



**Meeting of
West Berkshire
District Council**

Thursday, 9th December, 2010

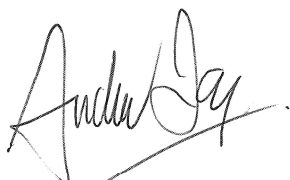
Summons and Agenda

To: All Members of the Council

You are requested to attend a meeting of
WEST BERKSHIRE DISTRICT COUNCIL
to be held in the
**COUNCIL OFFICES, MARKET STREET,
NEWBURY**

on

Thursday, 9th December, 2010
at 7.00pm



Andy Day
Head of Policy and Communication
West Berkshire District Council

Date of despatch of Agenda: Wednesday, 1 December 2010

AGENDA

1. **APOLOGIES FOR ABSENCE**
To receive apologies for inability to attend the meeting (if any).
2. **MINUTES**
The Chairman to sign as a correct record the Minutes of the Council meeting held on 23 September 2010. **(Pages 1 - 12)**
3. **DECLARATIONS OF INTEREST**
To receive notice of any Declarations of Interest from Members.
4. **JUNIOR CITIZEN OF THE YEAR AWARDS FOR 2010**
To present the Junior Citizen of the Year Awards for 2010.



Agenda - Council to be held on Thursday, 9 December 2010 *(continued)*

5. **CHAIRMAN'S REMARKS**

The Chairman to report on functions attended since the last meeting and other matters of interest to Members.

6. **PETITIONS**

Councillors may present any petition which they have received. These will normally be referred to the appropriate body without discussion.

7. **PUBLIC QUESTIONS**

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

(Note: There were no questions submitted relating to items not included on this Agenda.)

8. **LICENSING COMMITTEE**

The Council is asked to note that the Licensing Committee has not met since the last Council meeting.

9. **GOVERNANCE AND AUDIT COMMITTEE**

The Council is asked to note that since the last meeting of Council, the Governance and Audit Committee met on 27th September 2010 and 15th November 2010. Copies of the Minutes of these meetings can be obtained from Policy and Communication or via the [Council's website](#).

10. **DISTRICT PLANNING COMMITTEE**

The Council is asked to note that the District Planning Committee has not met since the last Council meeting.

11. **OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION**

The Council is asked to note that since the last meeting of the Council, the Overview and Scrutiny Management Commission met on 2nd November 2010 and 7th December 2010. Copies of the Minutes of these meetings can be obtained from Policy and Communication or via the [Council's website](#).

12. **STANDARDS COMMITTEE**

The Council is asked to note that the Standards Committee has not met since the last Council meeting.

13. **LEISURE CENTRE FEES AND CHARGES 2011/12 (C2175)**

To determine a request from Parkwood Leisure to implement the annual price review on 01st January each year. **(Pages 13 - 18)**



14. STRONGER LEADER AND CABINET MODEL - OUTCOMES OF CONSULTATION (C2003)

To advise Members of the outcome of the consultation undertaken by Democratic Services on the Stronger Leader and Cabinet Model. **(Pages 19 - 24)**

15. 2011/12 WEST BERKSHIRE COUNCIL TIMETABLE OF PUBLIC MEETINGS (C1982)

To recommend a timetable of meetings for 2011/12. **(Pages 25 - 32)**

16. APPOINTMENT OF DESIGNATED SCRUTINY OFFICER (C2164)

To advise Members of the statutory requirement to appoint a designated Scrutiny Officer. **(Pages 33 - 36)**

17. AMENDMENTS TO THE CONSTITUTION - SCHEME OF DELEGATION (C1886)

To review and amend sections of the Scheme of Delegation. **(Pages 37 - 108)**

18. LICENSING POLICY (C2173)

To consider the Statement of Licensing Policy for the next three years **(Pages 109 - 140)**

19. PROPOSED DESIGNATION PEASEMORE CONSERVATION AREA AND ADOPTION OF THE PEASEMORE CONSERVATION AREA APPRAISAL (C2162)

To inform Members that the Planning Policy Task Group is recommending a new Conservation Area in Peasemore and the adoption of the Peasemore Conservation Area Appraisal. **(Pages 141 - 146)**

20. STREATLEY CONSERVATION AREA APPRAISAL (C2163)

To allow full Council to consider and adopt the Streatley Conservation Area Appraisal as a template for all Conservation Area Appraisals to follow. **(Pages 147 - 152)**

21. NOTICES OF MOTION

(a) The following Motion has been submitted in the name of Councillor Julian Swift-Hook:

“Following the decision made by Executive on 8th November, this Council:

1. Regrets the hurried introduction of the reconfiguration of its day care provision (which includes the closure of five day centres across West Berkshire and the loss of a large number of valued staff) without having detailed alternative provision in place across the District;



Agenda - Council to be held on Thursday, 9 December 2010 (continued)

2. Regrets the distress that the announcement has caused to the hundreds of Day Care Centre Service Users across the District;
3. Regrets the uncertainty that the announcement has caused for all of the dedicated staff working in its Day Care Service;
4. Resolves to delay the implementation of all Day Centre closures and the consequent staff redundancies until:
 - a. a full consultation has been carried out with Service Users;
 - b. a full assessment of Service Users needs and preferences has been completed;
 - c. Personal Budgets are in place for all affected Service Users; and
 - d. comprehensive alternative service provision designed to meet Service Users' established needs and preferences is in place."

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

"Council welcomes:

The Government shifting power from Westminster to councils and communities, in particular many of the reforms proposed in the Government's Consultation Paper "Local Decisions: a Fairer Future for Social Housing".

"However Council notes that the proposed reform of the Housing Revenue Account, ending central government control of rents from council housing, leaves Councils like West Berkshire (where social housing is owned and operated by housing associations) at a disadvantage, allowing associations that operate across local authority boundaries to borrow from one area to invest in another, unlike Councils with their own housing stock.

"Council therefore calls on Government to require housing associations to:-

- a. publish their accounts in such a way that there is transparency as regards asset management of social housing, on a local authority area basis; and
- b. be obliged to balance their borrowing against housing assets - and their investments - in any one local authority area over any 5-year period; and



Agenda - Council to be held on Thursday, 9 December 2010 (continued)

- c. be allowed to borrow on the same favourable terms as public bodies such as local authorities.

"Council requests that the Administration prepares a response to the consultation paper, due 17th January, which includes this."

22. MEMBERS' QUESTIONS

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, Housing and Transport Policy submitted by Councillor Keith Woodhams:**

"Following the loss of the post of School Travel Plan Advisor, what action will the Executive Member for Planning, Housing & Transport Policy, take to ensure this excellent work is continued by schools in West Berkshire?"

- (b) **Question to be answered by the Executive Member for Planning, Housing and Transport Policy submitted by Councillor Keith Woodhams:**

"Can the Executive Member for Highways & Transport tell me what level of income the Council has gained from penalties imposed on contractors when they overrun their agreed schedule and who decides where that money is spent?"

- (c) **Question to be answered by the Executive Member for Planning, Housing and Transport Policy submitted by Councillor Royce Longton:**

"Given the recent comments of the Inspector into the Council's LDF Core Strategy, would the Member for Planning, Housing and Transport Policy agree that there is an urgent need to review our Employment Land Assessment and the possible use of Tax Increment Financing, the latter to mitigate the threat of flood risk that is currently reducing the potential for employment development and sustainable mixed use development in central Newbury."

West Berkshire Council is committed to equality of opportunity. We will treat everyone with respect, regardless of race, disability, gender, age, religion or sexual orientation.

If you require this information in a different format, such as audio tape, or in another language, please ask an English speaker to contact Moira Fraser on telephone (01635) 519045, who will be able to help.



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

COUNCIL**MINUTES OF THE MEETING HELD ON****THURSDAY, 23 SEPTEMBER 2010**

Councillors Present: Barbara Alexander, Peter Argyle (Vice-Chairman), Howard Bairstow, Pamela Bale, Jeff Beck, Brian Bedwell, David Betts, Jeff Brooks, Paul Bryant, George Chandler, Keith Chopping, Hilary Cole, Richard Crumly, Lee Dillon, Billy Drummond, Adrian Edwards, Marcus Franks, Dave Goff, Manohar Gopal, Paul Hewer, Roger Hunneman, Carol Jackson-Doerge, Mike Johnston, Graham Jones, Alan Law, Tony Linden, Keith Lock, Mollie Lock, Royce Longton, Alan Macro, Gwen Mason, Gabrielle McGarvey, Tim Metcalfe, Joe Mooney, Robert Morgan, Irene Neill, David Rendel, Andrew Rowles, Anthony Stansfeld, Julian Swift-Hook, Ieuan Tuck, Tony Vickers, Quentin Webb, Emma Webster, Keith Woodhams and Laszlo Zverko

Also Present: John Ashworth (Corporate Director - Environment), Nick Carter (Chief Executive), Margaret Goldie (Corporate Director - Children and Young People) and David Holling (Head of Legal & Electoral), Moira Fraser (Democratic Services Manager), Linda Pye (Policy Executive)

Apologies for inability to attend the meeting: Teresa Bell, Councillor Ellen Crumly, Councillor Geoff Findlay, Councillor David Holtby, Councillor Owen Jeffery, Councillor Gordon Lundie, Councillor Graham Pask and Andy Walker

PART I

(As Councillor Graham Pask had given his apologies Councillor Peter Argyle was in the Chair)

25. Minutes

The Minutes of the meeting held on 11 May 2011 and the Special Meeting on the 29 July 2010 were approved as a true and correct record and signed by the Vice-Chairman.

26. Declarations of Interest

Councillors Keith Chopping and Tim Metcalfe declared an interest in Agenda Item 13, but reported that, as their interest was personal and not prejudicial, they determined to remain to take part in the debate and vote on the matter.

Councillor Emma Webster declared an interest in Agenda Item 6(a), and reported that, as her interest was personal and prejudicial, she determined not to remain to listen to the response to the question should it be provided at the meeting.

Councillor Gwen Mason declared an interest in Agenda Item 16(g), but reported that, as her interest was personal and not prejudicial, she determined to remain to listen to the response to the question.

Councillor Mollie Lock declared an interest in Agenda Item 16 (a), but reported that, as her interest was personal and not prejudicial, she determined to remain to listen to the response to the question.

27. Chairman's Remarks

Councillor Peter Argyle informed Members that Roger Taylor, a former West Berkshire Councillor, had recently passed away. Councillors Joe Mooney, Brian Bedwell and Keith Lock paid tribute to the former Councillor who they described as hard working, well thought of and who worked tirelessly for his community. Members proffered their condolences to his family before holding a minutes silence in his honour.

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The Vice-Chairman reported that he and the Chairman had attended 80 events, both formal and informal, on behalf of the Council and the District as a whole since the Annual Council meeting in May. Councillor Argyle highlighted a number of events and made special mention of the launch of volunteer week. He was proud to report that West Berkshire had the highest number of volunteers in the country. Recruitment by the Newbury Volunteer Centre was ongoing and since April of this year a further 289 new volunteers had been recruited to support 119 charities and groups in the district. As a result of this hard work the Volunteer Centre had recently been awarded the 'Volunteer Centre of the Month' which they should be congratulated on.

Councillor Jeff Brooks noted that Councillor Geoff Findlay had recently undergone surgery and he asked that the best wishes of his group be conveyed to Councillor Findlay.

28. **Petitions**

Councillor Keith Woodhams presented a petition containing 136 signatures relating to a reduction in the speed limit from 30mph to 20mph along Paynesdown Road.

Councillor Keith Woodhams presented a petition containing 126 signatures relating to a reduction in the speed limit from 30mph to 20mph along Derwent Road.

Councillor Keith Woodhams presented a petition containing 23 signatures relating to a reduction in the speed limit from 30mph to 20mph along Pound Lane.

It was reported that the petitions would be discussed at a future Speed Limit Review Task Group and once a date had been confirmed the petition organisers would be advised accordingly.

29. **Public Questions**

(Councillor Emma Webster declared a personal and prejudicial interest in this item by virtue of the fact that one of her colleagues was undertaking the public consultation exercise on the redevelopment of the Underwood Road Precinct. Councillor Webster determined that should the matter be discussed she would leave the meeting during the question and answer session. As a written response was provided and the item was not discussed she did not leave the chamber.)

It was agreed that a question standing in the name of Mr Venkataramanan would receive a written response, given that he was unable to attend the meeting.

30. **Licensing Committee**

The Council noted that, since the last meeting, the Licensing Committee had met on 25 May 2010 and 13 September 2010.

31. **Governance and Audit Committee**

The Council noted that, since the last meeting, the Governance and Audit Committee had met on 28 June 2010, 06 September 2010 and a Special meeting had been held on the 14 September 2010.

32. Overview and Scrutiny Management Commission

The Council noted that, since the last meeting, the Overview and Scrutiny Management Committee had met on 24 May 2010, 25 May 2010 (Special Meeting), 29 June 2010, 03 August 2010 and 14 September 2010.

33. Standards Committee

The Council noted that, since the last meeting, the Standards Committee had met on 21 June 2010.

34. District Planning Committee

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

35. Amendment to the Constitution - Extraordinary Meetings (C2040)

The Council considered a report (Agenda Item 12) concerning a proposed amendment to West Berkshire's Constitution in order to clarify paragraph 4.1.3 of the Council's Rules of Procedure relating to Extraordinary Meetings.

MOTION: Proposed by Councillor Jeff Brooks and seconded by Councillor Roger Hunneman:

That the Council:

“Agree the amendment to paragraph 4.1.3 of the Council's Constitution to include timescales for arranging Extraordinary Council meetings as follows:

Extraordinary meetings may be convened by the Chairman of Council, the Monitoring Officer or by any five Members of the Council if they present a signed requisition to the Chairman of Council to call an extraordinary meeting. Such a meeting shall be called within five clear working days of the presentation of the requisition and be held within ten clear working days of the presentation of the requisition.”

Councillor Brooks in introducing the report explained that the purpose of the report was to clarify the timescales in which, once requested, special Council meetings would need to be held. He cited a recent example when a special meeting had been asked for on the 11 November 2010 and the meeting had not been held until the 10 December 2010. He noted that the report had been supported at the Governance and Audit Meeting held on the 06 September 2010.

AMENDMENT: Proposed by Councillor Anthony Stansfeld and seconded by Councillor Keith Chopping:

That the Council: Amends paragraph 4.1.3 of the Council's Constitution as follows:

“Extraordinary meetings may be convened by the Chairman of Council, the Monitoring Officer or by Members (providing that 25% of eligible Members of the Council present a signed requisition that there is a need to hold an Extraordinary Meeting of the Council). Such a meeting shall be called by the Chairman as soon as is practicably possible but not later than 15 working days from the date that the requisition is presented to the Chairman.”

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Councillor Stansfeld explained that due to the resource implications urgent meetings should not be entered into lightly. The amendment therefore required 25% of eligible Councillors to request that the meeting took place. It was also necessary to give the Chairman and Officers adequate time within which to hold the meeting and the amendment was therefore suggesting that meetings should be held within 15 working days from the date the meeting was requested.

Councillor Jeff Brooks noted that Members would not ask for meetings to be held for spurious reasons and was very concerned about the increase in the number of Members required to ask for a meeting to be held.

Councillor Tony Vickers noted that the numbers of Councillors and the timescales had been agreed by the Governance and Audit Committee and he felt that if their views were not going to be upheld at Council he would need to resign from his role as Vice-Chairman of that Group as a matter of principle.

The Liberal Democrat Members explained that there might be practical difficulties in getting 25% of Members to sign a written request to hold an urgent meeting which could result in delays in having the matter heard.

Councillor Graham Jones stated that the 25% requirement did not disenfranchise any group on the Council. He felt that the threshold was appropriate given the costs of holding Full Council meetings. Councillor Jones also felt that the 15 working days to hold the meeting was important to overcome any practical issues associated with arranging a special meeting.

The Amended Motion was put to the vote and declared **RESOLVED**.

In accordance with Procedure Rule 4.15.2(a) it was requisitioned that the voting on the Amendment be recorded. The names of those Members voting for, against and abstaining were read to the Council as follows:

FOR the Amendment:

Councillors: Barbara Alexander, Peter Argyle, Howard Bairstow, Pamela Bale, Jeff Beck, Brian Bedwell, David Betts, Paul Bryant, George Chandler, Keith Woodhams, Hilary Cole, Richard Crumly, Adrian Edwards, Marcus Franks, Dave Goff, Manohar Gopal, Paul Hwer, Carol Jackson-Doerge, Mike Johnson, Graham Jones, Alan Law, Tony Linden, Tim Metcalfe, Joe Mooney, Irene Neill, Andrew Rowles, Anthony Stansfeld, Ieuan Tuck, Quentin Webb, Emma Webster, Laszlo Zverko (31)

AGAINST the Amendment:

Councillors: Jeff Brooks, Lee Dillon, Billy Drummond, Roger Hunneam, Keith Lock, Mollie Lock, Royce Longton, Alan Macro, Gwen Mason, Gabrielle McGarvey, Robert Morgan, David Rendel, Julian Swift-Hook, Tony Vickers, Keith Woodhams (15).

ABSTAINED:

None

The motion, as amended, was put to the vote and declared **RESOLVED**.

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In accordance with Procedure Rule 4.15.2(b) it was requisitioned, immediately after the vote was taken, by the Leader of the Opposition, that the voting on the amended motion be recorded.

FOR the motion, as amended:

Councillors: Barbara Alexander, Peter Argyle, Howard Bairstow, Pamela Bale, Jeff Beck, Brian Bedwell, David Betts, Paul Bryant, George Chandler, Keith Woodhams, Hilary Cole, Richard Crumly, Adrian Edwards, Marcus Franks, Dave Goff, Manohar Gopal, Paul Hower, Carol Jackson-Doerge, Mike Johnson, Graham Jones, Alan Law, Tony Linden, Tim Metcalfe, Joe Mooney, Irene Neill, Andrew Rowles, Anthony Stansfeld, Ieuan Tuck, Quentin Webb, Emma Webster, Laszlo Zverko (31)

AGAINST the motion, as amended:

Councillors: Jeff Brooks, Lee Dillon, Billy Drummond, Roger Hunneamn, Keith Lock, Mollie Lock, Royce Longton, Alan Macro, Gwen Mason, Gabrielle McGarvey, Robert Morgan, David Rendel, Julian Swift-Hook, Tony Vickers, Keith Woodhams (15).

ABSTAINED:

None.

36. Proposed Compulsory Purchase Order at A340 Footway/Cycleway, Aldermaston (C2134)

(Councillors Keith Chopping and Tim Metcalfe declared a personal interest in Agenda item 13 by virtue of the fact that they knew the landowners (Mr and Mrs Miller) personally. As their interest was personal and not prejudicial they determined to take part in the debate and vote on the matter).

The Council considered a report (Agenda Item 13) concerning a proposed Compulsory Purchase Order of land at A340 footway/cycleway, Aldermaston.

MOTION: Proposed by Councillor David Betts and seconded by Councillor Irene Neill:

That the Council:

“Having given consideration to all the provisions of this report including those matters relating to the Human Rights Act 1998 contained in paragraph 8 of this report the Council resolves to:

1) authorise, within the boundary shown on the map, the Head of Legal and Electoral Services to:

a) purchase land required by agreement to enable the Scheme where possible either in advance of the confirmation of compulsory purchase powers if so advised or following confirmation of compulsory purchase powers by the Secretary of State for Transport;

b) enter into agreements and make undertakings on behalf of the Council with the holders of interests in the land subject to the CPO or parties otherwise affected by the proposed scheme setting out the terms for the withdrawal of their objections to the confirmation of the CPO;

c) acquire land compulsorily.

2) make a CPO under sections 239, 240, 246 and 249 of the Highways Act 1980 and the Acquisition of Land Act 1981 in respect of all that area of land shown edged red coloured pink and entitled "Map referred to in The West Berkshire

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District Council (Footway/Cycleway, Aldermaston, Berkshire) Compulsory Purchase Order 2010".

3) in respect of the land included in the CPO and confirmed by the Secretary of State for Transport where appropriate the Council make either a General Vesting Declaration or General Vesting Declarations under Section 1 of the Compulsory Purchase (Vesting Declarations) Act 1981 or serves notices to treat under Section 5 of the Compulsory Purchase Act 1965;

4) give authority under Section 6(4) of the Acquisition of Land Act 1981 to dispense with individual service of notices in respect of areas of land where the Council is satisfied that it has not been possible following proper enquiry to establish the ownership of the land in question and delegate to the Head of Legal and Electoral Services authority to serve notices in relation thereto in the manner set out in Section 6(4) of the Acquisition of Land Act 1981."

In introducing the report Councillor David Betts regretted that this piece of land had to be purchased through a Compulsory Purchase Order, (CPO) not because it was not important but because this option had to be resorted to. He noted that the scheme accorded with the aims of the Local Transport Plan, was the aspiration of the National Cycle organisation Sustrans and the Aldermaston Parish Council. Councillor Betts confirmed that the Council had the funding available to implement the recommendations.

Councillor Irene Neill was also disappointed that the Council would have to resort to a CPO but was pleased that the matter could be concluded at last. The issue had first been raised a few years ago by the Parish Council when they were considering how young people from Aldermaston Wharf could access the skateboard park in Aldermaston Village. A proposal had been put to Wasing Estate who had agreed to it and this had been the foundation for the scheme.

Councillor Keith Lock reported that this was a dangerous piece of road that really needed a footpath and he therefore also supported the CPO.

The Motion was put to the meeting and duly **RESOLVED**.

37. **Petition Scheme for West Berkshire (C2030)**

The Council considered a report (Agenda Item 14) concerning the adoption of a 'Petition Scheme' as required under the Local Democracy, Economic Development and Construction Act 2009 ("The 2009 Act").

MOTION: Proposed by Councillor Graham Jones and seconded by Councillor Pamela Bale:

That the Council:

1. adopt the attached Petition Scheme and incorporate this into the relevant parts of the Constitution while moving forward with the requirement to establish an e-petitions facility by 15th December 2010";
2. give the Monitoring Officer delegated authority to make consequential amendments to the Constitution where reference to 'petitions' is made'

Councillor Graham Jones noted that the amendment was required to the Constitution to ensure that the Council met its obligations under the 2009 Act and would replace the existing petition scheme.

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Councillor Tony Vickers noted that the Governance and Audit Committee had considered this scheme in great detail to ensure that it was fit for purpose. Subsequent to the Special Governance and Audit Committee held on the 14 September 2010 it had occurred to him that there was a requirement to ensure that the network effect of matters that appeared to affect only one or two wards were taken into consideration. He therefore proposed that the following amendments be made to the scheme:

- page 60 of agenda, paragraph 4.e. line 4, change "is" to "may be" and add to end of sentence "500 per ward, at the discretion of the Monitoring Officer."
- change paragraph 4.f. line 2 on page 61 as above.
- The sentence following the above sentence on page 60 already covers the issue but should be included in paragraph 6.
- delete the sentence in 4.e beginning "This does not affect...."
- amend paragraph 6 as follows. "This is to ensure that Council Members are informed as to the receipt and progress of **all** petitions that affect them as Ward Members, because **all** petitions could in theory end up as Petitions for Debate."
- "a. All Petitions will be notified to all Council Members, upon receipt and unless resolved directly as in paragraph 7.c.
- "b. Where a Petition appears to affect not more than two Wards, unless a Member challenges this within 10 working days, the Petitions Officer will inform the organiser that a reduced number of signatures is sufficient to make the Petition come to Full Council for Debate, if requested.
- "c. Nothing in the Petitions Scheme affects the right of Ward Members to present Motions to Full Council for debate. Such Motions may be based upon Petitions that fail to reach the required number of signatures under this Scheme.
- "d. When a petition is referred to a person or body within the Council who has the authority to take a decision on the subject matter, the Ward Member(s) representing any affected ward(s) will be invited to attend and address the person or body making the decision for no more than five minutes (each), immediately after the petition organiser."
- add another bullet to the list in 7.d to say: "the number of signatures required for the petition to be debated at Full Council under 4.e"
- Page 57 paragraph 2(b) last sentence delete the word 'also'

On the basis that the Monitoring Officer gave his approval to the amendments proposed Members supported the requested changes and agreed to approve the petitions scheme subject to the inclusion of the amendments set out above.

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Councillor Paul Bryant noted that the Council had a good record of dealing with petitions and felt that these changes to the scheme would help to clarify the process. He also felt that the introduction of the petitions website would assist residents in raising issues with the Council.

The Council thanked Councillor Vickers and the rest of the Governance and Audit Committee for the effort that they had put into devising this scheme.

