparent and effective controls over all its activities	
Will the policy, strategy, function or service have an adverse impact upon the lives of people, including employees and service users?	No
Please provide an explanation for your answer: The systematic review of the Constitution ensures that all processes and systems are compliant with duties imposed upon the Council under changing legislation to the benefit of those interacting with the Council.	

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

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

4. Identify next steps as appropriate:	
Stage Two required	No
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	

Name:

Date:

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