
Annual Governance Statement - Statement in Support by the Monitoring Officer – Supporting Information

1. Introduction/Background

- 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. Supporting Information

- 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.
- 2.2 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, governance arrangements within the Council and which has the role of reviewing the Council's Constitution in a systematic way. If changes to the Constitution are necessary due to legislative changes 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.
- 2.3 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 2016/17 there have been no reports or investigations necessary which fall within the requirements of Section 5 of the 1989 Act.

- 2.4 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 on the Council's Code of Conduct. In addition support regarding the Code has been provided for Town and Parish Councils. Training has additionally been offered to individual parishes following recommendations from Governance and Ethics Committee.
- 2.5 The Task Group set up by the Governance and Ethics Committee was to review and revise the Code of Conduct completed its review and a revised Code of Conduct was adopted by Council in September 2016. The intention of the revised Code was to make it more user friendly and accessible to those using it.

3. Options for Consideration

This Report is produced as an update to Members in accordance with CIPFA Guidance and current policy of the Council. Members are asked to note the contents.

4. Proposals

- 4.1 The conclusions detailed in this Report have been reached having considered various matters including:
- Corporate governance arrangements
 - Ethics and probity
 - Strategic risk register
 - Potential liabilities

4.2 Robustness of corporate governance arrangements

- 4.2.1 As Members will be aware, the Governance and Ethics Committee and Council considers reports throughout the year regarding proposed amendments to the Constitution.
- 4.2.2 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 2016/17 and has taken into account the impacts of new legislation which introduced changes to service provision at various levels within the Council.
- 4.2.3 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.

4.3 Ethics & Probity

- 4.3.1 As in previous years, ethics and probity matters were considered by the Council's Governance and Ethics Committee.

- 4.3.2 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.
- 4.3.3 Whilst there were complaints and references to the Assessment Panel of Governance and Ethics Committee throughout 2016/17, few required full investigation. The number of complaints has remained relatively static although there was a slight decrease during the year. Overall, the number of complaints remains low which may be due to good ethical 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.
- 4.3.4 The Council’s website provides a complaints form and details of the process for dealing with breaches of the Codes of Conduct adopted at District and Parish level.

4.4 Implementation of Action Plans from Strategic Risk Register

- 4.4.1 All strategic risks are placed on a risk register and reviewed by Corporate Board and Operations 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. These processes also ensure that appropriate mitigation is implemented and maintained to manage strategic risks. Both the Monitoring Officer and S151 Officer sit on the Corporate Board.

4.5 Potential Liabilities

- 4.5.1 Whilst there have been cases considered by various courts during the year, none of these were of significance to warrant particular risks being identified on the Strategic Risk Register. 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.
- 4.5.2 Overall there has been an increase in the number of instructions received by Legal Services from services throughout the Council. The Council received 6 formal pre action letters in connection with potential judicial review proceedings during the year, and proceedings were commenced in 2 of those cases.
- 4.5.3 There are ongoing cases where contingent liabilities have been identified by officers and risks recognised and moderated at Service and Council level by various actions.

5 Conclusion

- 5.1.1 As a result of regular reviews of legislation, changes to processes and procedures are considered by Governance and Ethics Committee. The Constitution and its associated rules are reviewed systematically to ensure they are up to date. Strategic risks are identified and considered in a structured way by the Council, and suitable measures put in place to mitigate risks where necessary. The Risk Register does not highlight any specific legal or procedural matters which require investigation.

- 5.2 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 these are considered by the Governance and Ethics Committee.
- 5.3 It is the Monitoring Officer's assessment that the Council's governance arrangements are robust and effective.

6 Consultation and Engagement

- 6.1 Officers Consulted: *Andy Walker*; Andy Day; Moira Fraser; Shiraz Sheikh; Ian Priestley.

Background Papers:

Key background documentation:

- Reports to Governance & Ethics Committee and Council relating to alleged breaches of the Code of Conduct during 2016/2017
- Updates to the constitution

Subject to Call-In:

Yes: ☐ No: X

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

Strategic Aims and Priorities Supported:

The proposals will help achieve the following Council Strategy aim:

X MEC – Become an even more effective Council

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

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 ensuring robust governance arrangements are in place.

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 as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

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

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

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

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

What is the proposed decision that you are asking the Council to make:	N/A – Council are asked to note the Report.
Summary of relevant legislation:	See Report.
Does the proposed decision conflict with any of the Council's key strategy priorities?	No.
Name of assessor:	Sarah Clarke
Date of assessment:	15/06/17

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

1. What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	To provide assurance that the Council's systems and procedures of internal control which are in operation are effective, efficient and being complied with.
Objectives:	To ensure the maintenance of robust governance arrangements.
Outcomes:	The Council operates within a system of good governance.
Benefits:	The Council will operate in an effective and efficient manner.

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

Gender Reassignment	None	
Marriage and Civil Partnership	None	
Pregnancy and Maternity	None	
Race	None	
Religion or Belief	None	
Sex	None	
Sexual Orientation	None	
Further Comments relating to the item:		

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

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

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

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

Name: Sarah Clarke

Date: 15 June 2017

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