The Motion was put to the meeting and duly **RESOLVED**.

38. Notices of Motions

(a) **The following Motion has been submitted in the name of Councillor Jeff Brooks**

The Council considered a Motion submitted in the name of Councillor Jeff Brooks relating to the committee system of governance.

MOTION: Proposed by Councillor Jeff Brooks and seconded by Councillor Keith Lock:

“That the Council:

- notes the Coalition Government’s intention to allow local authorities to return to the committee system of governance;
- believes the Executive decision making system is undemocratic and denies most elected representatives a proper share of access to information, speaking rights and influence over the decision-making process; and
- resolves to return to the committee system with effect from the Annual meeting of the Council which follows the enactment of the relevant legislation.”

In accordance with Procedure Rule 4.5.8.of the Council’s Constitution the Chairman proposed that this motion be referred to the Governance and Audit Committee for consideration. This was put to the Council and duly **RESOLVED**.

(b) **The following Motion has been submitted in the name of Councillor Royce Longton**

The Council considered a Motion submitted in the name of Councillor Royce Longton relating to the selling of surplus electricity.

MOTION: Proposed by Councillor Royce Longton and seconded by Councillor Julian Swift-Hook:

“That the Council:

1. welcomes the recent statement from Climate Change Secretary Chris Huhne that local authorities are to be allowed to sell surplus electricity generated by renewable technologies to the national grid;
2. notes that early estimates from the LGA suggest that across the country this could yield anything up to £100 million per year;
3. also notes that this will drastically reduce any disincentive to investing in photovoltaics and other renewables on Council buildings, currently imposed by

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the high capital cost, and indeed that it could provide a valuable source of income assisting the Council in maintaining its services in these difficult financial times;

4. and therefore resolves to move swiftly towards maximising the potential to generate environmentally sustainable green energy on its offices, schools, leisure centres and other property.”

In accordance with Procedure Rule 4.5.8.of the Council’s Constitution the Chairman proposed that this motion be referred to the Greener Select Committee for consideration. This was put to the Council and duly **RESOLVED**.

(c) **The following Motion has been submitted in the name of Councillor Graham Jones**

The Council considered a Motion submitted in the name of Councillor Graham Jones relating to the adoption by local authorities of their own governance structures.

MOTION: Proposed by Councillor Graham Jones and seconded by Councillor Pamela Bale:

“That the Council:

1. notes the coalition government’s intention to allow local authorities to adopt their own governance structures;
2. resolves to establish a small working group under the auspices of G and A to look at the strengths and weaknesses of the current system and to look at other alternatives having regard to the need to retain accountability and ensure any new system is cost effective.”

In accordance with Procedure Rule 4.5.8.of the Council’s Constitution the Chairman proposed that this motion be referred to the Governance and Audit Committee for consideration. This was put to the Council and duly **RESOLVED**.

39. **Members' Questions**

(a) **Question to be answered by the Portfolio Holder for Education submitted by Councillor Mollie Lock**

Councillor Mollie Lock declared a personal interest in this item by virtue of the fact that she on the Board of Trustees for St Bartholomew’s School. As her interest was personal and not prejudicial she determined to remain in the chamber and listen to the response provided to her question and ask a supplementary question)

A question standing in the name of Councillor Mollie Lock on the subject of what happened to the accrued interest on a Government grant to a school project was answered by the Executive Member for Finance.

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(b) **Question to be answered by the Portfolio Holder for Education submitted by Councillor Mollie Lock**

A question standing in the name of Councillor Mollie Lock on the subject of the passing on of money obtained from Government to the schools who had achieved their targets for vulnerable children was answered by the Executive Member for Education.

(c) **Question to be answered by the Portfolio Holder for Strategy, Performance and Community Safety submitted by Councillor Jeff Brooks**

A question standing in the name of Councillor Jeff Brooks on the subject of supporting employees who felt isolated under the Timelord programme was answered by the Executive Member for Strategy, Performance and Community Safety.

(d) **Question to be answered by the Portfolio Holder for Highways, Transport (Operational) and ICT submitted by Councillor David Rendel**

A question standing in the name of Councillor David Rendel on the subject of the number of people prevented from exiting car parks in the evenings when barriers had malfunctioned was answered by the Executive Member for Highways, Transport (Operational) and ICT.

(e) **Question to be answered by the Portfolio Holder for Community Care submitted by Councillor Julian Swift-Hook**

A question standing in the name of Councillor Julian Swift-Hook on the subject of the number of people affected by 'bed blocking' was answered by the Executive Member for Community Care.

(f) **Question to be answered by the Portfolio Holder for Community Safety submitted by Councillor Alan Macro**

A question standing in the name of Councillor Alan Macro on the subject of the current status of the CCTV project for Theale, Pangbourne and Lambourn was answered by the Executive Member for Community Safety.

(g) **Question to be answered by the Portfolio Holder for Highways, Transport (Operational) and ICT submitted by Councillor Gwen Mason**

(Councillor Gwen Mason declared a personal interest in agenda item 16(g) by virtue of the fact that she was an associate member of the West Berkshire Disability Alliance. As her interest was personal and not prejudicial she determined to remain in the meeting and listen to the response provided by the Portfolio Holder and asked a supplementary question).

A question standing in the name of Councillor Gwen Mason on the subject of the progress of the Council's strategy for residential disabled parking was answered by the Executive Member for Highways, Transport (Operational) and ICT.

(h) **Question to be answered by Portfolio Holder for Planning, Housing and Transport Policy submitted by Councillor Julian Swift-Hook**

A question standing in the name of Councillor Julian Swift-Hook on the subject of when the performance and response times of the Council's online Planning Portal would reach

COUNCIL - 23 SEPTEMBER 2010 - MINUTES

acceptable standards was answered by the Executive Member for Planning, Housing and Transport Policy.

(i) Question to be answered by the Portfolio Holder for Partnerships, Equality and the Visions submitted by Councillor Julian Swift-Hook

A question standing in the name of Councillor Julian Swift-Hook on the subject of the lack of proper and thorough Equalities Impact Assessments (EIA) in reports was answered by the Executive Member for Partnerships, Equality and the Visions.

(The meeting commenced at 7.00 pm and closed at 8.55 pm)

CHAIRMAN

Date of Signature

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Agenda Item 13.

Title of Report:	Leisure Centre Fees and Charges 2011/12
Report to be considered by:	Council
Date of Meeting:	9 th December 2010
Forward Plan Ref:	C2175

Purpose of Report: To determine a request from Parkwood Leisure to implement the annual price review on 1st January each year.

Recommended Action: That this variation to the Terms and Conditions of the Leisure Management Contract be approved.

Reason for decision to be taken: The increase in VAT rates planned for the 4th January 2011 could result in price rises for leisure centre users at the start of the year and at the beginning of April. Agreeing to a revised date for the annual price review will ensure only a single price rise in the year.

Other options considered: Retain the current arrangements and accept price rises in January and April 2011.

Key background documentation: Correspondence from Parkwood Leisure

The proposals will also help achieve the following Council Plan Theme(s):

- CPT8 - A Healthier Life**
- CPT15 - Putting Customers First**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:

Ensuring that leisure centre users are provided with clear information about the costs of participating in physical activity for the next 12 months.

Portfolio Member Details	
Name & Telephone No.:	Councillor Gordon Lundie - Tel (01488) 73350
E-mail Address:	glundie@westberks.gov.uk
Date Portfolio Member agreed report:	27/10/10
Contact Officer Details	
Name:	David Appleton
Job Title:	Head of Cultural Services
Tel. No.:	01635 519578
E-mail Address:	dappleton@westberks.gov.uk

Implications

- Policy:** The current Leisure Contract stipulates that Fees and Charges are reviewed prior to April each year. The recommendation is to change this to January each year.
- Financial:** Parkwood Leisure retain all income. A profit share arrangement is specified within the Contract should end of year surpluses be above certain threshold levels. There are no direct implications for the Council's own budgets.
- Personnel:** None
- Legal/Procurement:** This amendment to the basic contract will be recorded through an exchange of letters.
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** Stage 1 Completed.

Is this item subject to call-in?	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"/>	
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 Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

Executive Report

1. Introduction

- 1.1 West Berkshire Council's leisure centres are managed by Parkwood Leisure. The contractual arrangements allow for entry charges to be reviewed in March each year in line with the Council's budget setting timetable. This enables any price increase to be applied from April 1st.
- 1.2 The Council sets the maximum fee that can be charged. The actual level of charge is set in accordance with Parkwood's own marketing policies, taking account of the Council's objectives for the residents' leisure card. This approach is designed to ensure access to core services at charges that can be afforded by all whilst allowing for a full cost recovery for value added activity such as teaching, coaching, and instructional programmes and other commercial activity within the Council's assets.
- 1.3 Her Majesty's Treasury has already announced an increase in the standard rate of VAT from 17.5% to 20%. This increase becomes effective on the 4th January 2011. Parkwood Leisure have drawn the Council's attention to the potential for this increase to result in leisure centre customers experiencing a VAT related price rise in January and the annual price rise to reflect inflation in April. The Company has suggested amending the date of the annual price review to January 1st each year. This would result in a single price rise for customers in 2011.
- 1.4 Any increase in Parkwood's prices will have no impact on the Council's budget. The terms of this contract allow the contractor to retain all income up to an agreed threshold. If the total income exceeds this threshold then a sliding scale of income share arrangements start to apply. Both the threshold and the actual scale of charges are subject to year on year inflationary uplifts. In practical terms the threshold is unlikely to be reached unless windfall conditions apply. For example, the complete closure of a significant competitor in the same catchment area. Increases in fees and charges for leisure centres will therefore have no effect on the income generated by West Berkshire Council. No sites will charge more than the maximum permissible charge.

2. Proposal

- 2.1 Although the Consumer Prices Index measure of inflation has started to fall against the high points recorded earlier in the year, the annual rates recorded in September 2010 was 3.1%. Assuming that inflation continues to fall, and recognising that a January review date will provide a small increase in income for our contractors for the 3 months prior to the expected date of increase, it is suggested that the maximum charges should be increased by 2.5% to cover the VAT rise and a further 2.5% for inflation.
- 2.2 Assuming an overall increase of about 5% and rounding up to the nearest 5 pence, the indicative proposed maximum 'Core' activity charges for the leisure centres would be as set out in Appendix A.

Appendices

Appendix A – Core Charges for Leisure Centre Users

Consultees

Local Stakeholders: Members of the Joint Advisory Committees - i.e. Governing Bodies of Schools, Town and Parish Councils. Plus leisure centre customers. Parkwood Leisure – awaiting comments.

Officers Consulted: N/A

Trade Union: N/A

Appendix A – Core Charges for Leisure Centre Users

	2010/11		2011/12		
	WB Card price	Non WB Card price	WB Card price	Non WB Card price	
West Berkshire Card Resident	Free		Free		
West Berkshire Card - non resident	£20.30		£21.30		
Swimming					
Adult	£3.00	£3.30	£3.15	£3.50	
Junior	£1.90	£2.05	£2.00	£2.20	
Early Morning Swim					
Adult	£2.30	£2.55	£2.45	£2.70	
Junior	£1.30	£1.45	£1.40	£1.55	
Gym					
Casual User	£6.10	£6.70	£6.40	£7.05	
Casual User Induction	£26.40	£29.00	£27.75	£30.55	
Classes	£4.90	£5.40	£5.15	£5.70	
Activity for Health – GP Referral	£2.65	£2.90	£2.75	£3.00	
Hall Hire/Sports					
Full Sports Hall (4 courts) - adult	£39.10	£43.00	£41.05	£45.15	
Full Sports Hall (4 courts) - junior	£19.00	£20.85	£19.95	£21.95	
Badminton Court - adult	£7.70	£8.50	£8.10	£8.90	
Badminton - junior	£5.00	£5.50	£5.25	£5.80	
Squash Court - adult	£6.60	£7.25	£6.95	£7.65	
Squash Court - junior	£3.25	£3.55	£3.40	£3.75	
Monthly Direct Debit	£34.00	£37.00	£35.70	£39.25	
Concession					
Gym	£3.00		£3.15		During concessionary periods
Swimming/Badminton/Squash/Table Tennis	£1.55		£1.65		During concessionary periods

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Title of Report:	Stronger Leader and Cabinet Model – Outcomes of Consultation
Report to be considered by:	Council
Date of Meeting:	9 December 2010
Forward Plan Ref:	C2003

Purpose of Report: To advise Members of the outcome of the consultation undertaken by Democratic Services on the Stronger Leader and Cabinet Model.

Recommended Action: For Members to note the consultation, and adopt the Stronger Leader Model.

Reason for decision to be taken: West Berkshire Council is required by law to consult local residents. The Council is also required by new legislation to adopt this policy.

Other options considered: The option of a Mayor and Cabinet system was discussed in 2001/2002, but this was decided against.

Key background documentation: Local Government Public Involvement in Health Act 2007

The proposals will also help achieve the following Council Plan Theme: <input checked="" type="checkbox"/> CPT12 - Including Everyone

Portfolio Member Details	
Name & Telephone No.:	Councillor Graham Jones - Tel (01235) 762744
E-mail Address:	gjones@westberks.gov.uk
Date Portfolio Member agreed report:	12 October 2010

Contact Officer Details	
Name:	Rob Alexander
Job Title:	Policy Officer (Executive Support)
Tel. No.:	01635 503042
E-mail Address:	ralexander@westberks.gov.uk

Implications

- Policy:** There are Implications if the Stronger Leader Model is not adopted, due to the current system no longer being valid come the next election.
- Financial:** None
- Personnel:** None
- Legal/Procurement:** To ensure compliance with the Local Government and Public Involvement in Health Act 2007 the subsequent direction from government.
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** Stage 1 completed, not needed to progress further.

Is this item subject to call-in?	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"/>	
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 Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

Executive Report

1. Introduction

- 1.1 On 29 July 2010 Council agreed to undertake a consultation exercise with residents, partnerships and parish councils in regard to specific parts of the Council's Governance arrangements. This arose from the legal requirement in the Local Government and Public Involvement in Health Act 2007 which stated from May 2011 that unitary authorities and county councils will only be able to have one of two forms of governance - the Strong Leader Model or the Elected Mayor Model. The Elected Mayor Model was discounted at a West Berkshire council full Council meeting in 2001/2002.
- 1.2 The Council's view, following the July 2010 meeting, was that the Strong Leader model is the preferred because option because:
- a) The Strong Leader and Executive/Cabinet Model preserves the links with the councillors and representation of wards in the present political system;
 - b) The Elected Mayor Model introduces the prospect of personality into local politics which although it may be conducive to city government is less appropriate in a rural district such as West Berkshire;
 - c) A Strong Leader can be removed by the Council during the term of four years and this is an important constitutional safeguard.
- 1.3 The consultation proceeded as planned and the Council consulted the following groups in the following ways:
- a) The Strong Leader Model report was available on the Council's website;
 - b) The consultation was placed onto the Council's consultation website, and the website address was issued in "A Great Place to Live";
 - c) Letters were sent out to all Parish Councils asking for their feedback;
 - d) The Local Strategic Partnership Management Board were also asked for their feedback.

2. Key Issues

- 2.1 Six residents responded. Four of the responders requested keeping the system as it was and two wished to change to the Strong Leader Model.
- 2.2 Nine of the Parish Councils in the district responded, six wished to keep the current system as it is, whereas two understood the requirement from Central Government to change the system and voted for the Strong Leader Model. Newbury Town Council did not deliver any comments, apart from that it was not in their interest to comment. Responses are set out in Appendix A to this report.
- 2.3 The Local Strategic Partnership Management Board had no comments in respect of the Strong Leader Model.

- 2.4 In comparison to feedback received by other Councils, the level of response received in West Berkshire Council was average. Birmingham City Council had 0 responses; Spelthorne had 9, whereas Surrey County Council had 158 responses.
- 2.5 Given that such a small percentage of people responded to the Consultation it could be speculated that more people understood the position that the Council found itself in and accepted the Council's view that the Strong Leader Model was to be preferred. Alternatively, it may be that the issue did not engage residents.

3. Options Analysis

The current government in, *The Coalition: Our Programme for Government* signalled that it would allow local authorities to return to the committee system should they wish to do so. A report has been considered and agreed by the Governance and Audit Committee concerning the establishment of a working group to decide and discuss ways of future governance for West Berkshire. The outcome of the working group may therefore impact on the future Governance arrangements of the Council and therefore the model dopted.

The Mayoral System is not an option due to it being ruled out previously, and staying with the current system is also not an option.

4. Conclusion

- 4.1 The response to this consultation exercise produced relatively few responses, however, whilst two members of the public and two Parish councils supported the current system of electing the Leader on an annual basis; all Members supported moving to the new system of electing the Leader on a four yearly basis in accordance with the Local Government Public Involvement in Health Act 2007.

Appendices

Appendix A – Consultation Feedback.

Consultees

Local Stakeholders: Parish Councils, Residents & West Berkshire Partnership Board

Officers Consulted: Corporate Board

Trade Union: N/A

Appendix A

Who	Method	Comments
District Councillors	Members unanimously agreed to support the Strong Leader Model (SLM) at Council on 29/7/10, and agreed for it to go to Consultation.	None
West Berkshire Partnership	9 th September WBP meeting – informed board of changes and the choices. Asked for their comments.	Made a comment regarding the adoption of the mayoral system. It was explained this was not an option.
Parish Councillors	Written letter, send them the information of the strong leader model – explain it is law etc, give them web address to take part in consultation.	Heard back from 9 Parish Councils. 8 Gave opinions. Most saw no benefit to change, and that the current arrangement was satisfactory. Greenham made comments about returning to committee system. 2 Parish Council’s wished to adopt Strong Leader model.
Residents	Put onto West Berkshire Council website, article in magazine.	Dispatched last week of August and first week of September. 6 residents replied via consultation, 4 were for keeping the system as it was, 2 were for the Strong Leader model.

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Title of Report:	2011/12 West Berkshire Timetable of Public Meetings
Report to be considered by:	Council
Date of Meeting:	09 December 2010
Forward Plan Ref:	C1982

Purpose of Report: To recommend a timetable of meetings for 2011/12.

Recommended Action: To approve the revised timetable of meetings for January to April of 2011 and the timetable of public meetings for the 2011/12 Municipal Year.

Reason for decision to be taken: To ensure that a timetable of meetings for 2011/12 is published.

Other options considered: None

Key background documentation: None

The proposals will also help achieve the following Council Plan Theme:

CPT15 - Putting Customers First

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by providing advance warning of the Council's Timetable of meetings.

Portfolio Member Details	
Name & Telephone No.:	Councillor Graham Jones
E-mail Address:	gjones@westberks.gov.uk
Date Portfolio Member agreed report:	12 October 2010

Contact Officer Details	
Name:	Moira Fraser
Job Title:	Democratic Services Manager
Tel. No.:	01635 519045
E-mail Address:	mfraser@westberks.gov.uk

Implications

- Policy:** This report accords with the Council's policy of publishing a timetable of meetings.
- Financial:** There are no financial implications associated with this report. Costs associated with holding meetings, printing agendas and Members' attendance will be met from within existing budgets.
- Personnel:** The administration of meetings will be undertaken from within existing resources.
- Legal/Procurement:** None
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** Stage 1 completed, not required to progress further.

Is this item subject to call-in?	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"/>	
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 Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

Executive Summary

1. Introduction

1.1 The Timetable of Meetings for the Municipal Year 2011/12 is attached as Appendix B and has been based on the following principles:

- Executive meetings have been arranged to take cognisance of democratic requirements and holiday periods (between six and eight weekly);
- Overview and Scrutiny Management Commission to meet two weeks after the Executive meeting;
- Area Planning Committees to be held three weekly;
- Council meetings to be held in May, September, December and March;
- Select Committees to meet four times a year (additional meetings to be arranged if required);
- Provisional dates have been included for District Planning Meetings. These dates will only be used if the meetings are required and additional meetings may be arranged to ensure that the Planning timescales are adhered to;
- Provisional dates have also been included for Assessment Sub-Committee meetings of the Standards Committee which will only be used if they are required; the need to hold these meetings is dependent on the content of the Localism Bill;
- Four Licensing Committee dates (in June, September, December and March) have also been included on the timetable for the first time;
- Two District/Parishes Conference meetings to be scheduled each year.

1.2 Members are asked to note that the dates of some of the meetings scheduled for January through to May 2011 and published on the 2010/11 timetable have been moved. The timetable attached at Appendix A will therefore supersede the previously agreed dates.

1.3 At the 23 September 2010 Full Council meeting two motions relating to the Committee System were put forward. It was agreed that these motions would be put to the Governance and Audit Committee to take forward. Pending the introduction of the necessary legislation and the outcome of the Governance and Audit discussions it might be necessary to amend the Council's Governance Structure and subsequently the timetable of meetings.

1.4 The timetable of meetings might also need to be amended once the Medium Term Financial Strategy for 2011/12 is agreed in March 2011.

1.5 The following amendments have been made to the Timetable of Meetings for 2010/11 (Appendix A):

- Following discussion with the Chairman of the Committee it has been agreed that the Eastern Area Planning meeting scheduled for the 12 January 2011 will be cancelled.
- Following discussion with the Chairman of the Committee it has been agreed that the Western Area Planning meeting scheduled for the 29 December 2010 will be cancelled.

- At the request of the Leader the District Parish Conference meeting scheduled for the 26 January 2011 has been moved to the 03 February 2011.
- The Standards Committee Meeting previously scheduled for the 08 November 2010 has been moved to the 24 January 2011.

2. Proposals

- 2.1 It is recommended that the schedule for the 2011/12 Municipal Year and the amendments to the 2010/11 schedule be approved.

3. Conclusion

- 3.1 The schedule has been widely consulted on and is recommended for approval.

Appendices

Appendix A – Revised 2010/11 Municipal Year Timetable of Meetings (January to April 2011)

Appendix B - 2011/12 Municipal Year Timetable of Meetings

Consultees

Local Stakeholders: Not consulted

Officers Consulted: Licensing Officers, Planning Officers, Monitoring Officer, Heads of Service, Policy and Communication including the Group Executives, Accountants, Health and Safety Team, Corporate Board

Trade Union: N/A

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West Berkshire Council – Timetable of Meetings 2011/12

	MAY 11	JUN 11	JUL 11	AUG 11	SEP 11	OCT 11	NOV 11	DEC 11	JAN 12	FEB 12	MAR 12	APR 12	MAY 12														
Mon				1																							
Tues				2	OSMC			1	OSMC				1														
Weds		1	E	3	E			2		1	W		2	E													
Thur		2	CON		4		1	3		1	LD/CON		2														
Fri		3		1	5		2		4	2			3														
Sat		4		2	6		3		5	3			4														
Sun	1	5	3	7	4		2		6	4		1	5														
Mon	2	6	SSC	4	8		5	G&A	3	SSC	7		5	LIC	2	6		5		2		7					
Tues	3	7	GSC	5	HSC	9	6	LIC	4	HSC	8		6	C	3		7		6		3		8				
Weds	4	8	ASC/D	6	W	10	ASC/D	7	W	5	E	9	ASC/W	7	E	4		8	ASC/E	7	DPC	4	W	9	ASC		
Thur	5	Election	9	OSMC	7	CON	11		8	X	6		10	CON	8	WBP/RM	5	CON	9	X	8		5		10	C	
Fri	6		10		8		12		9		7		11		9		6		10		9		6		11		
Sat	7		11		9		13		10		8		12		10		7		11		10		7		12		
Sun	8		12		10		14		11		9		13		11		8		12		11		8		13		
Mon	9	CON/LD	13	CPP	11		15		12	RM	10		14		12	CPP	9	SSC	13		12		9		14		
Tues	10		14		12		16		13		11	SCSC	15		13		10	OSMC	14		13		10		15		
Weds	11		15	W	13	ASC/E	17	W	14	ASC/E	12	ASC/D	16	E	14	ASC/D	11	ASC	15	D	14	ASC/W	11	ASC/E	16	W	
Thur	12		16	X	14	SCSC	18		15	WBP/CON/LD	13	CON	17		15	X	12		16	LD/CON	15	WBP/GSC	12		17	X	
Fri	13		17		15		19		16		14		18		16		13		17		16		13		18		
Sat	14		18		16		20		17		15		19		17		14		18		17		14		19		
Sun	15		19		17		21		18		16		20		18		15		19		18		15		20		
Mon	16		20	STDS	18		22		19	CPP	17		21	G&A	19		16		20	G&A	19		16		21		
Tues	17	C	21	RM	19		23		20	OSMC	18	DPC	22		20		17	HSC	21	OSMC	20	LIC	17	OSMC	22	E	
Weds	18		22	ASC/E	20	D	24	ASC/E	21	D	19	W	23	ASC/D	21	E/W	18	E/W	22	ASC/W	21	E	18	D	23	ASC	
Thur	19		23	WBP	21	X	25	LD	22	C	20	X	24	LD	22		19	SCSC	23		22	LD/CON	19	SCSC	24	CON	
Fri	20		24		22		26		23		21		25		23		20		24		23		20		25		
Sat	21		25		23		27		24		22		26		24		21		25		24		21		26		
Sun	22		26		24		28		25		23		27		25		22		26		25		22		27		
Mon	23	ARE	27	G&A	25		29		26		24		28	STDS	26		23		27	RM	26	G&A	23	G&A	28		
Tues	24	X	28	OSMC	26		30		27	GSC	25		29	GSC	27		24		28		27	HSC	24		29	OSMC	
Weds	25	ASC/E/W	29	LIC	27	ASC/W	31		28	ASC/W	26	ASC/E	30	W	28		25	ASC/D	29	E	28	ASC/D	25	ASC/W	30	D	
Thur	26		30	LD	28	LD			29	G&A	27	LD			29		26	LD		29	X	27	LD/CON	31	LD		
Fri	27				29				30		28				30		27				30		27				
Sat	28				30						29				31		28				31		28				
Sun	29				31						30						29						29				
Mon	30								31								30						30	SSC			
Tues	31																31										

C Council	GSC Greener Select Committee	W Western Area Planning Cttee	CON Conservative Group Meeting
X Executive	HSC Healthier Select Committee	E Eastern Area Planning Cttee	LD Liberal Democrat Group Meeting
G&A Governance and Audit Committee	RM Resource Management Select Committee	D District Planning Committee	1 Bank Holiday
OSMC Overview & Scrutiny Management Commission	SSC Safer Select Committee	WBP West Berkshire Partnership Board	School Holiday
ASC Assessment Sub-Committee	SCSC Stronger Communities Select Committee	DPC District/Parish Conference	
STDS Standards Committee			

Public Meetings: All meetings are open to the public, with the exception of: Conservative & Lib Dem Group Meetings.

Meeting Times: All meetings commence at 6.30pm, with the exception of: Council starts at 7.00pm, West Berkshire Partnership Board starts at 2.00pm

Venues: All meetings are held at the Council Offices, Market Street, Newbury with the exception of: Eastern Area Planning Committee is usually held at the Calcot Centre, Highview; West Berkshire Partnership Board to be confirmed.

ARE	= Annual Recognition Event
CPP	= Corporate Parent Panel
MB	= Management Board
Pol	= Policy Meeting
SM	= Conservative Strategy Meeting

Questions to Council and Executive: Questions must be submitted by 10.00am seven clear working days before the meeting.
District Planning: All stated dates are provisional subject to requirement.

Title of Report:	Appointment of a Designated Scrutiny Officer
Report to be considered by:	Council
Date of Meeting:	09 December 2010
Forward Plan Ref:	C2164

Purpose of Report:	To advise Members of the statutory requirement to appoint a designated Scrutiny Officer.
Recommended Action:	To appoint the Scrutiny and Partnerships Manager as West Berkshire Council's designated Scrutiny Officer.
Reason for decision to be taken:	Statutory Requirement. See Local Democracy, Economic Development and Construction Act 2009.
Other options considered:	None – It is a statutory requirement
Key background documentation:	Local Democracy, Economic Development and Construction Act 2009 Local Authorities (Overview and Scrutiny) Bill.

The proposals will also help achieve the following Council Plan Themes:	
<input checked="" type="checkbox"/>	CPT12 - Including Everyone
<input checked="" type="checkbox"/>	CPT14 - Effective People
<input checked="" type="checkbox"/>	CPT15 - Putting Customers First
<input checked="" type="checkbox"/>	CPT16 - Excellent Performance Management

Portfolio Member Details	
Name & Telephone No.:	Councillor Graham Jones - Tel (01235) 762744
E-mail Address:	gjones@westberks.gov.uk
Date Portfolio Member agreed report:	12 October 2010

Contact Officer Details	
Name:	Rob Alexander
Job Title:	Policy Officer (Executive Support)
Tel. No.:	01635 503042
E-mail Address:	ralexander@westberks.gov.uk

Implications

Policy:	The Constitution will require amending to reflect the appointment of the Council's Statutory Scrutiny Officer.
Financial:	None
Personnel:	N/A
Legal/Procurement:	To ensure compliance with the Local Democracy, Economic Development and Construction Act 2009 as well as the Local Authorities (Overview and Scrutiny) Bill, and further guidance from Central Government.
Property:	N/A
Risk Management:	N/A
Equalities Impact Assessment:	EIA completed, not needed to progress past stage 1.
Corporate Board's Recommendation:	Corporate Board approved the recommendation of the Scrutiny and Partnerships Manager to be appointed the designated Scrutiny Officer.

Is this item subject to call-in?	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"/>
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 Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

Executive Report

1. Introduction

- 1.1 The purpose of the report is to give information and seek a response on the appointment of a designated Scrutiny Officer, as required by the Local Democracy, Economic Development and Construction Act 2009.
- 1.2 The report outline the post holder's statutory duties, the restrictions on appointment to the post and the options available, before finally proposing an appointment.

2. The Statutory Requirement

2.1 Section 31 of the Local Democracy, Economic Development and Construction Act (2009) inserts a new section into the Local Government Act 2000 requiring local authorities, with the exception of District Councils in areas where there is a County Council, to designate one of their officers as a Scrutiny Officer to support the work of the Authority's Overview and Scrutiny Committee(s).

2.2 The statutory duties of the Scrutiny Officer are to:

- promote the role of the Authority's Overview and Scrutiny Committee(s);
- provide support to the Authority's Overview and Scrutiny Committee(s) and the members of those Committee(s);
- provide support and guidance to:
 - Members of the Council
 - Members of the Executive of the Council; and
 - Officers of the Council.

in relation to the functions of the Council's Overview and Scrutiny Committee(s).

2.3 The Council may not designate any of the following officers as the Scrutiny Officer:

- The Head of Paid Service;
- The Monitoring Officer;
- The Head of Finance.

3. Options

3.1 Examining other Local Authorities actions in the establishment of this role, there are two options as to who to appoint to the role of Scrutiny Officer in West Berkshire, these are:

- The Head of Policy & Communication.
- The Scrutiny and Partnerships Manager.

3.2 There appears to have been an even split amongst Local Authorities as to who to appoint as the designated Scrutiny Officer, however it is important to consider the

statutory duties, whilst also ensuring the Scrutiny Officer is successfully line managed, but also able to be held to account for their actions.

- 3.3 The Scrutiny and Partnerships Manager's current role includes the management of the Council's Overview and Scrutiny function, and the provision of advice and support to Members of the Council, the Executive, officers and partner organisations in relation to the delivery of this function.
- 3.4 It may also be worth noting that there is nothing in the legislation which prevents a Principal/Senior Officer from fulfilling this role.

4. Proposal

- 4.1 In view of the similarities between the role of the Scrutiny and Partnerships Manager and the statutory duties of the Scrutiny Officer it is proposed that the Scrutiny and Partnerships Manager be appointed as the Council's Designated Scrutiny Officer.

5. Recommendations

- 5.1 Council designates the Scrutiny and Partnerships Manager as the Council's Scrutiny Officer in accordance with the Local Democracy, Economic Development and Construction Act 2009.

Appendices

There are no appendices to this report.

Consultees

Local Stakeholders: N/A

Officers Consulted: Corporate Board, Andy Day, David Lowe

Trade Union: N/A

Title of Report:	Amendments to the Constitution - Scheme of Delegation
Report to be considered by:	Council
Date of Meeting:	9 December 2010
Forward Plan Ref:	C1886

Purpose of Report:	To review and amend sections of the Scheme of Delegation.
Recommended Action:	To approve the recommended actions and where necessary produce clarity on the Scheme.
Reason for decision to be taken:	To align the functions following the recent Senior Management Review and to make amendments in line with changes in legislation.
Other options considered:	None – Constitution must be updated
Key background documentation:	none

The proposals will also help achieve the following Council Plan Theme(s):	
<input checked="" type="checkbox"/>	CPT12 - Including Everyone
<input checked="" type="checkbox"/>	CPT15 - Putting Customers First
<input checked="" type="checkbox"/>	CPT16 - Excellent Performance Management
The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by: Ensuring that the Constitution is up to date.	

Portfolio Member Details	
Name & Telephone No.:	Councillor Graham Jones
E-mail Address:	gjones@westberks.gov.uk
Date Portfolio Member agreed report:	12 November 2010

Contact Officer Details	
Name:	Andy Day
Job Title:	Head of Policy and Communication
Tel. No.:	01635 509459
E-mail Address:	aday@westberks.gov.uk

Implications

Policy: Will require changes to the Constitution
Financial: None – will be undertaken within existing resources.
Personnel: None
Legal/Procurement: Will require the Constitution to be updated
Property: None
Risk Management: None
Equalities Impact Assessment: Stage one EIA completed
Corporate Board's Recommendation: Were supportive of the amendments

Is this item subject to call-in?	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"/>
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 Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 All Directors and Heads of Service have been asked to advise of any changes they require to the Scheme of Delegation to ensure that the Council's constitution is as up to date as possible. The attached appendix lists all of the proposed changes for Council to consider.

2. Proposals

- 2.1 It is proposed that the revised Scheme of Delegation be approved.

3. Conclusion

- 3.1 The report is a required update, due to the changes in service areas names and job roles and changes to legislation.

Appendices

Appendix A – Revised Scheme of Delegation

Consultees

Local Stakeholders: Not applicable

Officers Consulted: All Heads of Service, Corporate Board

Trade Union: Not applicable

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Part 3

Scheme of Delegation

Document Control

Document Ref:	WB/P&C/MF/2008-11	Date Created:	April 2007
Version:	2	Date Modified:	December 2008
Revision due			
Author:	Moira Fraser – Democratic Services Manager		
Owning Service	Policy and Communication		

Change History

Version	Date	Description	Change ID
1	Dec 2008	Paragraph 3.15.1	
2	Dec 2010	Entire Document revised	
3			



Any Acts, Rules or Regulations mentioned in the text of this document can be accessed on the Office of Public Sector Information website at:

<http://www.opsi.gov.uk/legislation/uk>

If you require this information in a different format, such as audio tape or in another language, please ask an English speaker to contact Moira Fraser on 01635 519045 who will be able to help.

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3.1 Delegation of Functions

3.1.1 Introduction

This section of the Constitution summarises which part of the decision-making process is responsible for which function. Further detail is set out in the Officer Delegation Rules shown in Part 3.2 of this Constitution.

The aim is to show which functions are the responsibility of the Council, the Area Planning Committees, Licensing Committee/Sub-Committee, the Standards Committee and the Staff Appointments Panel and which are the responsibility of the Executive. This section also clarifies which functions are the responsibility of the Executive to a specified extent.

The allocation of functions follows the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, and as subsequently amended, referred to in the tables that follow as 'The Function Regulations'.

The information is set out in tabular form as follows:

Table 1 – Responsibility for Local Choice Functions

Table 2 – Council Functions

Table 3 – Licensing Authority Functions

Table 4 – Executive Functions

3.1.2 Table 1- Responsibility for Local Choice Functions

Function	Decision-Making Body	Membership	Delegation of Function
Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Regulations 2000	Executive	Executive Leader plus 9 other Members	Some highway-related functions under the Berkshire Act 1986 are delegated to the Head of Highways and Transport or other Heads of Service, depending on the function concerned. See Officer Delegation Rules.
The determination of an appeal against any decision made by or on behalf of the Authority	Council (Client and Appeals Panel)	Dependent on nature of appeal: Home/ School Transport = 3 Members Housing/Council Tax Benefit = 3 Members Housing/Homelessness = 3 Members	These functions will not be further delegated.

Function	Decision-Making Body	Membership	Delegation of Function
The appointment of Review Boards under regulations under Subsection (4) of Section 34 (Determination of Claims and Reviews) of the Social Security Act 1998	Council	All Members	These functions will not be further delegated.
The making of arrangements pursuant to Sub-section (1) of Section 67 of, and Schedule 18 to, the 1998 Act (Appeals against the Exclusion of Pupils)	Council (Client and Appeals Panel)	3 or 5 independent Members	These functions will not be further delegated.
The making of arrangements pursuant to Section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (Admissions Appeals)	Council (Client and Appeals Panel)	3 or 5 independent Members	These functions will not be further delegated.
The making of arrangements pursuant to Section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom Section 87 applies: appeals by Governing Bodies)	Council (Client and Appeals Panel)	3 or 5 independent Members	These functions will not be further delegated.
The making of arrangements under Section 20 (Questions on Police Matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a Police Authority	Council	All Members	These functions will not be further delegated.
The making of appointments under paragraphs 2 to 4 (Appointment of Members by Relevant Councils) of Schedule 2 (Police Authorities established under Section 3) to the Police Act 1996	Council	All Members	These functions will not be further delegated.
Any function related to contaminated land	Licensing Committee	14 Members	Functions delegated to the Head of Property and Public Protection, in accordance with Officer Delegation Rules
The discharge of any	Licensing	14 Members	Functions delegated to

Function	Decision-Making Body	Membership	Delegation of Function
function relating to control of pollution or the management of air quality	Committee		the Head of Property and Public Protection, in accordance with Officer Delegation Rules
The serving of an Abatement Notice in respect of a statutory nuisance	Licensing Committee	14 Members	Functions delegated to the Head of Property and Public Protection, in accordance with Officer Delegation Rules
The passing of a resolution to which Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area	Licensing Committee	14 Members	Functions delegated to the Head of Property and Public Protection, in accordance with Officer Delegation Rules
The inspection of the Authority's area to detect any statutory nuisance	Licensing Committee	14 Members	Functions delegated to the Head of Property and Public Protection, in accordance with Officer Delegation Rules
The investigation of any complaint as to the existence of a statutory nuisance	Licensing Committee	14 Members	Functions delegated to the Head of Property and Public Protection, in accordance with Officer Delegation Rules
The obtaining of information under Section 330 of the Town and Country Planning Act 1990	District/Area Planning Committees	12 Members	Functions delegated to Head of Legal and Electoral Services in accordance with Officer Delegation Rules
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	District/Area Planning Committees	12 Members	Functions delegated to Head of Legal and Electoral Services in accordance with Officer Delegation Rules
The making of agreements for the execution of highway works	District/Area Planning Committees	12 Members	Functions delegated to Head of Highways and Transport in accordance with Officer Delegation Rules
The appointment of any individual: a) to any office other than an office in which he/she is employed by the Authority; b) to any other body	Executive (for major and district-wide appointments) Individual Decision Scheme (for	Executive Leader plus 9 other Members Members of the relevant Wards	These functions will not be delegated further.

Function	Decision-Making Body	Membership	Delegation of Function
than: i) the Authority; ii) a Joint Committee or Sub-Committee of two or more Authorities; or c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment	local appointments)		
The making of agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities	Executive	Executive Leader plus 9 other Members	Function delegated to Chief Executive where an emergency situation exists

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

Functions	Committee	Membership	Delegation of Functions
Functions relating to elections	Council	All Members	Some of these functions are delegated to the Returning Officer as set out in the Officer Delegation Rules
Functions relating to the name and status of areas and individuals	Council	All Members	These functions will not be further delegated
Power to make, amend, revoke or re-enact bylaws	Council	All Members	These functions will not be further delegated
Power to promote or approve local or personal Bills	Council	All Members	These functions will not be further delegated
Functions relating to pensions, etc	Council	All Members	These functions will not be further delegated
Miscellaneous functions. Duty to approve Authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be)	Council	All Members	These functions will not be further delegated

Functions	Committee	Membership	Delegation of Functions
Duty to make arrangements for proper administration of financial affairs, etc.	Council	All Members	Function delegated to Section 151 Officer as set out in the Officer Delegation Rules
Power to amend the Council's Constitution	Council	All Members	These functions will not be further delegated, except for minor amendments to the procedure for dealing with licensing applications (Rule 7.14) which may be agreed by the Licensing Committee
Power to appoint Officers for particular purposes (appointment of 'Proper Officers')	Council	All Members	These functions will not be further delegated
Duty to designate an Officer as the Head of the Authority's Paid Service and to provide staff	Council	All Members	These functions will not be further delegated
Duty to designate an Officer as the Monitoring Officer, and to provide staff	Council	All Members	These functions will not be further delegated
Power to make Standing Orders as to contracts	Council	All Members	Function delegated to the Head of Finance and to the Head of Legal and Electoral Services as set out in the Officer Delegation Rules
Power to make payments or provide other benefits in cases of maladministration, etc.	Council	All Members	This function is delegated to the appropriate Head of Service for payments / benefits up to the value of £2,500
Functions relating to Town and Country Planning and Development Control	District/Area Planning Committees	12 Members	Functions are delegated to the appropriate Area Planning Committee (Eastern and Western). Where their proposed resolutions are deemed by the Development Control Manager to have a significant impact on the implementation of the policies and proposals in the Local Development Plan/Local

Functions	Committee	Membership	Delegation of Functions
			Development Framework, these will be referred to the District Planning Committee. Some matters will be decided by the Head of Planning and Countryside in consultation with the Head of Legal and Electoral Services as set out in the Officer Delegation Rules
Powers relating to the Planning and Compulsory Purchase Act 2004	Area Planning Committees	12 Members	Functions delegated to the Head of Property and Public Protection as set out in the Officer Delegation Rules
Licensing and registration functions	Licensing Committee	14 Members	Functions delegated to the Head of Property and Public Protection as set out in the Officer Delegation Rules
Power to make closing order in respect of take-away shops	Licensing Committee	14 Members	Functions delegated to the Head of Property and Public Protection as set out in the Officer Delegation Rules
Functions relating to health and safety (except those relating to the Council as an employer)	Licensing Committee	14 Members	Functions delegated to the Chief Executive and / or the Head of Property and Public Protection as set out in the Officer Delegation Rules
Duty to keep register of information in respect of maps, statements and declarations	Area Planning Committees	12 Members	Functions delegated to the Head of Legal and Electoral Services as set out in the Officer Delegation Rules Functions delegated to the Head of Planning and Countryside as set out in the Officer Delegation of Rules.
Duty to keep definitive maps and statement under review	Area Planning Committees	12 Members	Functions delegated to the Head of Planning and Countryside as set out in the Officer Delegation Rules
Powers relating to the	Area Planning	12 Members	Functions delegated to

Functions	Committee	Membership	Delegation of Functions
preservation of important hedgerows	Committees	Members for the relevant Wards	the Head of Planning and Countryside as set out in the Officer Delegation Rules
Functions relating to public rights of way	Individual Decision Scheme	Members for the relevant Wards	Functions delegated to the Heads of Planning and Countryside in consultation with Head of Legal and Electoral Services as set out in the Officer Delegation Rules
Powers relating to the preservation of trees	Area Planning Committees	Members for the relevant Wards	Functions delegated to Head of Planning and Countryside as set out in the Officer Delegation Rules
Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Staff Appointments Panel	Panel of at least 3 Members, including at least 1 Member of the Executive	Appointments below Head of Service level are delegated to the Chief Executive or his/her appointee
As set out in Article 9 of this Constitution	Standards Committee	Councillors (only one of whom may be a Member of the Executive) Independent Members Member of a Parish Council wholly in the Council's area who will be selected annually	These functions will not be further delegated

3.1.4 Table 3 - Summary of Licensing Authority functions in accordance with the Licensing Act 2003 (except where delegated below)

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for a Premises Licence (Section 18(3))		If a representation is made	If no representation is made
Application for a Personal Licence (Section 120(7))		If a representation is made	If no representation is made
Application for a Personal Licence with		All cases	

Matter to be dealt with	Full Committee	Sub-Committee	Officers
unspent convictions			
Application for Premises Licence/Club Premises Certificate (Section 18(3) and 72(3))		If a representation is made	If no representation is made
Application for provisional statement (Section 31(3))		If a representation is made	If no representation is made
Application to vary Premises Licence/Club Premises Certificate (Sections 35(3) and 85(3))		If a representation is made	If no representation is made
Application to vary designated Personal Licence (Section 39(3))	If Police representation is made	If Police representation is made	All other cases
Request to be removed as a designated Personal Licence holder			All cases
Application for transfer of Premises Licence (Section 44(5))	If Police representation is made	If Police representation is made	All other cases
Application for interim Authorities (Section 48(3))	If Police representation is made	If Police representation is made	All other cases
Application to review Premises Licences/Club Premises Licence (Sections 52(2) or (3) and 88(2) or (3))		All cases	
Decision on whether a complaint is irrelevant, frivolous or vexatious			Officer in consultation with the Chairman and Vice-Chairman of the Licensing Committee or other appropriate appointed Members for this purpose.
Decision to object when Local Authority is a consultee and not the lead Authority			All cases
Determination of a Police representation to a temporary event notice (Section 105(2))		All cases	
Rights of Entry to investigate Licensable activities (Section 179)			Licensing Officers

3.1.5 Table 4 - Summary of Executive Functions

Responsibility	Member-ship	Delegation of Functions	Onward limits on delegations
Executive	Executive Leader plus 9 Members	The formulation, review and monitoring of the Budget and Policy Framework, including consultation with relevant Select Committees, members of the public and interested parties, and the submission of recommendations for amending the Budget and Policy Framework of the Council	This function will not be delegated
Executive	Executive Leader plus 9 Members	<p>The implementation of the approved Budget and Policy Framework, except in relation to those functions set out in Tables 1 and 2 of Part 3 of this Constitution which are shown as the responsibility of the Council or its Committees.</p> <p>This will include the management, control and supervision of :</p> <ul style="list-style-type: none"> measures to promote the economic, environmental and social wellbeing of the District the development and review of plans and strategies to support the Council's Budget and Policy Framework and statutory responsibilities the Council's own financial and property resources Revenue Services and Benefits administration Support Services Library and Information Services Education Services and the promotion of Lifelong Learning Social Services and Health Environmental Services including planning, 	<p>Functions will be delegated to the Chief Executive, Corporate Directors and Heads of Service in accordance with the Officer Delegation Rules</p> <p>Functions delegated to the Head of Paid Service (Chief Executive in accordance with Officer Delegation Rules and in consultation with Members of the Joint Consultative Panel)</p>

Responsibility	Member-ship	Delegation of Functions	Onward limits on delegations
		countryside, public protection and highway services	
Executive	Executive Leader plus 9 Members	Representing the Council and the District to the public, other organisations and agencies, both within the District and at a regional / national level	This function will, in part, be delegated to the Chief Executive under Officer Delegation Rules

3.2 Officers' Scheme of Delegation

3.2.1 Scope of Scheme

This Scheme sets out the extent to which the powers and duties of the Council shall be delegated to Officers. It encompasses both existing legislation and any future re-enactment or addition to it.

The Scheme operates under Sections 101 and 151 of the Local Government Act 1972 and all other powers under which the Council exercises its functions.

The Scheme places an obligation on Officers to keep Members properly informed of action arising within the scope of these delegations.

For the purposes of Section 101 of the Local Government Act 1972 the Council may authorise an Officer of the Authority to commission and monitor work for and on behalf of the Council by people who are not Officers of the Authority. Such people will be bound by this Scheme and the obligations contained in it at all times when they are engaged on Council business.

The term "Officer" means any Employee/Manager/Director employed by West Berkshire Council.

3.2.2 Consultation

In exercising delegated powers, Officers shall consult other Officers as appropriate and shall have regard to any advice given. Consultation in areas of financial, legal, personnel and property will be of paramount importance which includes the Council's strategic partners.

Officers shall liaise closely with the Executive on executive functions and the Chairmen of the Area Planning Committees and District Planning Committee or Chairman of the Licensing Committee on regulatory functions and Group spokesmen before exercising delegated powers in relation to any matter which is likely to be regarded as politically sensitive or contentious.

Officers shall inform the local Ward Member(s) when they exercise any delegated powers affecting their Ward and when the matter is likely to be regarded as politically sensitive or contentious.

It shall always be open to an Officer to consult the Executive, the Area Planning Committees, the Licensing Committee or the Leader before the exercise of delegated powers; or not to exercise delegated powers but to

refer the matter to the Executive, the District Planning Committee the Area Planning Committees or to Council for decision.

3.2.3 Conditions of Delegation

By this Scheme, and subject to the limitations and reservations contained in it:

- (a) Council authorises the Officers identified personally to exercise the powers specified herein; and
- (b) powers delegated to Directors and Heads of Service may be exercised by any other duly authorised Officer on their behalf.

If any case where the Officer given general authorisation to act considers that a new departure in policy is likely to be involved or if the implications are such that he/she considers, after consulting the Chief Executive, that reference should be made to Members, the matter shall be referred to the Executive or the Area Planning Committees for consideration.

Exercise of delegated powers by Sub-Committees or Officers does not, by virtue of Section 101(4) Local Government Act 1972, prevent the Executive the Council or its Committees from exercising those functions or powers.

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

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

3.2.4 Overall Limitations

(a) Matters not Delegated

The Scheme does not delegate to Officers any matter:

- reserved to full Council by Standing Orders;
- reserved to the Executive or a Committee by the Scheme;
- withdrawn from delegation by the Scheme; and
- which may not by law be delegated to an Officer.

(b) General Requirements

Any exercise of delegated powers shall comply with:

- any statutory restrictions;
- Rules of Procedure as contained in Parts 5-12 of the Constitution;
- Contract and Financial Rules of Procedure;
- Policies and Plans approved by full Council, the Executive or the Council's committees;
- Codes and Protocols; and
- The Members' and Officers' Code of Conduct.

(c) **Exercising Delegated Powers**

In exercising delegated powers, Officers shall have regard to any report by the Head of the Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or Section 66 of the Local Government Act 2000 or of the Officer designated under Section 114 of the Local Government Finance Act 1988.

(d) **Financial Powers**

Any decision taken under this Scheme must be made within the approved Revenue and Capital Budgets, subject to any discretion allowed by the Financial Rules of Procedure.

Acceptance of quotations and tenders must be in accordance with the Contract Rules of Procedure.

(e) **Legal Powers**

Officers are authorised to appear, institute proceedings prosecute and defend on behalf of the Council proceedings before a Magistrates' Court, County Court or similar tribunal in the first instance where the matters fall within the remit of their service unit. Officers are not authorised to exercise any of the powers delegated under this paragraph of any other legal proceedings (such powers being reserved to the Head of Legal and Electoral Services).

3.3 General Delegation to Corporate Directors/Heads of Service

3.3.1 Equipment

- Purchase of vehicles, plant and equipment for which expenditure has been approved subject to any policy for standardisation.
- Hire of plant as may be necessary for special works subject to inclusion of costs of hire within the approved estimates of the works.
- Disposal of surplus plant equipment and materials.

3.3.2 Legal Matters

- Service of requisitions for information as to ownership of any property under statutory powers.
- Signature of licenses, notices etc.
- Authority to apply for planning permission in respect of small projects and minor modifications to projects subject to a report on the action taken being submitted to the Executive.
- To grant, renew, refuse or cancel any authorisation that may be required under the Provisions of the Regulation of Investigatory Powers Act 2000 insofar as it affects their service area. This function may be delegated to third tier Officers but may not be delegated further.

3.3.3 Human Resources

- To agree temporary posts provided costs are contained within service staffing budgets (in accordance with West Berkshire Council's Conditions of Service).
- Advertisement of staff vacancies within establishment (in accordance with the Council's recruitment procedures).
- To fill a post without advertisement (in consultation with the Service Head, Human Resources and appropriate Trade Unions).
- Appointment of staff to posts below second tier.
- Determination of starting point within grade.
- To sign job offers and/or contract of employment for:
 - Corporate Director appointments (by Chief Executive)
 - Heads of Service appointments (by Chief Executive or responsible Corporate Director)
 - Other employee appointments (Corporate Director, Head of Service or Officer delegated by one of these)
- To agree flexible contracts, including job share, homeworking and term-time working (in consultation with Corporate Director, Head of Human Resources and appropriate Trade Unions).
- Confirmation of appointments on completion of probationary period.
- Exercise of the discretion contained within the National Conditions for sick payment entitlements.
- Approval of car purchases and car leases in accordance with West Berkshire Council's Conditions of Service (in consultation with the Head of Finance).
- Extension of industrial accident pay (in consultation with the Head of Finance).
- Approval of application of West Berkshire Council Service Related Additional Payments Scheme (in consultation with the Head of Human Resources).
- Approval of variations to Council payment schemes (in consultation with the Head of Human Resources and where appropriate with employees representatives).
- To implement the Council's disciplinary and grievance procedures in accordance with West Berkshire Council's Conditions of Service.
- To sign contracts for external employment services within approved budgets (with agreement of Corporate Director or Officer delegated by one of these).
- Authorising attendance of Officers at professional, administrative and educational meetings, conferences and courses.
- To determine new organisation structures below Head of Service level provided that:

- the changes do not affect more than 5 posts in any one restructuring;
 - there are no resultant redundancies;
 - the change is with the agreement of existing staff; and
 - the change can be contained within service budgets.
- To make ex-gratia payments in respect of claims not exceeding £1000 in respect of damage or injury resulting from the actions of clients looked after by the District Council both in relation to young people and adults. (See under Head of Policy and Communication for ex-gratia payments for maladministration.)
 - General organisation of services within policy laid down by Council.

3.3.4 Tenders/Contracts

- General supervision and progressing of contracts.
- Execution of work and invitation for and acceptance of tenders for recurring or non-recurring items provided for in the approved annual revenue estimates and estimates for the General Housing Repairs Fund, except items reserved by the Executive for further approval.
- Acceptance of tenders for demolition works approved by the Executive or Full Council.
- Acceptance, renewal and variation of maintenance contracts for installed equipment within the approved estimates.

3.3.5 Emergencies

If the Council needs to act urgently in any matter including, without limitation, complying with the Major Incident Plan or taking any action under new legislation of powers, the Chief Executive may authorise any action taken or expenditure occurred as necessary. A Corporate Director may act in the place of the Chief Executive where the Chief Executive is unwell, unobtainable or where there is no Chief Executive in post. The Chief Executive, or Corporate Director as appropriate, may delegate responsibility to a Head of Service or other nominated Officer where it is considered appropriate.

3.3.6 Delegation to Specific Directors

(a) Children and Young People

- To give consent to the marriage of a young person in care pursuant to Section 3 of the Marriage Act 1949 as amended by the Family Law Reform Act 1969.
- To exercise the powers of the Council under paragraph 20 of Schedule 2 of the Children Act 1989 in relation to the death of children looked after by local authorities.
- To inspect arrangements for the care of children accommodated in independent schools in accordance with Section 87 of the Children Act 1989.

- To exercise the functions of the Council under Part VII of the Children Act 1989 in relation to the provision of accommodation by voluntary organisations.
- To approve the registration of children's homes under Part VIII of the Children Act 1989 in accordance with the Children's Homes Regulations 1991.
- To agree Service Level Agreements/Joint Arrangements with other agencies in respect of the provision of joint leisure, cultural and information services
- To respond to and determine responses to recommendations made at any stage of the Social Services statutory complaints processes and other complaints procedures operated within Social Care Services, including application of financial redress, as considered appropriate by the Corporate Director or Head of Service, in consultation with the relevant Portfolio Member, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003) document, Financial Rules of Procedure, and where necessary, in consultation with the Monitoring Officer.

(b) **Community Services**

- To approve the registration of residential homes under Section 5 of the Registered Homes Act 1984 or any subsequent amending legislation.
- To approve the registration of residential homes under Section 5 of the Registered Homes Act 1984 or any subsequent amending legislation.
- In consultation with an authorised Officer of the appropriate Health Authority to approve the registration of nursing agencies under Section 2 of the Nurses Agencies Act 1957.
- To respond to and determine responses to recommendations made at any stage of the Social Services statutory complaints processes and other complaints procedures operated within Social Care Services, including application of financial redress, as considered appropriate by the Corporate Director or Head of Service, in consultation with the relevant Portfolio Member, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003), Revised in 2005. document, Financial Rules of Procedure, and where necessary, in consultation with the Monitoring Officer.
- To appoint Officers to act as Approved Mental Health Professionals under the Mental Health Act 2007.
- Caravan Act 1968
- Local Government and Housing Act 1989, Part VIII
- Housing Act 1985
- Housing Act 1996 - Parts VI and VII

- Housing Grants, Construction & Regeneration Act
- Housing Act 1988 – Part II
- Gypsy Sites
- Housing Act 1985
 - Determination of rents of new properties in line with rents of other Council properties.
 - All matters pertaining to rent collection and the recovery of arrears.
 - Service of Notices to secure possession where there are arrears of rent.
 - Service of Notice to Quit on tenants of Council dwellings. The Head of Housing and Performance can also undertake this function.
 - Allocation of pitches on Council owned caravan sites.
 - Applications for emergency housing accommodation from persons threatened with eviction.
 - Decisions on all matters relating to the Council's conditions of tenancy.
 - Assessing current and future need for affordable housing and demand for market housing
 - Homeless Persons.
- In relation to negotiations connected with S106 Contributions the following will apply:

Future Development Sites

The Head of Housing & Performance, in consultation with the Head of Planning & Country side, be given delegated authority to determine the mix of types of affordable housing (that is to say the ratio of shared ownership to rented or a financial contribution instead that is to be varied, based on individual site/community needs) to be provided on future development sites, in line with adopted planning policies, and that this process form part of any pre-application or general application negotiations undertaken as part of the development control function.

The Head of Housing & Performance be given delegated authority to determine the level of affordable housing financial contribution in line with current policy.

Sites with Existing Planning Permission

The Head of Housing & Performance be authorised to negotiate with developers variations in the mix of types of affordable housing specified in Section 106 Agreements to be provided on specified sites, following consultation with the Head of Legal and Electoral Services, the Head of Planning & Countryside, and in line with adopted planning policies.

Environment and Public Protection

Employment of Consultants to advise on specialist aspects of Building Control, in consultation with appropriate Head of Service.

Employment of Consultants to advise on specialist aspects of planning applications, consultations, inquiries or appeals, in consultation with appropriate Heads of Services.

Integrated Waste Management Contract

The Corporate Director, Environment, or in his absence the Head of Countryside and Waste Management, in consultation with Members and Officers, as set out in the pro-forma agreed at the Executive meeting on 11 March 2004, shall be given authority to make all decisions within this process, subject to the following which will be referred to the Executive or Council:

- The appointment of a preferred bidder and award of contract. These two key decisions will be taken by the Executive, the latter being referred to Council for the award of the Contract.
- Any decision taken under delegated powers will be recorded in writing on the agreed pro-forma. The pro-forma will provide an audit trail of decisions taken and of Member consultation. This will represent the consultation required under the Constitution. The Chair of the Select Committee will be involved in the case of an 'immediate' decision, which is not subject to call-in. This is in accordance with Procedure Rule 6.5.1.
- Financial limits are set in the Constitution, so no exercise of delegated authority may be taken outside the approved revenue and capital budgets.

The above delegation applies to decisions for the procurement of the new integrated waste management contract only. Outside waste issues outside the formal contract procurement process will continue to be considered by the Executive.

3.4 Schedule of Proper Officer Appointments

Function	Exercised by
The Chief Executive, or in his/her absence or being otherwise unable to act, the Corporate Directors, has been appointed the Proper Officer in relation to any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any Instrument made before 26th October 1972, to the Clerk of a Council or Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a	Chief Executive Corporate Directors

Function		Exercised by
reference to the Proper Officer of the Council.		
The following Officers have been appointed Proper Officer for the purposes of the under-mentioned provisions of the Local Government Act 1972:		
Sect	Function	Exercised by
83	Witness and receipt of declarations of acceptance of office	The Chief Executive or Head of Legal and Electoral Services
86	Declaration of a vacancy	Head of Legal and Electoral Services
84	Receipt of declarations of resignation of office	Head of Legal and Electoral Services
88(2)	Convening of meeting of Council to fill a casual vacancy in the office of Chairman	Head of Policy and Communication
89(1)(b)	Receipt of notice of casual vacancy from two local government electors	Head of Legal and Electoral Services
96(1)	Receipt of notices of pecuniary interests	Head of Policy and Communication
96(2)	Keeping a record of disclosures of pecuniary interest under Section 94 and of Notices under Section 96(1)	Head of Policy and Communication
151	Officers having responsibility for the administration of the Council's financial matters	Head of Finance
204(3)	Receipt of copy applications for licences under Schedule 2, Licensing Act 1964	Head of Legal and Electoral Services
210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to Proper Officers	Head of Legal and Electoral Service
212(1) & (2)	Proper Officer to act as local registrar for Land Charges Act 1925	Head of Legal and Electoral Services
225(1)	Proper Officer for the depositing with the Independent Adjudicator the list of politically restricted posts under Section 2(4) of the	Chief Executive

Sect	Function	Exercised by
	Local Government & Housing Act 1989	
225(1)	Deposit of Documents	Head of Legal and Electoral Service
228(3)	Accounts of 'any Proper Officer' to be open to inspection by any member of the authority	Head of Finance
229(5)	Certification of photographic copies of documents	Appropriate Director or Head of Services from which the document originates
234(1) & (2)	Authentication of documents	Appropriate Director or Head of Service from which the document originates
236(9)	To send copies of byelaws for Parish records	Head of Legal and Electoral Services
	To receive copies of byelaws and deposit them with public documents of parish or community	Head of Legal and Electoral Services
238	Certification of Byelaws	Head of Legal and Electoral Services
248	Keeping a Roll of Freeman	Head of Legal and Electoral Services
Sch. 12 Para 4(2)(b)	Signature of summonses to Council meetings	Head of Policy and Communication
	Schedule 12 Receipt of notices regarding Para 4(3) address to which summons to meetings is to be sent	Head of Policy and Communication
Sch. 14 Para 25(7)	Certification of resolutions under Para 25 of Schedule 14	Head of Planning and Countryside
Sch. 16 Para 28	Receipt on deposit of lists of protected buildings (Sections 146(6) and (7) of the Town & Country Planning Act 1990	Head of Planning and Countryside
Section 41 - Local Government (Miscellaneous Provisions) Act 1976: Certification of minutes and resolutions		Head of Policy and Communication
Representation of the People Act 1983 as follows:		

Sect	Function	Exercised by
Section 8 - Registration Officer and the Deputy Registration Officer under Section 8 of the Act		Head of Legal and Electoral Services
Section 35 - Returning Officer for elections		Head of Legal and Electoral Services
Local Government Act 1972:		
Section 115(2) - Receipt of money due from Officers		Head of Finance
Section 146 (1) (a) Declarations and certificates with and (b) regards to securities		Head of Finance
To ensure that the Council's policies on Data Protection and Freedom of Information are complied with.		Head of Policy and Communication
Any reference to any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any Instrument made before 26th October 1972, which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.		Chief Executive Corporate Directors
The provisions of Section 191 of the Local Government Act 1972 - Functions with respect of Ordnance Survey		Head of Planning
Any reference in any enactment passed before or during the 1971/72 session of Parliament, other than the Local Government Act 1972, or in any Instrument made before 26th October 1972, to the Public Health Inspector of a District or Borough Council which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.		Head of Property and Public Protection
For the purpose of: - Marriage Act 1949 - Registration Services Act 1953 - Local Registration Scheme		Head of Legal and Electoral Services with Elections and Registration Manager as deputy
Local Government Act 1972 as amended:		

Sect	Function	Exercised by
Section 100B(2)	Circulation of Reports and Agendas	Head of Policy and Communication
Section 100B(7)	Supply of Papers to the Press	
Section 100C(2)	Summaries of Minutes	
Section 100F	Members' Right to Papers	
Section 100d(1)(a) & Section 100D(5)(a)	Compilation of Lists Background Papers and Identification of Background papers.	
Designated Officer as 'Head of Paid Service' under the provisions of the Local Government and Housing Act 1989		Chief Executive
Designated Officer as 'Monitoring Officer' under the provisions of the Local Government and Housing Act 1989		Head of Legal and Electoral Services.
Signing and authorising all property valuations on behalf of the Council		Head of Finance
Carrying out the various statutory duties required under the Weights and Measures Acts 1963 and 1985 and/or any regulations or amendments made there-under on behalf of the Council.		The most senior qualified Trading Standards Officer as approved and appointed by the Head of Property and Public Protection
Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997.		Head of Finance (Section 151 Officer)
In the event of any Officers appointed as Proper Officer being absent or otherwise unable to act, the following Officers have been authorised to act as Proper Officers in their place:		
For the Chief Executive		Appropriate Corporate Director
For the Head of Legal and Electoral Services		Legal Services Manager /Elections & Registration Manager as appropriate
For the Head of Finance		Appropriate Corporate Director
Others		Appropriate Corporate Director

3.5 Head of Finance

3.5.1 Designation

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

3.5.2 Responsibility

The Head of Finance provides strategic support on commissioning to the Council.

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

3.5.3 Finance General

- Local Government Finance Act 1992 S17 and Local Government Finance Act 1988 Schedule 4A.
- The power to opt to tax certain properties for VAT purposes (in consultation with Head of Legal and Electoral Services).
- Determination of the appropriate rate of interest which may be charged, under Section 24 of the Health and Social Services and Social Security Adjudications Act 1983, on any sum charged on or secured over an interest in land under Section 22 of the Act (in consultation with the Corporate Director (Community Services.))
- Decisions to write off arrears in the case of bankruptcies and liquidations once the Council has proved the debt.
- Declaration of the Local Rate of Interest on Mortgage Advances on the basis that all mortgages are treated as if they are advances under the Housing Act 1985 and subject to decisions being reported to the Executive (in consultation with Head of Housing).
- Agreement as to reduction in rateable value.
- Investment of surplus funds.
- Writing off debts as irrecoverable up to an amount not exceeding £5,000 and exceeding £5,000 in cases where the debtor has been declared bankrupt.
- Rating (Disabled Persons) Act 1978: Section 2 - Granting of rebates to institutions.
- To make any necessary changes to the Constitution consequent upon amendments to the European thresholds on Procurement (see Rule 11.3.2).
- To accept terms and conditions attached to any Government grants (e.g. s31 grant for Major Schemes)

3.5.4 Loans and Borrowing

- Raising of loans in sterling to meet the capital requirements of the Council for such amounts and on such terms as are considered necessary.

- Borrowing in sterling from banks up to a prescribed limit by way of overdraft.
- Raising and repayment of temporary loans in sterling.

3.5.5 Valuation

- Service on Valuation Officer of Notice of Objection to any proposals for alteration of the Valuation List.
- Making proposals for the alteration of the Valuation List or for the inclusion of particular properties in the Valuation List.

3.5.6 Housing Benefits

- Housing Benefits General Regulations 1987 - Regulations 79 and 81. Council Tax Benefits (General Regulations 69-70).
- Housing Benefit Regulations 11 (Unsuitable Accommodation) 69(8) (Additional Amount of Benefit in Exceptional Cases), 20 (Benefit by Reference to Another Person's Income). Housing Benefits Regulations 61 (3)(4) (Exceptional Hardship Payments).

3.5.7 Local Government Finance Act 1988

- Sections 89, 91, 92, 97 and 98 - Establishment and Maintenance of Funds.
- Section 134 - Consultation with representatives of National Non-Domestic Ratepayers. (Exercised by the Chief Executive).
- Schedule 9 - Notifications to Valuation Officer.
- Section 41 Publication of Draft NNDR list.
- Sections 27, 73 and 77 - Supply of Information to Secretary of State.
- Sections 5, 95(1)-(3), 95(5)-(9), 97 and 107 - Statutory Calculations.

3.5.8 Council Tax (Administration and Enforcement) Regulations 1992

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

3.5.9 Council Tax (Administration and Enforcement) Regulations 1992 and Schedule 4 Local Government Finance Act 1992

- Representing the Council at all proceedings in connection with the collection of Council Tax.
- All Local Authority powers/duties contained within the Regulations.

3.5.10 Council Tax (Situation and Valuation of Dwellings) Regulations 1992

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

3.5.11 Council Tax (Reductions for Disabilities) Regulations 1992

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

3.5.12 Matters Relating to Children and Young Persons

- Where requested by the Head of Legal and Electoral Services, to take joint action to take out letters of administration with or without the will annexed for:
 - the estate of parents or any other person where there is a beneficial interest for children or young persons for whom the Council has parental rights under provisions of the Children Act 1989, or any other statutory provision affecting children and young persons;
 - the estates of children or young persons who die whilst in the care of the Council;
 - and to administer such estates in the manner directed by the appropriate probate registry.
- Jointly with the Head of Legal and Electoral Services to accept money or other gifts from third parties for and on behalf of children or young persons in care and to hold or convert such money or gifts on their behalf and to their benefit.
- Local Government Act 1972 Schedule 13 Paragraph 5 - Issue of money bills.

3.5.13 Local Government (Miscellaneous Provisions) Act 1976

- Section 30 – to forgo payment of advances of remuneration paid to deceased employees (in conjunction with the Head of Legal and Electoral Services).
- Section 40 – powers and duties relating to register kept of persons entitled to instruments relating to loans to a Local Authority.

3.5.14 Housing Act 1985

- Applications from tenants to carry out external or internal improvements or alterations to Council dwellings, subject to compliance with Building Regulations and Planning requirements.
- Applications for consent to transfer existing mortgages into joint names of Mortgagor and other members of the Mortgagor's family.
- Authority to write off amounts of up to £50 in respect of rent arrears.
- Implementation of Court Orders for Possession of Council houses. (Head of Legal and Electoral Services as instructed by Head of Finance)
- Institution of proceedings for possession of mortgaged houses. (Head of Legal and Electoral Services as instructed by Head of Finance in consultation with Head of Finance). Decision to 'buy back' Council houses under terms of pre-emption clause.

3.5.15 Property Matters

- Making proposals to the Valuation Office Rating List.
- Agreement to reductions affecting Council-owned property.

- An agreement of compulsory purchase and home loss payment claims up to £15,000.

3.5.16 Insurance

- All insurance arrangements and settlement of claims.

3.5.17 Human Resources

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

3.6 Head of Children's Services

3.6.1 General

- Within the provisions of the National Health Service and Community Care Act 1990, to arrange for the purchase and provision of appropriate care services to those persons assessed as having needs that fall within the Council's agreed priorities, subject always to appropriate Contract and Financial regulations, the approved policies and estimates of the Council and the proper identification of appropriate suppliers.
- To grant applications for and impose conditions of registration of childminding the day-care for young children under the relevant Part of the Children Act 1989.
- To make contributions towards the maintenance of children placed with a person as a result of a Special Guardianship Order in accordance with Regulation 13 of the Special Guardianship Regulations 2005
- To revise and cancel registration.
- To vary the conditions of registration.
- To set up arrangements for the hearing of representations and complaints in accordance with Section 26 of the Children Act 1989 and the National Health and Community Care Act 1996.
- To make provision for the accommodation of children in secure accommodation in accordance with Section 25 of the Children Act 1989.
- To approve and sign applications for passports for children and young persons in the care of the Council.
- To arrange for a child in care to live abroad subject to the approval of a Court in accordance with paragraph 19 of Schedule 2 of the Children Act 1989.
- To approve the applications of children and young persons in the care of the Council who wish to join HM Forces.
- To exercise the functions of the Council under Part VI of the Children Act 1989 in relation to the provision of accommodation for children in community homes.

- To arrange interest free loans to foster parents to provide accommodation for children and young people in care by extending their present homes or to purchase larger homes, the amount of the outstanding loan to be reduced by the way of a special allowance for as long as they care for foster children.
- To approve the institution of adoption proceedings by foster parents.
- To set up an adoption panel in accordance with Regulation 56 of the Adoption Agencies Regulations 1983 and to make such decisions and notifications as to the adoption of children as are specified in those regulations.
- To exercise the functions of the Council under Sections 85 and 86 of the Children Act 1989 in relation to the children accommodated by health and education authorities or in residential care homes or mental nursing homes.
- To assess the contributions to be paid towards board and lodging by working children in accordance with the currently agreed formulae, provided that the amount remaining for weekly personal pocket money and clothing allowance should not be less than the amount currently approved under the payment of foster care allowances.
- To waive charges or make additional allowances where the child has exceptional circumstances, such as apprenticeship and heavy travelling expenses.
- To increase the contribution of children in lodgings in appropriate circumstances in order to help to assimilate the heavier cost of lodging after leaving care.
- To approve request for young people in care to reside outside the UK for the purpose of training, work experience or work opportunities.

3.6.2 Support to Children and Families in their Own Home

- To exercise the powers of the Council under Section 7 of the Children Act 1989 to report to the Court on the welfare of children in private proceedings.
- To exercise any functions of the Council relating to Orders with respect to children in family proceedings under Part II of the Children Act 1989.
- To exercise the powers of the Council under Section 16 of the Children Act 1989 to provide advice, assistance and befriending under the terms of a Family Assistance Order.
- To exercise the functions of the Council under Section 17 and Part I of Schedule 2 of the Children Act 1989 to safeguard and promote the welfare of children in need including financial assistance within current budgetary limits.
- To guarantee to housing associations, district councils and private landlords, and to authorise the payment of any rent accruing due from tenants in those cases where the Council has asked the housing associations or private landlord to retain the tenants in their

houses whilst efforts are made by Council's Officers to rehabilitate them in cases coming within the provision of Section 17 of the Children Act 1989.

- Approve arrangements for the financial and other support of young people formerly looked after by the Council and by others under Section 24 of the Children Act 1989 within current budgetary limits.
- In accordance with procedures agreed in writing in advance, with the Head of Finance, to vary the assessment scale in respect of financial contribution by a parent or young person to any service provided by the Council under Part III of the child in question. (Note: The assessment scale is never varied but the amount that is paid is covered by the delegated power to waive charges see above.

3.6.3 Child Protection

- To exercise the functions of the Council in relation to the duty to make investigations as necessary to decide whether action should be taken to safeguard or promote the welfare of children in accordance with Section 47 of the Children Act 1989.
- To take such action as is necessary under Section 31 of the Children Act 1989 to bring a child or young person before a Court where there are grounds for bringing care proceedings.
- To present an application to a Court for the variation or discharge of any care order or supervision order in accordance with Section 39 of the Children Act 1989.
- To present an application to a Court for a Child Assessment Order, an Emergency Protection Order or a Recovery Order under Part V of the Children Act 1989.

3.6.4 Accommodation, Care, Fostering and Adoption

- To provide accommodation for children in need in pursuance of the Council's duty under Section 20 to 23 of the Children Act 1989.
- To exercise the functions of the Council to undertake parental responsibility for children who are the subject of Care Orders and to make arrangements for reasonable contact with parents and others in accordance with Sections 33 and 34 of the Children Act 1989.
- To allow children who are the subject of a care order to reside at home in accordance with Section 23 (5) of the Children Act 1989, subject to the Accommodation with Parents Regulations 1991.
- To make contributions towards the maintenance of children placed with a person as a result of a Residence Order in accordance with paragraph 15 of Schedule 1 of the Children Act 1989.
- To approve payment of the legal expenses of applicants for a Residence Order or other Section 8 Orders in respect of children in care to the extent that they are not met by Legal Aid Fund.
- To change the names of children who are the subject of a care order in favour of the Council, subject to the requirements of Section 33 of the Children Act 1989.

- To appoint an independent visitor for a child where appropriate in accordance with paragraph 17 of Schedule 2 of the Children Act 1989.
- To guarantee apprenticeship and similar deeds under paragraph 18 of Schedule 2 of the Children Act 1989.
- To approve the payment of the legal expense of prospective adoptive parents for children who are being placed for adoption by the Council as an Adoption Agency.
- To grant allowances to persons who have adopted children in accordance with Section 57 of the Adoption Act 1976 and regulations which may be issued by the Secretary of State.
- To take in such action as may be necessary to implement the payment of the various foster care allowances for the time being approved by the Council within current budgetary limits, and in consultation with the Head of Finance, to increase the allowances annually in accordance with the scales recommended by the National Foster Care Association.
- To sanction payment of the cost of the initial clothing and equipment required by children looked after by the Council who are placed in boarding schools and other establishments within current budgetary limits.
- To approve applications to go on school expeditions, including expeditions abroad, of children looked after by the Council including expenditure on equipment and pocket money within the current budgetary limits.
- To make payments within limits set by the appropriate Corporate Director from time to time to promote contact between parents and children looked after by the Council in accordance with paragraph 16 of Schedule 2 of the Children Act 1989.
- To exercise the powers of the Council under Part III of Schedule 2 of the Children Act 1989 relating to contributions towards the maintenance of children looked after by local authorities.
- To exercise the powers conferred on the Council under Part IX of the Children Act 1989 in respect of arrangements for the care of privately fostered children.
- To make decisions to exempt persons from the usual fostering limit in accordance with paragraph 4 of Schedule 7 of the Children Act 1989.
- To act as receiver in all matters in which it is appropriate for an Officer of the Council so to act.
- To accept a guardianship application and to make an order for discharge of patients subject to guardianship under the Mental Health Act 1983.

3.6.5 Home Care Services: Financial Matters

- In accordance with procedures approved in advance by the Head of Finance to waive the assessment charges for any services to clients

in circumstances where it is essential for the family for social and/or medical reasons and to record every case requiring such action in a register to be provided for this purpose.

- In accordance with procedures agreed in writing in advance, with the Head of Finance, to vary or waive the charges for any service provided by the Council under Part III of the Children Act 1989 and Community Care legislation where failure to do so would adversely affect the welfare of the child/ or adult in question.

3.7 Head of Adult Services

3.7.1 Residential and Nursing Home Accommodation

- To authorise and approve the maintenance costs for the admission of any person to any residential or nursing home accommodation.

3.7.2 Disability

- To authorise the following facilities for any registered disabled person, within the approved budget and within approved policies:
 - attendance at a centre providing appropriate development opportunities;
 - the provision of special facilities;
 - minor alterations and adaptations to premises including the installation of appropriate equipment, the works to be supervised by the appropriate professional staff;
 - contribute, where assessed as appropriate, to the cost of adaptations to premises where the client is not eligible for a grant.
- Within the approved policies and estimates of the Council to discharge the duties towards people with disabilities imposed upon the Council by the National Assistance Act 1948, and the Chronically Sick and Disabled persons (Services Consultation and Representation) Act 1986.
- To act as receiver in all matters in which it is appropriate for an Officer of the Council so to act in relation to people with disabilities.
- To accept a guardianship application and to make an order for discharge of patients subject to guardianship under the Mental Health Act 2007.
- To exercise the functions of the nearest relative under the powers contained in the Mental Health Act 2007 in all matters in which it is appropriate for an Officer of the Council so to act.

3.7.3 Home Care Services: Financial Matters

- In accordance with procedures approved in advance by the Head of Finance to waive the assessment charges for any services to clients in circumstances where it is essential for the family for social and/or medical reasons and to record every case requiring such action in a register to be provided for this purpose.

- In accordance with procedures agreed in writing in advance, with the Head of Finance, to vary or waive the charges for any service provided by the Council under Part III of the Children Act 1989 and Community Care legislation where failure to do so would adversely affect the welfare of the child/ or adult in question.
- Within the provisions of the National Health Service and Community Care Act 1990, to arrange for the purchase and provision of appropriate care services to those persons assessed as having needs that fall within the Council's agreed priorities, subject always to appropriate Contract and Financial regulations, the approved policies and estimates of the Council and the proper identification of appropriate suppliers.
- To set up arrangements for the hearing of representations and complaints in accordance with Section 26 of the Children Act 1989 and the National Health and Community Care Act 1996.

3.7.4 Carers

- Within the approved policies and estimates of the Council to discharge the powers and duties towards carers imposed upon the Council by the Carers (Recognition and Services) Act 1995.

3.8 Head of Housing & Performance

3.8.1 Housing Act 2004

- To develop and implement strategies to bring empty homes back into use, including the use of empty Dwelling Management Orders
- To make use of planning and housing powers to address poor housing

3.8.2 Housing Grants, Construction & Regeneration Act 1996,

- To give grants and loans for the repair / improvement of housing in accordance with national guidance and locally published policies.
- To award mandatory, and where appropriate discretionary, Disabled Facilities Grants for the purpose of aids and adaptations for eligible people, in accordance with national guidance and local published policies.
- To act as a Director of the Flexible Homes Improvement Limited, on behalf of west Berkshire Council, for the purpose of administering loans for the repair / improvement of housing within the Flexible Home Improvement Loans sub-region

3.8.3 Local Government and Housing Act 1989, Part VIII

- To offer grants for the improvement and/or repair of housing.
- To determine applications for Housing Association Grant with regard to the purchase of properties in the second-hand market for occupation by homeless families in accordance with the special

homelessness initiative subject to the contribution on any one unit not exceeding £50,000.

- Determination of application for individual DIYSO Housing Association Grant.
- Implementing rent reviews in accordance with valuers' instructions.

3.8.4 Housing Act 1988 – Part I

- Housing Associations.
- Carry out repairs to units of temporary accommodation in accordance with Housing Sub-Committee Minute 39 (03.02.98).
- Action under Section 157 of the Housing Act 1985 re: Repurchase of ex-Council House Stock on Rural Areas.

3.8.5 Gypsy Sites

- To commission professional services in relation to gypsy sites under the Caravan Sites Act 1988.
- To undertake an assessment of the accommodation needs of Gypsies and travelers residing in or resorting to the district and to prepare a strategy in respect of meeting those needs, in accordance with the Housing act 2004
- To apply annual increases to charges on gypsy sites in line with the rent increases applied by West Berkshire Council managing the site to its own tenants.
- Housing Act 1996 (as amended by the Homelessness Act 2002)
- To publish an allocations scheme and develop policies to offer choice to applicants in the allocation of housing
-
- Home Energy and Conservation Act 1995
- To promote energy efficient homes including administering grants for energy efficiency

3.9 Head of Policy and Communication

3.9.1 General

Power under Section 92 of the Local Government Act 2000 to direct the appropriate Corporate Director or Head of Service in consultation with the relevant Portfolio Member, to make ex-gratia payments up to £2,500 or to provide other benefits to remedy complaints, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003) document, and Financial Rules of Procedure, and where necessary in consultation with the Monitoring Officer.

3.9.2 Local Government Act 1972

- Section 225(1) – to receive and retain documents deposited.
- Schedule 12 Paragraph 4(2)(a) – to publish the time and place, within five clear working days, of the Council meeting.

- Schedule 12 Paragraph 4(2)(b) – to sign the summons to attend the Council meeting
- Schedule 12 Paragraph 4(3) – to receive notices regarding addresses to which summons to meetings are to be sent.
- Schedule 14 Paragraph 25(7) – to certify copies of resolutions for the purposes of legal proceedings.

3.10 Head of Cultural Services

3.10.1 General

- Local Government (Miscellaneous Provisions) Act 1982, Section 41 - Action considered appropriate in relation to property found in buildings or premises administered by Cultural Services.
- Letting of recreation facilities and premises (also Head of Planning and Countryside).
- Admission and exclusion of public to recreation facilities and premises (also Head of Planning and Countryside).
- Acquisition of items under Museum acquisition scheme.
- Administer Archive Service on behalf of all six Unitary Authorities in Berkshire.
- To manage the Cultural and Information Service and Arts and Heritage Services in conformity with the Public Libraries and Museums Act 1964, as amended, and the Local Government and Housing Act 1989 and the policies of the Council.
- To manage and promote the Community Information Service on behalf of the Council.
- Section 38 – Use of spare capacity of computers of Local Authorities.
- To manage public libraries in conformity with the Public Libraries and Museums Act 1964 (as amended) and the Local Government and Housing Act 1989 and the policies of the Council.

3.11 Head of Highways and Transport

3.11.1 Agreements

- To enter into agreements with other public authorities for the provision of services and the recoupment of charges.
- To enter into agreements relating to placing etc of certain apparatus in or under a highway pursuant to the New Roads and Street Works Act 1991.
- To enter into agreements providing for contributions by developers towards the cost of highway improvements, transportation schemes, or other development to be carried out by the Council.

3.11.2 Transport

- West Berkshire Council is a designated body for the issuing of Section 19 Bus Permits in accordance with the Transport Act 1985 and changes introduced by the Local Transport Act 2008
- To make payments towards the provision of cross boundary public transport services which are the subject of service subsidy agreements entered into by adjoining authorities and which serve the District.
- In consultation with the Head of Legal and Electoral Services to exercise the powers of the Council under Public Passenger Vehicle Act 1981 including the submission of objections to applications for the grant of the operator's licences under Section 14A.
- To exercise the power of the Council under Section 7 of the Transport Act 1985 to request the Traffic Commissioners to make, vary or revoke traffic regulations conditions affecting local services or to hold an inquiry prior to determination of such conditions.
- To enter into public transport service subsidy agreements under the provisions of the Transport Act 1985 where they are exempt from the tendering requirements in that Act.
- To lodge holding objections regarding proposals by operators for withdrawals of or alterations to rail services, or the fares and charges therefore, where it is anticipated that extra Council expenditure would result.
- To serve a 42 day Notice of Deregulation provided that such response is made within existing policy.
- To make objections to applications for Vehicle Operators Licences under Sections 12 to 14 of the Goods Vehicles (Licensing of Operators) Act 1995

3.11.3 Miscellaneous

- To agree contributions to regional water authorities' surface water drainage schemes calculated on the proportion of highway "run-off" to that from other areas, including related matters such as contributions towards the cost of cleansing village ponds, and to make payments to any minor drainage scheme of any type where he/she is satisfied that highways will benefit.
- To extinguish public rights of way (stop up) and dispose of land not exceeding 500sq m no longer required for highway purposes.
- In consultation with the Head of Legal and Electoral Services to accept dedications of land donated to the Council for highway purposes.
- To approve and protect development and improvement lines.
- To exercise the Council's powers in relation to cycle tracks under the Cycle Track Act 1984.
- To construct and/or light cycle tracks.

- To alter or remove any cycle tracks.
- To settle compensation claims in respect of drainage or sewerage schemes on behalf of the Council (in consultation with Head of Legal and Electoral Services).
- To take all necessary action to safeguard the interests of the Council in relation to applications by water undertakings for orders or schemes under the legislation operated by such undertakings.
- In the exercise of the functions of the Council as Highway Authority, to advise on the highway aspects of development control.
- To demolish property acquired for road schemes in advance of requirements subject always to due regard to planning considerations or consent as appropriate.
- To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
- To erect traffic signs and to arrange wayleaves for their erection on private property.
- To adopt streets constructed to specification.
- To plan and carry out highway improvements not requiring planning permission subject to consultation with the appropriate Executive Member and Ward Members. If the purchase of land is necessary then delegated authority (for land up to the value of £300,000) from the Head of Legal Services will be required.
- To fix contributions to private street works and charges apportioned in flank and rear frontages in accordance with the Council's approved policy.
- To apply for planning permission for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992.
- To approve and licence (including charging any appropriate fees for doing so):
 - the placing of structures within highway limits;
 - the laying maintenance and inspection of pipes, cables or other lines over or under highways;
 - the erection of stiles, gates or cattle grids and enforcement and maintenance of stiles and gates under Sections 146 and 147 of the Highways Act 1980;
 - arrangements for motor vehicles and cycle trails;
 - the construction of a building over any part of a highway.
- To exercise the Council's powers including the giving of formal notices:
 - to prohibit horses, cattle or vehicles entering on ornamental gardens within the highway;
 - to pipe or culvert and fill up roadside ditches;

- to require the execution of works to prevent soil or refuse from land from falling or being washed on to a street;
- to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof;
 - to exercise the Council's powers and duties under Part III of the New Roads and Street Works Act 1991 (other than the institution of legal proceedings);
 - to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
 - to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
 - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.
- To carry out:
 - minor temporary repairs in private streets required to remove danger to persons or vehicles;
 - emergency works of any kind whether or not provision has been made in the estimates, where justified in his/her opinion (and that of the Head of Legal and Electoral Services), by the scale of the potential legal liability.
- To respond to consultations from the Department for Transport, and others pursuant to Sections 247, 248, 251 and 253 of the Town and Country Planning Act 1990.
- Selection of sites for street seats.
- Approval of requests for street closures in accordance with Section 21 of the Town Police Closures Act 1847.
- Approval of applications for permission to hold events in Council car parks (in consultation with Head of Finance).
- Approval of requests to waive car parking charges in the period leading up to Christmas.
- To implement highway maintenance and improvement works in accordance with approved budgets and to agreed service standards in accordance with the Highways Act 1980.

3.11.4 Road Traffic Regulations Act 1984

- To exercise powers under Sections 14(1) and 16(a) for works and events (respectively) on the public highway.
- To post temporary notices for traffic management under Section 14(2).
- Where a Committee, the Executive or Council have already approved in principle an experimental traffic order to exercise powers under the Act to advertise that order and subsequently implement it provided

no objections are received. Where an order is implemented, the Ward Members will be advised.

- Where a Committee, the Executive or Council have already approved in principle any traffic order (for speed limits, prohibitions of movement, weight limits, etc.) to exercise powers under the Act to advertise that order and subsequently implement it provided no objections are received. Where an order is implemented, the Ward Members will be advised.

3.11.5 Berkshire Act 1986

- Section 4 - to recover expenses reasonably incurred in fencing or lighting a source of danger or obstruction to persons or vehicles using a highway from the owner or other person responsible for the danger or obstruction.
- Section 5 - to specify modifications to plans sections and particulars submitted by a landowner in support of a private street works scheme.
- Section 8 - to affix to any building or structure in or having a frontage to or construction over any road in the District a traffic sign or any apparatus required for illumination forming part of any sign.

3.11.6 Highways Act 1980

- Section 38 - For the construction and dedication of new streets to standards laid down by the Highway Authority.
- Section 41 – To exercise powers in respect of the duty to maintain highways.
- Sections 64 and 69 - Provision of planting within the highway by the Local Authority (in consultation with Head of Planning and Countryside).
- Sections 64 and 96 - To enter into agreements for the maintenance and planting of land within highways limits and to authorise other authorities.
- Section 65 - To exercise the Council's powers under this Section of the Act.
- Section 100 - To exercise powers relating to highway drainage.
- Section 132 - To exercise powers relating to unauthorised markings on highways.
- Section 134 - To grant extensions to the statutory periods of reinstatement of footpaths and bridleways.
- Sections 141 and 142 - Determination of applications for licences to plant on the public highway and removal of unauthorised planting (in consultation with Head of Planning and Countryside).
- Section 144 - To exercise powers relating to the erection or consent to erection of flagpoles, pylons or structures on highways for the purpose of displaying decorations.

- Section 154 - To exercise powers relating to the service of notices requiring the cutting or felling of trees etc. that overhang or are a danger to roads or footpaths.
- Sections 165 and 166 - Serving of Notices in respect of dangerous forecourts and land adjacent to the public highway.
- Section 169 - To exercise powers relating to the control of scaffolding or other structure on or over the highway.
- Section 170 - To exercise powers relating to the control of mixing mortars, cement or other bound materials on the highway.
- Section 171 - To exercise powers relating to the control of deposits of building materials or excavations within the highway.
- To issue licences and fix and collect fees in relation to the following matters governed by the Highways Act 1980:
 - Mixing of Mortar - Section 170;
 - Construction of bridges - Section 176;
 - Placing of rails, beams etc on highways - Section 178;
 - Construction of cellars under streets -Section 179;
 - Control of openings into cellars etc under streets and pavement lights and ventilators - Section 180.
- Section 184 - To exercise powers relating to the service of notices that the Council proposes to construct a vehicle crossing over the footway.
- Section 219 - To exercise relating to the service of notices under the Advance Payments Code.
- Section 256 - To enter into agreements to exchange land to straighten or adjust boundaries.

3.11.7 Land Drainage Act 1991

- Section 14 – To exercise powers relating to drainage otherwise than in connection with a main river or the banks of such a river.
- Section 18 – To exercise powers relating to the drainage of small areas.
- Section 25 – To exercise powers to require works for maintaining the flow of a watercourse including serving of notices.

3.11.8 Environmental Protection Act 1990

- To exercise powers including serving of notices in respect of statutory nuisance relating to drainage under Sections 79 and 80.

3.11.9 Traffic Management Act 2004

- To act as the Traffic Manager in accordance with the requirements of the Traffic Management Act 2004.
- To exercise powers in relation to road and street works co-ordination and related matters.

3.11.10 Clean Neighbourhoods and Environment Act 2005

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

3.11.11 Other Powers –Consultation Provisions

- All consultations on Transport issues (with the exception of those deemed significant and requiring referral to the Executive/Select Committee) be delegated to the Head of Highways and Transport in consultation with the Leader, appropriate Portfolio Holder and Opposition Spokesperson.

3.12 Head of Legal and Electoral Services

3.12.1 General

- Institution and defence of any legal proceedings in the name of the Council.
- This role also manages corporate procurement activity and provides advice and support to the Council on procurement and the development and delivery of efficiency programmes.

3.12.2 Local Government Act 1972

- Section 229(5) - Certification of photographic copies of documents.
- Section 234(1) and (2) - Authorisation of documents.

3.12.3 Local Government (Miscellaneous Provisions) Act 1976:

- Section 29 - Application to High Court for repayment of monies paid into Court under Sub-Sections 76 or 85 Land Clauses Consolidation Act 1945 or Section 9 or Schedules 2 and 3 of the Compulsory Purchase Act 1965.

3.12.4 Miscellaneous

- To take all necessary steps to take out letters of administration with or without the will annexed either alone or jointly with the Head of Finance for:
 - the estates of parents or any other person where there is a beneficial interest for children or young persons for whom the Council has parental rights under provisions of the Children Act 1989, or any other statutory provision affecting children and young persons;
 - the estates of children or young persons who die whilst in the care of the Council;
 - and to administer such estates in the manner directed by the appropriate probate registry.
- To exercise the Council's powers to be a Trust Corporation.
- To act for all Trading Standards Officers authorised as Inspectors.
- To authorise the issue of official certificates of search of the Council's Land Charges Register.

3.12.5 Commons Registration

- To exercise the Council's powers and duties in relation to Commons and Towns and Village Greens.

3.12.6 Registration of Births, Deaths and Marriages

- To grant or refuse applications for the approval of premises under the Marriage Act 1949 (as amended) and the Marriage (Approved Premises) Regulations 1995 and to revoke any approval which has been granted.
- To determine, in consultation with the Head of Finance, and from time to time vary, the fees payable for the granting or refusal of applications for the approval of said premises.

3.12.7 Licences

- Following approval of applications by the Head of Planning and Countryside, to issue waste disposal site licences or management licences (including notices of modification) incorporating suitable conditions.
- To make objections to applications for Vehicle Operator's Licence under Sections 12 to 14 of the Goods Vehicles (Licensing of Operators) Act 1995.

3.12.8 Highways Act 1980

(All powers under this Act to be exercised in consultation with the Head of Highways and Transport.)

- To enter into Wayleave and Drainage easements
- To enter into public path creation agreements under Section 25 of the Highways Act 1980 except where a capital payment by the Council is involved.
- To enter into agreement under Section 38 of the Highways Act 1980 for the construction and dedication of new streets.
- Under the provisions of Section 135 of the Highways Act 1980 to make Orders to allow for excavation or other engineering operations reasonably necessary for the purpose of agriculture.
- To enter into highway maintenance agreements with adjacent Authorities in the interests of operational efficiency under Section 8 of the Highways Act 1980.

3.12.9 Notices and Orders

(All powers to be exercised in consultation with the Head of Highways and Transport or the Head of Planning and Countryside in respect of Public Rights of Way.)

- To exercise the Council's powers including the giving of formal notices:
 - to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;

- to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
- to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.
- - to serve notices in respect of obstructions and other nuisances and to take enforcement action as required.
- To make and confirm orders for the diversion or extinguishment of footpaths or bridleways proposed by the Head of Planning and Countryside.
- To make and confirm orders for the modification of the Definitive Map and Statement under Sections 53, 53B, 55, 57 and 57A Wildlife and Countryside Act 1981 as proposed by the Head of Planning and Countryside.
- To accept in respect of property blighted by approved schemes blight and purchase notices, and to serve counter notices of objections under the town and country planning and land compensation legislation, and to authorise payment on the execution of works to any person who appears to be entitled to the same under the legislation in force from time to time (in consultation with the appropriate Corporate Director or Head of Service).

3.12.10 Berkshire Act 1986

(All powers under this Act to be exercised in consultation with the Head of Highways and Transport).

- Pursuant to Section 7 of the Berkshire Act 1986, to make application to the County Court for an order vesting former highway land in the highway authority.
- Pursuant to Section 9 of the Berkshire Act 1986, to recover from the person responsible the cost of making good damage caused to a grass verge or footway of a highway by any person carrying on building operations or delivering goods to premises in the course of trade.

3.12.11 Road Traffic Regulation Act 1984

- To exercise the Council's powers under the Road Traffic Regulation Act 1984 to restrict or prohibit vehicular and pedestrian movements as necessary to facilitate the holding of a "relevant event" when it is considered that an order under the Town Police Clauses Act 1847 is inappropriate (in consultation with the Head of Highways and Transport).
- To advertise proposals to make orders for traffic management other than temporary orders under Section 14(1) of the Road Traffic Regulation Act 1984 as substituted by the Road Traffic (Temporary Restrictions) Act 1991 and to subsequently make the orders where no objections to those proposals are received.

- To make temporary orders for traffic management under Section 14(1) of the Road Traffic Regulation Act 1984 as substituted by the Road Traffic (Temporary Restrictions) Act 1991

3.12.12 Electoral Matters

- Designation of Polling Places (in consultation with Ward Members).

3.12.13 Town and Country Planning General Development Order 1998

- To exercise the Council's powers under the Town and Country Planning General (Development Management Procedure) England Order 2010, on the advice of the Head of Planning and Countryside, subject to the conditions below:
 - Article 4: the making, service and confirmation of directions restricting permitted development;
- The delegations relating to Article 4 Directions above shall be exercised subject to the following:
 - The action shall be taken after consultation with the Chairman of Planning and Development Committee and appropriate Ward Members, if available.
 - The action taken shall be reported to the next meeting of the appropriate Area Planning Committee.
 - In exercising these powers the Officers shall have regard to the urgency of the action which is required.
- Subject to circumstances, the Officers may report the matter to the appropriate Area Planning Committee for decision where it is prudent to do so.
- The creation of charges on property, in appropriate circumstances, in accordance with Section 22 of the Health and Social Services and Social Security Adjudications Act 1983 as amended (in consultation with the Corporate Director, Community Services).

3.12.14 Public Rights of Way

- To sign, on behalf of the Council, application requests for any direction and for any restriction to access to public open access land or related matters, in accordance with the Countryside and Rights of Way Act 2000.

3.12.15 Property Matters

- Agreements to easements and wayleaves to an unlimited value.
- Agreement to leases and licences up to a value of £100,000 per annum.
- Agreement to purchases and sales of land up to consideration of £300,000.
- The day-to-day management of the Council portfolio of land and buildings, including lease renewals, assignments and rent reviews,

subject to the concurrence of the appropriate Heads of Service and/or Corporate Director.

- Surrenders.
- Lifting of all restrictive covenants up to a value of £300,000.

3.13 Head of Planning and Countryside

3.13.1 Countryside including Rights of Way functions

- Management of Recreation Facilities where these are public open spaces.
- Admission and exclusion of public to recreation facilities and premises (also Head of Cultural Services).
- Letting of recreation facilities and premises (also Head of Cultural Services).
- To carry out powers in relation to The Hedgerow Regulations 1997.
- To grant a licence and associated consents for the annual Michaelmas Fair.
- To exercise powers in relation to the Clean Neighbourhoods and Environment Act 2005.
- To exercise the powers and duties of the Council (in consultation with the Head of Legal and Electoral Services), in relation to public rights of way, including the making and service of Notices and Orders, under the following primary legislation, and any secondary legislation made thereunder, including amendments or updates to the legislation.

Countryside Act 1968

Countryside and Rights of Way Act 2000

Criminal Damage Act 1971

Environmental Protection Act 1990

Highways Act 1980

Land Drainage Act 1991

Local Government (Miscellaneous Provisions Act) 1976

National Parks and Access to the Countryside Act 1949

Natural Environment and Rural Communities Act 2006

New Roads and Street Works Act 1991

Rights of Way Act 1990

Town and Country Planning Act 1990

Wildlife and Countryside Act 1981

- To enter into maintenance agreements in relation to Public Rights of Way, where appropriate, and in consultation with the Head of Legal and Electoral Services

- To approve and protect development and improvement lines.
- The exercise (in consultation with the Head of Legal and Electoral Services), of the common law duty to 'seek, prevent and remove obstructions' (Bagshaw vs Buxton Local Board of Health 1875).

3.13.2 Reservoirs Act

- To exercise the Council's powers and duties under the Reservoirs Act 1975.

3.13.3 Berkshire Act 1986

- Section 32 – To ensure access for the Fire Brigade in planning applications.
- Section 33 – To ensure the provision of means of escape from fire in certain buildings.
- Section 35 – To ensure adequate fire and safety precautions in public buildings.
- Section 36 – To ensure adequate safety precautions in relation to vehicle parking in buildings.
- Section 37 – To ensure adequate fire precautions in storage buildings over 7,000m³.
- Section 38 – To ensure adequate fire precautions in high buildings.

3.13.4 Planning

- Subject to the conditions set out below, the determination, granting or refusal of applications for permission, approval or consent relating to developments and works.
- Subject to the conditions set out below, the approval or refusal of items reserved or conditioned by any permission, approval or consent.
- Subject to the conditions set out below, the determination of applications for advertisement consent.
- In respect of applications determined by the District Planning Committee or relevant Area Planning Committees and subject to the conditions set out below and consultation with the Ward Members, the acceptance of minor amendments to schemes already permitted, approved or consented to.
- Subject to the conditions set out below, the giving of observations on consultations and enquiries received from service or government departments, local authorities and other bodies relating to minor development. The issue of approvals or the making of formal observations concurring with other local authorities, Crown bodies or government departments where they accord with Council policy.
- Prior to determination of submitted application, the acceptance of amendments to submitted application for permission approval or consent.

Conditions

- The delegations set out above shall be exercised subject to the following:
- The Area Planning Committees shall reserve the authority to determine any type or class of application.
- The Council may modify or revoke the scheme of delegation at any time.
- An application may be referred to the appropriate Area Planning Committee for determination by:
 - the relevant Area Planning Committee Chairman; or
 - a Member for the Ward to which the application relates;
 - a Member for a Ward adjoining the Ward to which the application relates.
 - The Head of Planning and Countryside or the Development Control Manager
- Members who wish to ‘call-in’ an item to be discussed at an Area Planning Committee will be required to complete the agreed proforma which must be submitted either in hard copy by letter or fax or electronic copy via e-mail. The consent of the Chairman of the appropriate Area Planning Committee, or if unavailable, the Vice-Chairman, is required.

(Note: If the Chairman or, if unavailable, the Vice-Chairman, does not give consent then the application will not be referred to a Planning Committee.)

The Officers will refer for determination to the appropriate Area Committee any application, including:

- those submitted by, or on behalf of West Berkshire Council, or where the land in question is owned by the Council if there are five or more objections or if the application is a major one;
- those submitted by or on behalf of a member of staff of Planning, where the Head of Planning and Countryside considers it appropriate;
- those submitted by or on behalf of a West Berkshire Council Member, if there are five or more objections or if the application is a major one;
- those recommended for approval, for which a petition of objection has been received of at least 20 signatories;
- those recommended for approval, for which at least 10 letters of objection have been received;
- those applications not considered prudent by the Development Control Manager to be determined under delegated authority.

Prior to determination of submitted applications, the acceptance of amendments to submitted applications for permission, approval or consent.

3.13.5 Town and Country Planning Act 1990

Subject to the conditions below, to exercise the following powers:

- Section 64 - Determination of applications as to whether Planning Permission is required.
- Sections 137 to 144 - Response to Purchase Notices.
- Section 171(c) to (d) – The serving and enforcement of Planning Contravention Notices.
- Sections 172 to 182 - The issuing, service and enforcement of Enforcement Notices including action in default when required.
- Sections 183 to 187 - The service and enforcement of Stop Notices.
- Section 187(a) – The service and enforcement of Breach of Condition Notices.
- Section 187(b) – Injunctions restraining breaches of planning conditions.
- Sections 191 to 194 - The issue of Lawful Use or Development Certificates.
- Section 198 – 213 - The making and enforcement of Tree Preservation Orders and the determination of applications for consent in respect of such Orders.
- Section 215-219 - The service of Notices in relation to untidy land and consequent action to secure compliance.
- Section 224(3) – Enforcement against breaches of Advertisement Regulations.
- To carry out powers in relation to Part VIII and Part X of the Town and Country Planning Act 1990.

3.13.6 Planning (Listed Buildings and Conservation Areas) Act 1990

Subject to the conditions below, the following powers:

- Section 3 - The service of Building Preservation Notices.
- Section 9 – Prosecution of unauthorised works to listed buildings.
- Section 38 - The issuing and service of Listed Building Enforcement Notices.
- Section 54 – The issuing and service of Urgent Works Notices and execution of works as contained in the Notice.
- Authority to sign Decision Notices regarding the granting or refusal of planning permissions, consents or approvals.
- Subject to the conditions set out below, authority to enter into Legal Agreements to secure planning gains or to secure the provision of mitigation where harm would otherwise result as a consequence of development

Conditions

The delegations set out above shall be exercised subject to the following:

- in cases where the terms of an Agreement are likely to be complex, the Ward Member(s) concerned be consulted prior to negotiations being finalised with developers;
 - in cases where an Agreement may have financial implications for a Parish Council, that Parish Council be consulted on the proposed terms of the Agreement;
 - a brief report on the proposed terms of any Agreement be submitted to the Ward Member(s) and Chairman of the relevant Area Planning Sub-Committee before the Agreement is completed, unless the proposed Agreement is in a standard format or in accordance with Supplementary Guidance.
- Authority to take Direct Action, under the Planning and Compensation Act 1991, to carry out works under an Enforcement Notice.
 - To request further information, evidence or plans under the provisions of Article 4 of the Town and Country Planning (Development Management Procedure) Order 1995 and Article 4 of the Town and Country Planning (Applications) Regulations 1998, and subsequent amendments, where details submitted with an application are considered inadequate or incomplete.
 - The issue of approvals or the making of formal observations concurring with other local authorities, Crown bodies or government departments, where they accord with Council policy.

3.13.7 Other Powers – Technical, Legal and Consultation Provisions

- To respond to requests under Regulation 5 of the Town and Country Planning (Environmental Impact Assessment (England and Wales)) Regulations 1999 for a view as to whether an environmental statement is considered necessary in connection with a particular development proposal and to establish the scope of any such assessment.
- To determine whether or not to issue an Article 4 Direction upon notification of a developer's intention to exercise any permission for mineral operations granted by virtue of the Town and Country Planning (General Permitted Development) Order 1995, as amended.
- To express the Council's view on planning applications in respect of former County Matters referred by local authorities outside the District for development which would not prejudice the Council's planning policies.
- All consultations on Planning issues (with the exception of those deemed significant and requiring referral to the Executive/Select Committee) be delegated to the Head of Planning and Countryside in

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

3.13.8 Minerals

- Consultations on Mineral Safeguarding Areas.
- Complying with the requirements of the Environmental Impact Assessment Regulations 1999:
 - Screening Opinions (Part II Section 5)
 - Scoping Opinions (Part IV Section 10)
 - Provision of information in respect of compilation of Environmental Statements notification of consultees of intention to compile an Environmental Statement and the need to supply information for this purpose. (Part IV Section 12). Also advertising.
- Responding to notifications under the General Permitted Development Order 1995:
 - mineral exploration (Part 22, Class B of Schedule 2);
 - the removal of material from mineral workings (Part 23, Class B and C of Part 19 of Schedule 2)
- Review of mineral planning applications under the Environment Act 1995:
 - deciding the dates by which applications for development must be made;
 - determining applications for postponement of the review date.
- Serving aftercare non-compliance notices in relation to permissions for mineral workings and waste disposal sites (in accordance with Schedule 5 of the Town and Country Planning Act 1990 and para. 69 of MPG7).
- Responding to adjoining local authorities on consultations on:
 - minerals and waste disposal consultations;
 - their minerals and waste plans.

3.13.9 Environmental Protection Act 1990 (as amended by Environment Act 1995)

- To consider and make representations on proposals referred to the Council by the Environment Agency on the issuing of Waste Management Licences.

3.13.10 The Building Act 1984

- Sections 1, 8 and 16 - Determination of applications for Building Regulation Consent; applications for dispensation from, or relaxation of, Building Regulation requirements.
- Section 10 - Advertisement of proposed dispensation.
- Section 15 – To consult the Fire Authority concerning dispensations.

- Section 18 – Building over/close to Thames Water sewers.
- Section 19 – Short-lived materials.
- Section 20 – Unsuitable materials.
- Section 21 – Provision of drainage.
- Section 24 – Fire exits.
- Section 25 – Water supply.
- Section 32 – Lapse of Building Regulations approval.
- Section 33 – Tests for conformity.
- Sections 35 and 36 - Prosecution of offences (and removal of offending work) under the Building Regulations.
- Sections 47-54 - Monitoring of building work supervised by approved inspectors.
- Section 57 - Prosecution of offences by approved inspectors.
- Section 71 - Exits and entrances to public buildings.
- Section 72 – Means of escape from certain high buildings.
- Section 73 – Raising of chimneys.
- Section 74 – Rooms below subsoil water level.
- Section 76 – Defective premises
- Sections 77 and 78 - Notices and action in respect of dangerous buildings and structures.
- Section 79 - Ruinous and dilapidated buildings and neglected sites.
- Section 80 – The power to prosecute in respect of failure to give notice of intention to demolish
- Section 81 - Notices in respect of demolition.
- Section 95 – Power to enter premises.
- Section 96 – Provisions as to entry.
- Section 107 – Recovery of expenses.
- Fix charges for Building Regulation Fees.

3.13.11 Local Government Miscellaneous Provisions Act 1976

- Section 16 – The serving of Requisition of Information Notices.
- Section 23 and 24: Authorisation of action and service of Notices to make trees safe and recovery of costs from owner or occupier.
- Section 25 and 26: Serving of Notices and subsequent action to provide protection to the public from dangerous excavations on private land to which the public has access.

3.13.12 Environmental Protection (Controls on Injurious Substances) Regulations 1993

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

3.13.13 Local Government (Miscellaneous Provisions) Act 1982

- Section 17 – Power of entry.
- Section 29 – Protection of buildings.

3.13.14 Clean Air Act 1993

- Section 16 – Height of chimneys.

3.13.15 The Building Regulations 2010

- Section 16 – Laying open uninspected work.

3.13.16 The Building (Local Authority Charges) Regulations 1998

- Section 3 – Fix charges for Building Regulation fees.

3.13.17 Wildlife Heritage Sites and Regionally Important Geological and Geomorphological Sites

- To make decisions on recommendations from the Berkshire Nature Conservation Forum in relation to the designation, re-designation or change to boundaries of Wildlife Heritage Sites and Regionally Important Geological and Geomorphological Sites in accordance with the Planning Policy Guidance Note No.9, in consultation with the Portfolio and Shadow Portfolio Holders.

3.13.18 Party Walls Act 1996

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

3.13.19 Planning and Compulsory Purchase Act 2004

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

3.13.20 The Building (Local Authority Charges) Regulations 2010 – scheme of charges.**3.13.21 Highways Act 1980 and Town and Country Planning Act 1990**

- To enter into agreements and make creation orders, where appropriate, and in consultation with ward members, for the creation of new public rights of way (Sections 25 and 26 of the Highways Act 1980 respectively)
- To extinguish rights of way, where appropriate, and in consultation with ward members (Sections 116 and 118 of the Highways Act 1980, Sections 257 and 261 of Town and Country Planning Act 1990)
- To divert public rights of way, where appropriate, and in agreement with ward members (Section 38 of the Highways Act 1980).

- To enter into maintenance agreements, where appropriate, and in consultation with ward members ((section 38 Highways Act 1980).

3.13.22 Wildlife and Countryside Act 1981

- To exercise powers and obligations under sections 53, 53B, 55,57 and 57A

3.13.23 General

- Management of Recreation Facilities where these are public open spaces.
- Admission and exclusion of public to recreation facilities and premises. (also Head of Cultural Services).
- Letting of recreation facilities and premises (also Head of Cultural Services).
- To carry out powers in relation to The Hedgerow Regulations 1997.
- To carry out powers in relation to Part VIII of the Town and Country Planning Act 1990.

3.13.24 Exercise of Powers under Legislation – Public Rights of Way

- In consultation with the Head of Legal and Electoral Services, the Head of Planning and Countryside shall be authorised to exercise the powers and duties of the Council, in relation to public rights of way, under the primary legislation, and any secondary legislation made thereunder, including amendments or updates to the legislation.
 - Clean Neighbourhoods and Environment Act 2005
 - Countryside Act 1968
 - Countryside and Rights of Way Act 2000
 - Criminal Damage Act 1971
 - Environmental protection Act 1990
 - Hedgerow Regulations 1997
 - Land Drainage Act 1991
 - Local Government (Miscellaneous Provision Act) 1976
 - National parks and Access to the Countryside Act 1949
 - National Environment and Rural Communities Act 2006
 - Rights of Way Act 1990
- The exercise of the common law duty to ‘seek, prevent and remove obstructions’ (Bagshaw vs Buxton Local Board of Health 1875).

3.13.25 Notices

- The Head of Planning & Countryside to be able to service Notices (in consultation with the Head of Legal and Electoral Services):

- to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
- to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
- to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.

3.13.26 Agreements relating to Public Rights of Way

- To enter into agreements with other public authorities for the provision of services and the recoupment of charges.
- To enter into agreements relating to placing etc of certain apparatus in or under a highway pursuant to the New Roads and Street Works Act 1991.
- To enter into agreements providing for contributions by developers towards the cost of highway improvements, transportation schemes, or other development to be carried out by the Council.

3.13.27 Miscellaneous relating to Public Rights of Way

- To extinguish public rights of way (stop up) and dispose of land not exceeding 500sq m no longer required for highway purposes.
- In consultation with the Head of Legal and Electoral Services to accept dedications of land donated to the Council for highway purposes.
- In the exercise of the functions of the Council as Highway Authority, to advise on the highway aspects of development control.
- To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
- To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
- To plan and carry out highway improvements not requiring planning permission subject to consultation with the appropriate Executive Member and Ward Members.
- To approve and licence (including charging any appropriate fees for doing so):
 - the placing of structures within highway limits;
 - the erection of stiles, gates or cattle grids and enforcement and maintenance of stiles and gates under Sections 146 and 147 of the Highways Act 1980;
 - arrangements for motor vehicles and cycle trails;
- To exercise the Council's powers including the giving of formal notices:
 - to pipe or culvert and fill up roadside ditches;
 - to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof;

- to require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
- to require the removal, lopping and cutting of trees or hedges overhanging or near to a highway;
- to take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof.
- To respond to consultations from the Department of Transport, Environment and the Regions and others pursuant to Sections 247, 248, 251 and 253 of the Town and Country Planning Act 1990.
- To implement highway maintenance and improvement works in accordance with approved budgets and to agreed service standards in accordance with the Highways Act 1980.

3.14 Head of Property and Public Protection

3.14.1 Exercise of Powers under Legislation

The Trading Standards Manager shall be authorised to enforce and administer the following primary legislation and any secondary legislation made thereunder and this includes any amendments to or updating of this legislation. This authorisation shall also apply to matters delegated to West Berkshire District Council by Wokingham Borough Council in the agreement of the 2nd June 2010:

Administration of Justice Act 1970

Agriculture (Miscellaneous Provisions) Act 1968

Agricultural Act 1970

Animal Health Act 1981

Animal Welfare Act 2006

Anti Social Behaviour Act 2003

Cancer Act 1933

Charities Act 1992

Children and Young Persons Act 1933

Children and Young Persons (Protection from Tobacco) Act 1991

Chiropractors Act 1994

Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005

Companies Act 2006

Consumer Credit Act 1974

Consumer Credit Act 2006

Consumer Protection Act 1987

Copyright Designs and Patents Act 1988

Courts and Legal Services Act 1990

Criminal Justice Act 1988
Customs & Excise (Management) Act 1979
Development of Tourism Act 1969
Education Reform Act 1988
Energy Act 1976
Energy Conservation Act 1981
Enterprise Act 2002
Environmental Protection Act 1990
Energy Act 1976
Estate Agents Act 1979
European Communities Act 1972
Explosives Act 1875
Explosives Act 1923
Fair Trading Act 1973
Farm and Garden Chemicals Act 1967
Fireworks Act 1951
Fireworks Act 2003
Food and Environment Protection Act 1985
Food Safety Act 1990
Forgery and Counterfeiting Act 1981
Fraud Act 2006
Hallmarking Act 1973
Health and Safety at Work etc. Act 1974
Intoxicating Substances (Supply) Act 1985
Knives Act 1997
Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1976
Local Government (Miscellaneous Provisions) Act 1982
Malicious Communications Act 1988
Medicines Act 1968
Motor Cycle Noise Act 1987
Motor Vehicles (Safety Equipment for Children) Act 1991
National Lotteries etc Act 1993
Olympic Symbols etc. (Protection) Act 1995
Osteopaths Act 1993
Performing Animals (Regulation) Act 1925

Poisons Act 1972
 Prices Acts 1974 and 1975
 Property Misdescriptions Act 1991
 Proceeds of Crime Act 2002*
 Protection from Harassment Act 1997
 Public Health Act 1936-1984
 Road Traffic Act 1988
 Road Traffic Act 1991
 Road Traffic (Foreign Vehicles) Act 1972
 Road Traffic Regulation Act 1984
 Scotch Whisky Act 1982
 Solicitors Act 1974
 Telecommunications Act 1984
 Theft Act 1968
 Theft Act 1978
 Timeshare Act 1992
 Tobacco Advertising and Promotion Act 2002
 Trade Descriptions Act 1968
 Trade Marks Act 1994
 Unsolicited Goods and Services Act 1971 and 1975
 Vehicles (Crime) Act 2001
 Video Recordings Act 1984
 Violent Crime Reduction Act 2006
 Weights and Measures &c Act 1976
 Weights and Measures Act 1985

* Note: Financial Investigators are authorised by a body delegated under the Proceeds of Crime Act

3.14.2 Clean Neighbourhoods and Environment Act 2005

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

3.14.3 Authorisation

The Head of Property and Public Protection shall be authorised:

- to authorise any other Officer to exercise any of the powers granted under this scheme where this is necessary for the exercise of their day to day duties;
- to appoint the Council's Chief Weights and Measures Inspector;
- to act as the Council's Proper Officer for the purposes of any enactment passed before or during the 1971/72 session of

Parliament other than the Local Government Act 1972 or in any other instrument made before 26th October 1972, which refers to the post of Public Health Inspector.

The Trading Standards Manager shall be authorised to:

- to appoint and authorise suitably qualified and competent Officers for the purpose of enforcement and administration of the legislation listed;
- to authorise appropriately-qualified Officers to institute legal proceedings necessary for the discharge of the Council's powers or duties and to respond to any appeal against the exercise of those powers or duties, subject to prior consultation with the Head of Legal and Electoral Services;

The Head of Property and Public Protection shall prepare and maintain law enforcement management procedures, which shall include a list of Authorised Officers and duties delegated to them, and ensure that all powers exercised under this Scheme are recorded and available for inspection.

(Note: This requirement shall not require the disclosure of any proceedings or other authorised investigation, in cases where, in the opinion of the Head of Service, such disclosure would undermine any investigation or legal proceedings brought or defended on behalf of the Council, or where such disclosure would prejudice the rights or interests of third parties.)

3.14.4 Waste Management

- To exercise the powers and duties conferred and imposed upon the Council by Part II of the Environmental Protection Act 1990, as amended by the Environment Act 1995 (prosecuting unauthorised or harmful deposit, treatment or disposal of waste).
- In consultation with the Head of Legal and Electoral Services to carry out all the powers and duties imposed on the Council by the Control of Pollution Amendment Act 1989 and the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 including:
 - the issuing of certificates of registration or renewal
 - the refusal of registration or its renewal
 - the revocation of a registration
 - the services of notice in order to trace the person using a vehicle involved in the illegal deposit of waste
 - the making of applications for a warrant to seize a vehicle
 - the seizure of a vehicle and its contents;
 - the disposal of a seized vehicle and its contents.

- To serve Notices under the Refuse Disposal (Amenity) Act 1978 and to deal with the disposal of abandoned vehicles.

3.14.5 General

- To grant a licence and associated consents for the annual Michaelmas Fair.

3.15 Head of Education Services

3.15.1 General

The Head of Education Services shall be authorised to exercise the powers and duties of the Council under the following primary legislation and any secondary legislation made there under and including any amending or updating to this legislation:-

Education Act 1962

Further Education Act 1985

Education Reform Act 1988

Further and Higher Education Act 1992

Education Act 1996

School Inspections Act 1996

Education Act 1997

School Standards and Framework Act 1998

Special Educational Needs and Disability Act 2001

Education Act 2002

Education Act 2005

Education and Inspections Act 2006

Education and Skills Act 2008

Apprenticeships, Skills, Children and Learning Act 2009

3.15.2 Admissions

- To consult annually with governing bodies about admission arrangements as required by Section 88 of the School Standards and Framework Act 1998.
- To keep Standard Numbers under review and to implement any necessary changes, where these are agreed by the governing body.
- To respond to any proposals from governing bodies to increase Standard Numbers.
- To set admission limits which exceed the Standard Number where this is considered appropriate.
- To administer arrangements for admissions to nursery schools and classes in accordance with policies agreed by the Local Education Authority.

- To administer arrangements for the admission of individual pupils to primary and secondary schools including designated areas and other relevant factors and to present the case on behalf of the Authority to admission appeal panels.

3.15.3 Attendance at School

- To ensure that appropriate transport arrangements are made in accordance with the Authority's policies.
- To authorise home to school transport outside existing policy, in exceptional circumstances.
- To exercise the powers and duties of the Authority in respect of children excluded from school and to make arrangements for the continuing education of pupils who are excluded or otherwise unable to attend school.
- To authorise any proceedings necessary to enforce legal action relating to the non-attendance of pupils at school, or education other than at school.
- To undertake the powers and duties of the Authority under Section 36 of the Children Act 1989 regarding Education Supervision Orders.
- To consult annually on admission arrangements prior to determination as required by Section 88(e) of the SSFA (School Standards and Framework Act) 1998.

3.15.4 Special Educational Needs

- To arrange for children to be assessed in accordance with the requirements of the Education Act 1996 to determine the special educational provision which should be made for them and to maintain and review statements of special educational need in accordance with any regulations concerning these.
- To represent the Authority at statutory appeal tribunals in connection with the assessment of special educational needs.
- To ensure that the requirements of any statutory Codes of Practice, or other regulations are complied with.
- To determine and authorise the payment of boarding awards, grants towards tuition fees and expenses at schools where fees are payable, major and further education awards, maintenance allowances and tuition fees for correspondence courses and requests for the refund of grants in accordance with the policy of the Council.
- To determine applications for assistance towards travelling expenses from further education students over the age of 21 who apply on grounds of hardship within the Council's approved scheme.
- To approve the payment of recoupment charges for pupils and students at out of District establishments.

3.15.5 School Term Dates

- In the case of the Local Education Authority (LEA), Voluntary Controlled and Special Schools, including residential schools, to determine school term dates after consultation with the Consultative Panel for Teachers.

3.15.6 Name of School

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

3.15.7 Curriculum

- In accordance with arrangements approved by the Secretary of State under Section 409 of the Education Act 1996, to investigate complaints concerning alleged failures of schools to comply with the LEA's curriculum policy statement and the National Curriculum, including the requirements for religious education and collective worship.
- To determine whether application should be made to the Secretary of State to direct that an LEA-maintained school be authorised to conduct curriculum experiments outside the National Curriculum.
- To provide on behalf of the Authority any information which the Secretary of State may by regulation require.

3.15.8 Staffing – in respect of Nursery Schools

- To advise the Governing Body and/or the Selection Panel as to the shortlisting of candidates for Headship in accordance with the provisions of the Education Act 1996.
- To make arrangements for all other staffing appointments, subject to the provision of the Articles of Government.
- Subject to the Articles of Government and the disciplinary procedures applicable in each specific case, to authorise disciplinary action as appropriate.
- To approve appointments for additional teaching staff and to grant special allowances within the scheme approved by the Council.
- To approve applications for leave of absence for teachers to attend courses exceeding three months.

3.15.9 Staffing – in respect of Primary, Secondary and Special Schools

- To appoint persons elected by Governing Bodies to fill vacant posts in schools, unless the person so recommended does not meet the staff qualification requirements applicable to the appointment.
- In the case of Aided Schools, to exercise any advisory rights relating to the appointment of Headteachers, Deputy Headteachers or other teaching or ancillary staff conferred by agreement or legislation.
- To nominate persons for consideration to fill vacancies in other teaching posts in schools where Governing Bodies have notified their intention to fill those vacancies.

- To appoint persons selected by Governing Bodies as their Clerks.
- To implement decisions of Governing Bodies of schools relating to the determination of potential dismissals and any subsequent appeals against such dismissals which are in the Authority's power to determine.

3.15.10 All Educational Establishments

- To exercise the powers of the Local Education Authority in respect of the Licensed Teacher Scheme.
- To exercise the powers and duties under the Education (School Teacher Appraisal) (England) Regulations 2000.

3.15.11 Finance

- To design and keep under review the Authority's Scheme of Delegation in accordance with the Authority's policies and any statutory requirements.
- To approve loans for any education project within the policy of the Council which provides for loans.
- To determine applications for financial assistance from staff in accordance with any schemes approved by the Council.
- Acceptance of tenders and authority to sign, or authorise the sealing of contracts, for works and/or services for schools funded other than by the Council (or where the funding is in whole or in part passported through the Council).

3.15.12 Provision of Information Concerning Individual Performance of Pupils

- In accordance with Section 537 of the Education Act 1996, to provide performance information as specified.
- In accordance with Section 38 of the Education Act 1997, to provide such information to the Chief Inspector as may be prescribed.

3.15.13 Governance

- Appointment of local education authority governors: in accordance with Section 19 of the Education Act 2002 and relevant regulations to appoint and dismiss local education authority governors.
- Training and support of governors: in accordance with Section 22 of the Education Act 2002, to provide information for governors and necessary training.

3.15.14 Miscellaneous

- To establish, alter or discontinue any LEA maintained school in accordance with the SSFA 1998.
- To approve instruments of Government for all LEA maintained schools in the District in the future and to review or vary such instruments of Government (including nursery schools) as may be required by the Governors or the LEA.

- To consider and determine a complaint (not falling within 3.15.7 above) made against a LEA maintained school following conclusion of the School's complaints procedures.
- To make provision for the day-care of pre-school children and provision for out-of-school and holiday care and activities as appropriate in accordance with the duties and powers of the Council under Section 18 of the Children Act 1989.

3.15.15 Post 16 Years - Education and Training provision

- To exercise the powers and duties of the Council under the Apprenticeships, Skills, Children and Learning Act 2009 acting in conjunction with the Head of Service (Adult Social Care) and/or the Head of Children's Services as and when appropriate

Agenda Item 18.

Title of Report:	Licensing Policy
Report to be considered by:	Council
Date of Meeting:	9 December 2010
Forward Plan Ref:	C2173

Purpose of Report: To consider the Statement of Licensing Policy for the next three years.

Recommended Action: To approve the policy.

Reason for decision to be taken: Required under Licensing Act 2003 section 5

Other options considered: None

Key background documentation: Licensing Act 2003 & Section 182 Guidance to the Act

The proposals contained in this report will help to achieve the following Council Plan Priority:

CPP3 – Reduce crime and the fear of crime

The proposals will also help achieve the following Council Plan Theme(s):

CPT2 - Thriving Town Centres

CPT7 - Safer and Stronger Communities

CPT11 - Protecting Vulnerable People

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	29 th October 2010

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Senior Licensing Officer
Tel. No.:	01635 519209
E-mail Address:	bleahy@westberks.gov.uk

Implications

Policy:	Policy review required by law. The policy is essential in assisting Members in determining licensing applications
Financial:	None.
Personnel:	None
Legal/Procurement:	The Council has a statutory duty to review and publish a Statement of Licensing Policy every three years
Property:	None
Risk Management:	Failure to publish a policy is contrary to section 5 of the Licensing Act 2003 and could endanger any licensing decisions made by the Licensing Committee or its officers through delegated powers.
Equalities Impact Assessment:	EIA completed

Is this item subject to call-in?	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"/>	
Delays in implementation could have serious financial implications for the Council	<input checked="" type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input checked="" type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input checked="" type="checkbox"/>	

Executive Report

1. Introduction

- 1.1 Under section 5 of the Licensing Act 2003 the Council are required to review their Statement of Licensing Policy at least every three years, following the introduction of the initial policy in 2004.
- 1.2 The current policy was approved on 11th December 2007 by Full Council and the review is now required to be confirmed by Full Council prior to being published by 14th December 2010.
- 1.3 Licensing Committee Members agreed at their meeting in September 2010 to approve the revision. Three valid, minor, comments were made regarding the policy content following consultation and these have been added to the existing policy at 2.9, 4.10.4 and 6.5. Other than these the only changes are to changes in the title of the Service, some personnel name changes and a general grammatical review.
- 1.4 The Licensing Committee agreed that a wide range of individuals, businesses and charity groups be consulted. These included the Police, persons considered to be representative of holders of premises licences, persons considered to be representative of club premises, persons considered to be representative of personal licence holders and such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- 1.5 The revised policy document is attached at Appendix A.

2. Proposals

- 2.1 To approve the revised Licensing Policy Statement making it effective from 14th December 2010.

3. Conclusion

- 3.1 It is the Council's statutory duty to publish a Statement of Licensing Policy within a three year period of introducing the first or subsequent policies.

Appendices

Appendix A - Revised Statement of Licensing Policy

Consultees

- Local Stakeholders:** Responsible Authorities, Representatives of Local Businesses, Local Charities and others determined by the Act.
- Officers Consulted:** Paul Anstey, Corporate Board
- Trade Union:** None

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Licensing Policy

Adopted at full council meeting held on 9 December 2010

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West Berkshire Council Licensing Policy

1. Definitions

- 1.1. The Council means West Berkshire District Council;
- 1.2. The Licensing Authority means the Council acting as defined by PART 2, 3[1][a] of the Licensing Act 2003. For all official correspondence, the address of the Licensing Authority is The Head of Property & Public Protection, Council Offices, Faraday Road, Newbury, Berkshire, RG14 2AF. All correspondence to be marked for the attention of the Senior Licensing Officer.
- 1.3. The Act means the Licensing Act 2003.
- 1.4. Licensing Committee means the full committee or a Sub-Committee of not less than three members.
- 1.5. The term etc. is used to denote the whole range of consents relating to the Act, including licences, permits, variations, transfers, renewals, grant, temporary, provisional, club registration, premises and personal licences.
- 1.6. DCMS means the central government Department of Culture, Media and Sport.
- 1.7. Zoning means to control licensing hours in a defined geographical area.
- 1.8. Child means a person under 18 years of age.
- 1.9 DCMS guidance means the current guidance, as amended, issued under section 182 of the Licensing Act 2003 by the Secretary of State for Culture, Media and Sport.
- 1.10 SIA means the Security Industry Authority.

2. Introduction

- 2.1. This Licensing Policy Statement addresses the requirements of section 5 of Part 2 of the Act. It sets out the Council's Licensing Policy and takes account of the DCMS guidance.
- 2.2. This Policy is not intended to;

- 2.2.1. repeat national legislation or national guidance. Rather, it will aim to clearly state the Policy of the Council, quoting or paraphrasing such sources only when considered necessary for a full understanding of the text;
- 2.2.2. set out detailed conditions which, where appropriate, may be published separately and in a form as may be prescribed by central government in the future;
- 2.2.3. set out the detailed constitutional arrangements of the Council in relation to licensing matters such as the Licensing Committee make up;
- 2.2.4. set out the Council's Policy about licensing matters outside the remit of the Licensing Act 2003, for instance matters covering the licensing of taxis, street traders etc.
- 2.2.5. The Policy relates to all those licensing activities identified as falling within the provisions of the Act, namely:-
 - 2.2.6. **Retail sale of alcohol.**
 - 2.2.7. **Supply of alcohol to club members.**
 - 2.2.8. **Provision of 'Regulated Entertainment' – to the public, to club members or with a view to profit.**
 - 2.2.9. **A performance of a play.**
 - 2.2.10. **An exhibition of a film.**
 - 2.2.11. **An indoor sporting event.**
 - 2.2.12. **Boxing or wrestling entertainment.**
 - 2.2.13. **A performance of live music.**
 - 2.2.14. **Any playing of recorded music.**
 - 2.2.15. **A performance of dance.**
 - 2.2.16. **Provision of facilities for making music.**
 - 2.2.17. **Provision of facilities for dancing.**
 - 2.2.18. **The supply of hot food and/or drink from any premises between 11pm & 5pm.**

- 2.3. The scope of the Policy covers new licence and permit applications, renewals, transfers and variation of conditions for existing and where applicable, temporary licences. These licensing activities include Personal Licences, Licensed Premises, Qualifying Clubs and Temporary Events.**
- 2.4. The Licensing Authority recognises its duty under the Act to carry out its functions with a view to promoting the four Licensing Objectives, and all decisions will be made solely based on the four objectives. These are :-
- 2.4.1 **the prevention of crime and disorder;**
 - 2.4.2 **public safety;**
 - 2.4.3 **the prevention of public nuisance;**
 - 2.4.4 **the protection of children from harm.**
- 2.5 The Licensing Authority recognises the Act is not the primary mechanism for the general control of anti-social behaviour and nuisance by individuals once they are away from the premises and, therefore, beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. Nevertheless, it is a key aspect of such control and the Licensing Authority recognises that licensing law will always be part of a holistic approach to the management of the evening and night time economy in its area.
- 2.6 The Licensing Authority would not wish to see the liberalising advantages of the Act negated by the development of anti-social behaviour regularly associated with the excessive consumption of alcohol in some major conurbations. Accordingly, the Licensing Authority will pay particular attention when determining licences etc, to the Operating Schedules submitted by applicants. In so doing, the Licensing Authority will seek assurance that measures are in place to further the promotion of the four statutory objectives of the Act. In this respect, the Council recognises its responsibilities under , appropriate guidance and such legislation as is applicable at the time and will co-operate closely with the Police, and other agencies making up the West Berkshire Safer Communities Partnership, and regularly monitor reports on crime and disorder.

- 2.7 The Licensing Authority recognises the contribution made by the leisure and entertainment industry to the economy and vibrancy of West Berkshire. The Licensing Authority is also aware of the negative impacts of noise, nuisance, light pollution, noxious smells and crime and disorder which poorly regulated licensed premises may have on the safety and amenity of residents and local business. The Licensing Authority recognises the obligations placed upon it by the Race Relations Act 1976 (RRA), as amended. A significant aspect of the RRA is the duty to have regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The Licensing Authority will continue to meet its responsibilities in this respect and continue to be mindful of the RRA in discharging its licensing duties.
- 2.8 The Licensing Authority recognises the obligations placed upon it by the Disability Discrimination Act 1996 and will strive to ensure that it meets its responsibilities in all respects whilst discharging its functions at licensed premises.
- 2.9 The Licensing Authority has further considered other aspects of equality such as age, gender, religion or belief and sexual orientation and will strive to ensure that decisions taken by the Council will not openly, or covertly, discriminate against such groups or individuals.

3. **Consultation on this Policy**

- 3.1. The Council will review, and after consultation, re-publish its Licensing Policy at least once every three years. Whilst acknowledging this responsibility, the Council reserves the right to revise the Policy at more frequent intervals, should this be deemed appropriate.
- 3.2. Before publishing any revised Policy Statement, or any periodic review, the Council will consult with the following:-
- 3.2.1 the Chief Officer of Police responsible for the West Berkshire area;
 - 3.2.2 the Fire Authority;
 - 3.2.3 representatives of licence holders of the various types including Premises Licences, Club Premises Certificates and Personal Licences
 - 3.2.4 local businesses and their representatives;
 - 3.2.5 local residents and their representatives;
 - 3.2.6 the West Berkshire Safety Advisory Group (SAG);

- 3.2.7 the Local Safeguarding Children Board/ Area Child Protection Committee;
- 3.2.8 the West Berkshire Children and Young People Strategic Partnership;
- 3.2.9 the West Berkshire Safer Communities Partnership; and
- 3.2.10 other groups or individuals the Council feels appropriate.

The Council is aware that consultation which goes beyond the statutory minimum laid down by the Act will have to be funded from Council resources rather than licence fees.

- 3.3. Accordingly, the Council reserves the right to limit its consultations. The Council will give careful consideration and appropriate weight to the views of all those consulted before the publication of any revised policy. In particular the Council will seek the views of local Licensed Victuallers, Pub Watch schemes and representatives of local licence holders. The Council recognises the need to consult as widely as possible but also recognises the need to balance the costs of so doing.

4 The Licensing Process

- 4.1 The powers of the Licensing Authority under the Act will be carried out via the Council's Licensing Committee, by a Sub-Committee of the Licensing Committee or by one or more Officers acting under delegated authority. In the interests of speed, efficiency and cost-effectiveness for all parties involved in the licensing process, the Council has adopted the scheme of delegation shown at Annex A to process applications received under the Act for personal and premises licences, club premises registration and temporary event notices. This form of delegation is without prejudice to referring an application to a Sub-Committee or the Licensing Committee if it is considered appropriate in particular cases.
- 4.2 When making licensing decisions and imposing licensing conditions, the Licensing Authority will concentrate on matters within the control of the licence holder and other granted relevant authorisations. Generally the Licensing Authority will be concerned only with the premises in question and its vicinity. The Licensing Authority will focus on the direct impact which the licensed premises, and its licensed activities, could have on members of the public living, working or engaged in normal activities in the area concerned. In determining applications for licences etc, the Licensing Authority will expect applicants to address, in their Operating Schedule, the measures

they propose to take to prevent anti-social behaviour and crime and disorder, to protect the safety of the public. Where relevant, it should also include any impact on children of licensable activities whether those children are on, or in the vicinity of, their premises.

- 4.3 The Licensing Authority will expect individual applicants to address the Licensing Objectives in their Operating Schedule having regard to the type of premises and the licensable activities to be provided.
- 4.4 The Licensing Authority recommends that the Operating Schedule address detailed activities, depending on the nature of the event and the premises concerned. Typical examples could include references to:
 - 4.4.1 procedures at closing time between the last sales of alcohol and the closure of the premises;
 - 4.4.2 the drugs policy, although not within the scope of licensable activity;
 - 4.4.3 the emergency closure and evacuation procedures in the event of violence, power failure or similar occurrences;
 - 4.4.4. special drinks promotions;
 - 4.4.5. the use of glasses and open bottles and;
 - 4.4.6. where drinking would be permitted, for example on pavement areas or on garden terraces;
 - 4.4.7 the use of licensed door staff to control entry at specific times and for specific functions and where appropriate, the use of 'search' facilities to prevent the entry of both illegal substances and weapons into the licensed premises.
 - 4.4.8 training to be given to staff in crime prevention measures and issues such as the prevention of excessive alcohol consumption and the protection of children;
 - 4.4.9 the adoption by licensed premises of, and adherence to, best practice guidance given in the National Pubwatch Good Practice Guide and the Safer Clubbing Guide published by the Home Office;
 - 4.4.10 participation in Pubwatch, Best Bar None and the alcohol Action Group or other appropriate schemes;
 - 4.4.11 the presence, or otherwise, of transport facilities to ensure that patrons can leave the premises safely and without undue delay;

- 4.4.12 the use of CCTV and security lighting as measures to prevent violence and disorder.
- 4.4.13 adherence to the principles and practice defined in the Event Safety Guide, the Guide to Safety at Sports Grounds and other best practice advice where public safety could be compromised in the context of Regulated Entertainment;
- 4.4.14 the prevention of disturbance to neighbouring residents by patrons arriving at, or leaving, licensed premises through noise or light pollution;
- 4.4.15 the prevention of litter deposited by customers in the vicinity of the licensed premises;
- 4.5 The extent to which applicants take these various strategies into account will largely depend on the nature and scale of the proposal. However, local crime prevention strategies will usually be important for most undertakings, as will the dispersal of people from licensed premises with later trading hours.
- 4.6 The Act requires the Designated Premises Supervisor to be named on the Premises Licence. Sufficient details are to be supplied to enable this person to be contacted, if required.
- 4.7 In determining licensing matters the Licensing Authority will;
 - 4.7.1 consider only pertinent licensing factors as set out in law and in approved guidance;
 - 4.7.2 act without favour when considering matters linked directly or indirectly to the Council, for instance when dealing with a licence application for one of its own properties;
 - 4.7.3 act in accordance with the principles of natural justice;
 - 4.7.4 only impose conditions on a licence when a relevant representation has been made and conditions are necessary in the particular circumstances of an individual premises and will not duplicate other statutory requirements.
- 4.8 The Council recognises its licensing responsibilities under the Licensing Act 2003 and in particular will provide;
 - 4.8.1 appropriate levels of resources including personnel, systems (including computer systems), and support;

- 4.8.2 appropriate training for Elected Members, appropriate facilities at licensing hearings for applicants, the public and witnesses;
- 4.8.3 hearings at times convenient to applicants and witnesses, as far as reasonably practicable;
- 4.8.4 guidance and assistance to licence applicants as far as reasonably practicable;
- 4.8.5 guidance to organisers and audiences in particular cases, or for particular types of events;
- 4.8.6 an appropriate system to receive related complaints and service requests;
- 4.8.7 elected members and officers who have regard to appropriate Codes of Conduct and Declaration of Interests in dealing with licensing applications;
- 4.9 The Council recognises there are personnel and financial implications linked to discharging its duties under the Act. Where the fees are unlikely to cover even the basic costs of administering licensing, the Council will need to consider carefully the advisability of undertaking any licensing service which exceeds its statutory duty.
- 4.10 The Licensing Authority will, as far as reasonably practicable, check all applications and similar documents as they are received. In the case of those applications not properly made, the Licensing Authority may return the application package by second class mail, to the sender, with an appropriate explanation. The Licensing Authority will also inform the applicant that any timescale applicable in the circumstances will only start when a properly made application is received.
 - 4.10.1. If the applicant then returns the application package correctly made, any timescales will begin then, in accordance with the Regulations and the application will not be prioritised as if it had been received at the earlier time.
 - 4.10.2. A properly made application means an application package complete with all necessary forms, fully completed, dated and signed, all necessary enclosures and any appropriate fee.
 - 4.10.3. Applications, notices and representations can be transmitted by electronic means generally in accordance with the Provision of Services Regulations 2009.

- 4.10.4 The Licensing Authority will inform Parish Councils, Town Council's and Elected Members of valid applications received within their areas of jurisdiction.
- 4.10.5 Generally applications etc received by the Licensing Authority will be processed in the order received. However, the Licensing Authority reserves the right, subject to statutory time scales, to process more urgent and correctly made applications in preference to those of a non-urgent nature, earlier.
- 4.11 The quasi-judicial nature of the licensing process is such that elected members and officers of the Licensing Authority can offer only limited assistance at hearings. However, all applications and representations will be dealt with in an equal and considerate way. It is important therefore that those giving evidence either as applicants or objectors:
- 4.11.1 consider taking legal or other professional advice;
 - 4.11.2. consider seeking the advice of the Licensing Authority or statutory bodies listed in annex B well before the hearing;
 - 4.11.3. consult any advisory material produced by the Council or other informed sources and;
 - 4.11.4. prepare thoroughly including acquiring a knowledge of any appropriate procedural matters, having all notes and evidence etc to hand and having sufficient copies of documents for all parties that might legitimately require them.

5 Temporary Event Notices

- 5.1 Where events are taking place which consist of either the sale of alcohol or the provision of Regulated Entertainment and there are to be less than 500 attendees at any one time, a Temporary Event Notice (TEN) must be served on the Licensing Authority and the Police. For events which have 500 attendees or more, a Premises Licence will be required.
- 5.2 The Licensing Authority advises organisers of Temporary Events to submit their Notice as soon as reasonably possible in order for the Police to consider the event and for the Licensing Authority to check that the limitations set down in part 5 of the Act are being observed. The Licensing Authority recommends that at least two calendar months notification of an

event is given. Although notification cannot be less than 10 working days before the event not counting the day of the event, this may be insufficient time for the Police to consider the effects of the Notice. Notification two calendar months prior to the event will enable the Police to work with the organiser, should the Police have concerns regarding the event undermining the crime prevention objective.

- 5.3 Working days are any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a Bank Holiday under the Banking and Financial Dealings Act 1971 in England and Wales. Ten Working Days notice means ten working days exclusive of the day on which the event is to start.
- 5.4 Where reasonable notification is given, the Council will provide local advice about proper respect for the concerns of local residents; of other legislative requirements regarding health and safety, noise pollution and the building of temporary structures; of other necessary permissions, for example, with regard to road closures or the use of pyrotechnics in public places; with regard to local bylaws; and the need to prevent anti-social behaviour by those attending.
- 5.5 Event organisers are strongly advised to submit their Notice on a weekday and before 1200hrs on a Friday in order to have a quick response. Notices should be submitted to the Council Offices as in Annex B.
- 5.6 Notification to the Police as referred to in Annex B.
- 5.7 It is strongly recommended, although not mandatory, that the Fire Authority are consulted, as in Annex B.
- 5.8 In the event of a representation being made by the Police, a hearing will be held and a decision given not later than 24 hours before the event is due to start.

6 Partnerships and Policy Integration

- 6.1. The Council recognises there is often a mistaken perception that West Berkshire Council is the primary agency responsible for solving anti-social behaviour problems. The Council recognises the licensing function is only one means of securing the delivery of the licensing objectives. It should not, therefore, be seen as a panacea for all anti social or criminal problems within

the community. The Council will continue to work in partnership with its neighbouring authorities, the Police, local businesses and local people, towards the promotion of the Licensing Objectives. Most notably the Council recognises and acknowledges its duties under section 17 of the Crime and Disorder Act 1988.

- 6.2. To achieve the Licensing Objectives, the Council will engage a full range of measures, including crime and disorder policies and powers, as applicable, in the circumstances. The Licensing Authority will seek to enter into partnership arrangements, working closely with the Police, the Fire Authority, local businesses, the Local Safeguarding Children Board/Area Child Protection Committee and the West Berkshire Safer Communities Partnership, community representatives and local people in meeting these objectives. The Council will seek, wherever possible, to integrate its various strategies including those addressing crime prevention, planning, transport, tourism, culture and race equality.
- 6.3. The Council recognises that as well as the licensing function there are a number of other mechanisms for addressing issues of unruly behaviour which occur away from licensed premises. These include –
 - 6.3.1 planning controls;
 - 6.3.2 ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others;
 - 6.3.3 powers to designate parts of the district as places where alcohol may not be consumed publicly;
 - 6.3.4 existing Police powers of enforcement including issuing fixed penalty notices;
 - 6.3.5 enforcement action against those selling alcohol to people who are already drunk;
 - 6.3.6 confiscation of alcohol from adults and children in designated areas;
 - 6.3.7 police powers of closure for up to 24 hours;
 - 6.3.8 the power of Police, Responsible Authorities, interested parties such as local businesses or residents and elected members of council to seek a review of the licence.

- 6.4. The Council will endeavour to integrate its various strategies, and use the available legal powers, to achieve the Licensing Objectives.
- 6.5. The Council recognises that a major contributor to the prevention of crime and anti-social behaviour, is getting customers home at night when premises close. It will be a role of this Policy to ensure all transport providers are aware of this and that the Licensing Authority acknowledges their efforts. The Licensing Authority will, therefore, make arrangements to monitor the effectiveness of this Policy in relation to the Council's transport strategies. It will periodically liaise with major transport providers in the district, and monitor the dispersal of people from Town Centres, particularly at night.
- 6.6. The Council recognises that on occasions there will be conflicts between its other strategies.
- 6.7. The Council will endeavour to make arrangements for its Licensing Committee to annually receive reports on:
 - 6.7.1 the work of the Local Safeguarding Children Board in relation to the Act and the protection of children from harm.
 - 6.7.2 public health aspects relating to the impact of alcohol consumption;
 - 6.7.3 crime and disorder matters.

7. Each Application to be Determined on its Merits.

- 7.1 Whilst this Policy sets out the general approach for making licensing decisions, the Licensing Authority recognises that in determining individual cases, decisions must be consistent with both the provisions of the Act, its guidance and this Policy. In particular, this Policy does not override the right of any individual to make representations on an application, nor does it prevent anyone seeking a review of a licence or certificate, where that provision has been made in the Act. In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits.
- 7.2 The Licensing Authority will not operate a quota of any kind, which could pre-determine an application, nor will it seek to impose general limitations on

trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned. The Licensing Authority recognises that pubs, night-clubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. In considering applications, proper regard will be had to these differences and the impact they are likely to have on the local community and the licensing objectives.

- 7.3 The Licensing Authority recognises that in relation to applications for licences etc, its discretion is engaged only where relevant representations have been received. Therefore, all references in this policy to the Licensing Authority's approach to decision making concern cases where its discretion has been so engaged.

8 Licence Conditions

- 8.1 The Licensing Authority recognises its legal obligation whereby if no Relevant Representations are received, they must grant the licence/permit etc in the terms sought, with no additional conditions.
- 8.2 The Licensing Authority may;
- 8.2.1 publish, periodically review and update a pool of appropriate licence conditions;
- 8.2.2 prepare and publish guidance to licence applicants about the licensing scheme.
- 8.3 However, any conditions attached to any particular licence will:
- 8.3.1 always be tailored to the style and characteristics of the premises or event in question;
- 8.3.2 only be applied when needed for the prevailing circumstances and;
- 8.3.3 will only be applied when necessary to help achieve the Licensing Objectives.
- 8.4 The Licensing Authority recognises that a pool of conditions could lead an applicant to believe only the listed conditions, and no others, will be applied.

Care will be needed to ensure this danger is minimised. Applicants are reminded, however, that self-imposed conditions detailed in an Operating Schedule will, on the grant of a licence, form part of the final licence conditions, providing no Relevant Representations are received from Interested Parties.

- 8.5 Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public, for example, Health and Safety at Work and Fire Safety Legislation.
- 8.6 The Licensing Authority may impose conditions other than those consistent to the Operating Schedule or attached to the existing licence. However, they can do so only when Relevant Representations are made. For example, conditions may be attached requiring the provision or control of:
 - 8.6.1 CCTV;
 - 8.6.2 door staff
 - 8.6.3 toughened glass or polycarbonate drinking glasses and restrictions on open bottles and glasses being removed from the premises;
 - 8.6.4 drinks promotions;
 - 8.6.5 'proof of age' measures;
 - 8.6.6 other measures intended to address the Licensing Objectives such as the playing of ambient music towards the end of an evening to reduce the possibility of violence and the handing out of sweets as people leave premises to reduce public nuisance by noise.
- 8.7 The Licensing Authority wishes to encourage a wide range of entertainment activities and promote live music, dancing and theatre for the wider cultural benefit of the community. When attaching conditions, the Licensing Authority will try to avoid imposing substantial indirect costs which might deter live music, dancing or theatre.
- 8.8 The Licensing Authority recognises the wider community and cultural benefits which can accrue from the production of live music, dancing and theatre productions, including those for children. However, the local disturbance to neighbourhoods, particularly of open air events, will be carefully balanced

against the community gain. Each event will therefore be considered on its merits.

- 8.9 The Council will seek to monitor the impact of its Licensing Policy on live music and dancing performances in the district. If the Council becomes aware that its Licensing Policy is having an adverse effect on such performances in its area, it will endeavour to consult with appropriate bodies including representatives of performers and the National Association of Arts and may, where appropriate, review its policy.
- 8.10 The Licensing Authority recognises the important role played by premises not being overcrowded in helping to achieve the Licensing Objectives. The Licensing Authority will normally:
- 8.10.1 advise applicants for premises licences or applicants for club premises certificates to consider undertaking an appropriate assessment to determine the safe occupancy capacity and, where appropriate, to incorporate this in the operating schedule;
 - 8.10.2 consider any proposals by the applicant for the capacity of the premises, and, if it considers it necessary, will consider representations made by other bodies as listed in Annex B. The Licensing Authority will normally consider whether a condition relating to capacity is necessary in order to promote either or both of the Public Safety and Crime Prevention Objectives. The Licensing Authority may decide to impose a capacity figure which differs from that proposed by the applicant;
 - 8.10.3 seek to impose appropriate conditions, including the prevention of overcrowding, in premises used by children;
 - 8.10.4 work closely with the Fire Service to ensure previously imposed limits noted on earlier fire certification, where in place, are still relevant and appropriate in the prevailing circumstances;
 - 8.10.5 place considerable weight on the use of “during performance” inspections to determine safe numbers and ensure compliance with licence conditions,
- 8.11 In addressing the Licensing Objectives, the Licensing Authority recognises the significant role played by the combination of drugs and alcohol at some licensable events whilst acknowledging that drug abuse is not specifically addressed as a licensing objective . Accordingly the Licensing Authority may,

in circumstances where representations have been made, impose licence conditions aimed at addressing these problems. In so doing, the Licensing Authority will consider:

- 8.11.1 Appropriate guidance on the subject, for instance “Safer Clubbing” and other appropriate publications;
- 8.11.2 the availability of free water;
- 8.11.3 the provision of designated chill out areas;
- 8.11.4 staff training in first aid to an appropriate standard and
- 8.11.5 the provision of SIA licensed door supervisors.

9 Licensing Hours.

- 9.1 The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Accordingly, the Licensing Authority will consider longer licensing hours in the interests of avoiding the concentration of such disturbance, whilst also ensuring that nuisance is minimised to local residents. Whilst the Licensing Authority considers that longer licensing hours may be an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport, and that such extended opening hours are the prerogative of licence holders, they could be subject to challenge by local residents.
- 9.2. Shops, stores and supermarkets will generally be permitted to sell alcohol during the hours they intend to open. However, in the case of individual shops which are known to be a focus of disorder and disturbance, the Licensing Authority may limit the licensing hours following representations or review.
- 9.3. It is not the Licensing Authority’s intention to introduce zoning for the purposes of drinking hours. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary.
- 9.4. In general, the Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence,

stricter noise control conditions are likely to be imposed on premises in residential areas.

- 9.5. The Licensing Authority will encourage applicants to anticipate exceptional conditions or events which could require special or extended trading times and to incorporate these in their Operating Schedule. Equally the Licensing Authority recognises the rights of Personal Licence holders to hold up to fifty Temporary Events each year, subject to the correct notification procedure and the statutory limitations of no more than twelve such events on any particular premises. Such notifications apart, the Licensing Authority is also aware of the Secretary of State's power to declare national, general extensions of licensing hours by order, for special events.
- 9.6. Generally, the Licensing Authority will consider proposed licensing hours submitted in applications for the sale and supply of alcohol and adjust these appropriately, according to Relevant Representations.
- 9.7. When setting licensing times, the Licensing Authority can only consider those factors directly relevant to the Act Consequently all other factors must be set aside. The Licensing Authority may not be influenced by other legislation including those which may be contrary to contractual law. Most notably this will include controls in relation to permitted working hours for employees. In practice, therefore, the Licensing Authority cannot refuse to grant opening hours solely because this would breach a worker's employment rights. Similar examples may arise in other areas outside employment law.

10. Cumulative Impact and Public Nuisance.

- 10.1. The Licensing Authority recognises that from time to time it may receive representations on the grounds of cumulative impact of a number of licensed premises on the Licensing Objectives. In these circumstances the Licensing Authority will expect the objector to provide, in full, his or her own evidence for consideration.
- 10.2. The Licensing Authority recognises it may receive representations from either a Responsible Authority, or an Interested Party, both defined by the Act, that the cumulative impact of new licences is leading to an area becoming a focal point for large groups of people to gather, and so creating exceptional problems of disorder and nuisance over and above the impact from the

individual premises. On receiving such representations, or on its own volition, the Licensing Authority may consider the cumulative effect that such a proliferation of premises in one area may be having.

- 10.3. In determining whether to adopt a cumulative impact policy for a particular area the Licensing Authority may, among other things;
 - 10.3.1. gather evidence of serious and chronic concern from a Responsible Authority or local residents about nuisance and disorder;
 - 10.3.2. identify the area from which problems are arising and the boundaries of that area;
 - 10.3.3. make an assessment of the causes and;
 - 10.3.4. adopt a special policy about future applications for premises within that area. Such a policy would be one of refusing licences whenever it receives Relevant Representations about the cumulative impact on the Licensing Objectives these must be from Responsible Authorities and/or Interested Parties. The Licensing Authority may conclude after hearing those representations, that a refusal may be necessary.
- 10.4. If the Council establishes a special policy for a particular area, it will review that policy regularly and at least once every three years. It will not use such a policy to:
 - 10.4.1. revoke an individual premises licence that is already in force;
 - 10.4.2. vary a licence except when directly relevant to the policy and when necessary for the promotion of the Licensing Objectives or;
 - 10.4.3. impose a terminal hour as a matter of policy, although a terminal hour may be imposed if such is necessary in order to promote the Licensing Objectives.

11. Children and Licensed Premises.

- 11.1 The Licensing Authority recognises the wide variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, night-clubs, cafes, takeaways, community halls and schools. Although the Act sets out various controls restricting admission to children, nothing in the Act makes it a requirement that children must, or must not be admitted to licensed premises. Beyond the statutory controls, the Licensing Authority will

not normally further control entry to licensed premises by children unless it considers this to be necessary to protect minors from physical, moral or psychological harm. Where a licence includes children on the premises, then the suitability and safety of the premises will be considered.

11.2 Licence holders are not to provide alcohol to those under 18 years of age, except as provided for by the Act. The Licensing Authority expects applicants for a licence to be able to demonstrate that satisfactory arrangements are in place to prevent such sales and recommended the following documents should be used as proof of age:

11.2.1 Passport;

11.2.2 Photocard Driving Licence issued in the European Union;

11.2.3 Proof of Age Card Scheme eg. Portman Group Card or Connexions Card;

11.2.4 Citizen Card issued on behalf of the Home Office;

11.2.5 Identity Card issued to HM or NATO Forces bearing a photograph and date of birth of the holder.

11.3 When appropriate representations have been made, the Licensing Authority may, where it deems necessary, impose conditions to restrict entry to children in premises for example;

11.3.1 where entertainment or services of an adult or sexual nature are commonly provided;

11.3.2 where there have been convictions or the issue of fixed penalty notices of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;

11.3.3 with a known association with drug taking or dealing;

11.3.4 where there is a strong element of gambling on the premises. This would normally not include the presence of a small number of cash prize machines;

11.3.5 where there have been convictions of any member of staff leading to registration under the Protection of Children Act.

11.4 When the Licensing Authority considers restricting access by those under 18 this may mean a broad prohibition. However, depending on the circumstances, the Licensing Authority may include one or more of the following controls:

11.4.1 specific times when children can or cannot be present;

11.4.2 age limits for certain types of activities on the premises;

11.4.3 age limits for those under 18;

- 11.4.4 requirements for suitably qualified accompanying adults;
- 11.4.5 such other conditions or restrictions as may be necessary to achieve the Licensing Objectives.
- 11.5 The Licensing Authority recognises that licensees may wish to control entry to children, but regards this a trade decision. The Licensing Authority will not, therefore, impose conditions requiring the admission of children to licensed premises. So therefore, if a licence holder decides to prohibit entry by children and the Licensing Authority has chosen not to restrict entry, then the Licensing Authority will respect that decision. Such a decision by a licence holder might give rise to human rights issues beyond the remit of the Council acting under its licensing powers.
- 11.6 Only where representations are made can the Licensing Authority consider imposing conditions to control the safe access and egress of children and generally ensure their safety. However, applicants are advised to consider child supervision/control in their Operating Schedule. In imposing such conditions referred to above, the Licensing Authority may draw up appropriate conditions for the number of supervising adults required.

12. Film Exhibitions.

- 12.1. Where the exhibition of films is permitted, the Licensing Authority will require age restrictions to be complied with, Mandatory conditions will be attached to all Licences in this respect. in accordance with the British Board of Film. Classifications recommendations for the film in question

13. The Planning System

- 13.1. The Licensing Committee will act independently of the Planning system and licence applications will be considered solely against licensing criteria. The Council will at all times separate its licensing and planning roles.
- 13.2. In considering a licence application, the Licensing Authority cannot generally take account of “need”.
- 13.3. The Council’s Licensing Committee will periodically draw to the attention of the Council’s Planning Committee, the situation regarding licensed premises and the general impact of alcohol related crime and disorder.

14. Enforcement

- 14.1. Where enforcement action is necessary, the Council will act in accordance with its published Enforcement Policy, which in turn is based on the principles of the Enforcement Concordat.
- 14.2. The Licensing Authority will establish protocols with the local Police and Fire Service on enforcement issues to provide an efficient deployment of those who are commonly engaged in enforcing licensing law and the inspection of licensed premises. In particular, these protocols will provide for the targeting of agreed problem and high risk premises requiring greater attention, while providing a lighter touch in respect of low risk premises which are well run.
- 14.3. The Licensing Authority believes that to maintain trade, public and partners' confidence in the licensing regime, it needs to establish an active inspection and regulatory service. The Licensing Authority will therefore, in combination with the Police and other partnership organisations, actively engage in seeking to:
 - 14.3.1. advise licence holders and potential licence holders to prevent problems arising;
 - 14.3.2. inspect premises both before and during their use under the Act;
 - 14.3.3. when necessary, institute legal actions including issuing formal cautions and taking prosecutions.
- 14.4. The Licensing Authority will actively enforce, alone or in partnership, all breaches of the licence conditions under the Act. The Council will, when deciding on best use of limited resources place weight on offences linked to:
 - 14.4.1. Underage sales and;
 - 14.4.2. The sale of alcohol to persons already drunk.
- 14.5. The Licensing Authority reserves the right to introduce a penalty points or similar scheme intended to provide a cumulative score for one or more minor infringements of licence conditions. This may lead to the Licensing Authority instituting legal proceedings against the licence holder. This process is independent of the licence review by any Interested Party or Responsible Authority. The introduction of any scheme will only supplement any decisions concerning enforcement or legal actions and will not replace other legal powers and duties.

15. End of Licensing Policy

ANNEX A

DELEGATION OF LICENSING FUNCTIONS

<u>Matter to be dealt with</u>	<u>Determined by Committee</u>	<u>Delegated to Officers</u>
Application for Personal Licence	If a representation is made by the Police	If no representation is made by the Police
Application for a personal licence with unspent convictions	All cases	
Application for Premises Licence/Club Premises Certificate	If a representation is made	If no representation is made
Application for a Provisional Statement	If a representation is made	If no representation is made
Application to vary Premises Licence/Club Registration Certificate	If a representation is made	If no representation is made
Application to vary	If a Police	All other cases

Designated Personal Licence Holder	representation made	
Request to be removed as Designated Personal Licence Holder		All cases
Application for transfer of Premises Licence	If a Police representation made	All other cases
Application for Interim Authority	If a Police representation made	All other cases
Application to review Premises Licence/Club Premises Registration	All cases	
Decision on whether a representation is irrelevant, frivolous or vexatious		In consultation with Chairman of the Licensing Committee
Application by the Local Authority	All cases	
Determination of Police representation to a Temporary Event Notice	All cases	

Annex B

Responsible Authority

Point of Contact

The Licensing Authority	Senior Licensing Officer, West Berkshire Council, Public Protection Department, Council Offices, Faraday Road, Newbury, Berkshire, RG14 2AF licensing@westberks.gov.uk
The Chief Officer of Police	Licensing Officer, Thames Valley Police, Mill Lane, Newbury, Berkshire. RG14 5QU
The Fire Authority	The Fire Safety Officer, Royal Berkshire Fire & Rescue Service, Hawthorn Road, Newbury, Berkshire, RG14 1LD NewburyFireSafety@rbfr.co.uk
The Enforcing Authority for Health & Safety at Work Act 1974	Principal Public Protection Officer (Health & Safety Enforcement) West Berkshire District Council, Council Offices, Faraday Road, Newbury, Berkshire,

	<p>RG14 2AF</p> <p>For all Council owned or operated premises and those others where the Health & Safety Executive is the Enforcing Authority</p> <p>Principal Inspector Mr Bob Meldrum, Health & Safety Executive, Priestly House, Priestly Road, Basingstoke, Hampshire RG24 9NW</p>
<p>The Local Planning Authority</p> <p>Town and Country Planning Act 1990 (c.8)</p>	<p>Development Control Manager,</p> <p>West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD</p>
<p>The Enforcing Authority for Pollution</p>	<p>Principal Public Protection Officer for Pollution</p> <p>West Berkshire District Council, Council Offices, Faraday Road, Newbury, Berkshire. RG14 2AF</p>
<p>Children Services – Safeguarding Board Chair</p>	<p>Sarah Lewis, Referral & Assessment Team Manager, West Berkshire District Council, West Street House, West Street, Newbury, RG14 1BD</p>
<p>Trading Standards Office</p>	<p>Principal Trading Standards Officer</p> <p>West Berkshire Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD</p>
<p>In relation to a Vessel - A Navigation Authority</p> <p>British Waterways Board or</p> <p>The Secretary of State</p>	<p>Planner Officer, Mr Colin Blundel, British Waterways Board, Harbour House, West Quay, The Dock, Gloucester. GL1 2LG.</p> <p>Tourism Division, 3rd Floor, 2-4 Cockspur Street, London. SW1Y 5DH</p>
<p>The Environment Agency</p>	<p>Responsible Officer</p> <p>Isis House, Wallingford, Oxfordshire. OX10 8BD</p>

Title of Report:	Proposed Designation of Peasemore Conservation Area and Adoption of Peasemore Conservation Area Appraisal
Report to be considered by:	Council
Date of Meeting:	09 December 2010
Forward Plan Ref:	C2162

Purpose of Report: To inform Members that the Planning Task Group is recommending a new Conservation Area in Peasemore and adoption of the Peasemore Conservation Area Appraisal.

Recommended Action: To:

1. designate a new Conservation Area in Peasemore and
2. adopt the Peasemore Conservation Area Appraisal.

Reason for decision to be taken: The Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990 places local authorities under a duty to formulate and publish proposals for the preservation and enhancement of their Conservation Areas.

Other options considered: None

Key background documentation: Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990
Planning Policy Statement 5 - Planning for the Historic Environment
English Heritage -Guidance on the Management of Conservation Areas (Feb 2006)
English Heritage - Guidance on Conservation Area Appraisals (Feb 2006)

The proposals will also help achieve the following Council Plan Themes:

- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT6 - Vibrant Villages**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
Setting a positive framework for the future planning of Peasemore.

Portfolio Member Details	
Name & Telephone No.:	Councillor Alan Law - Tel (01491) 873614
E-mail Address:	alaw@westberks.gov.uk
Date Portfolio Member agreed report:	27 th August 2010

Contact Officer Details	
Name:	Debra Hammond
Job Title:	Conservation Officer
Tel. No.:	01635 519931
E-mail Address:	dhammond@westberks.gov.uk

Implications

- Policy:** The CAA and designation of a new Conservation Area will support the policies contained within the West Berkshire Core Strategy
- Financial:** There are no direct financial implications at this stage.
- Personnel:** There are no direct personnel implications at this stage
- Legal/Procurement:** The Council will have to display appropriate notification notices and undertake appropriate publicity in accordance with Section 70 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- Property:** Permitted development rights are generally restricted in Conservation Areas and so there will be implications for individual property owners.
- Risk Management:** There are no direct risk management issues arising from the CAA.
- Equalities Impact Assessment:** The consultation carried out in support of the CAA helps ensure that all people have an opportunity to have their views and concerns heard.

Is this item subject to call-in?	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"/>
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 Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 The following report was considered by the Planning Task Group on the 27th August 2010 who agreed that a report should be taken to Full Council with a recommendation to create a new Conservation Area for Peasemore.
- 1.2 The Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990 defines Conservation Areas as “areas of special architectural and historic interest, the character and appearance of which it is desirable to preserve and enhance”. There are presently 52 Conservation Areas in the District.
- 1.3 It is the duty of the Local Authority to assess whether particular groups of buildings within their District should be designated as a Conservation Area. A Conservation Area may be designated at any time by a Local Planning Authority (LPA) by resolution of the appropriate committee.
- 1.4 Prior to the designation of a new Conservation Area, the LPA will normally carry out a study to determine whether the area is of sufficient quality to justify designation; to establish the nature of its special architectural and/or historic character, and to enable decisions on where the boundaries of the Conservation Area should be. The results of such a study will generally be incorporated in a Conservation Area Appraisal (CAA) or similar document.

2. Proposals for Peasemore

- 2.1 A Conservation Area Appraisal (CAA) has been prepared to support and justify the proposed designation of Peasemore Conservation Area and to provide a framework for sustaining its special architectural and historic interest into the future. The boundary of the proposed Conservation Area is shown in Appendix C.
- 2.2 Designation will allow the Council to ensure that development within the Conservation Area is more closely controlled as permitted development rights are restricted in Conservation Areas. Conservation Area control relates to controls over demolition; strengthened controls over minor development; and the protection of trees. Extra publicity must be given to planning application affecting Conservation Areas and the LPA must take account of the desirability of preserving the character of the area when determining such applications.

3. Conclusion

- 3.1 Designation of a Conservation Area in Peasemore and adoption of the Peasemore Conservation Area Appraisal will support the policies contained within the West Berkshire Core Strategy and other subsequent Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs) prepared as part of the Local Development Framework (LDF).

Executive Report

1. Introduction

- 1.1 The Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990 defines Conservation Areas as “areas of special architectural and historic interest, the character and appearance of which it is desirable to preserve and enhance”. There are currently 52 Conservation Areas in West Berkshire.
- 1.2 It is the duty of the Local Authority to assess whether particular groups of buildings within their District should be designated as a Conservation Area. A Conservation Area may be designated at any time by a Local Planning Authority (LPA) by resolution of the appropriate committee.
- 1.3 Prior to the designation of a new Conservation Area, the LPA will normally carry out a study to determine whether the area is of sufficient quality to justify designation; to establish the nature of its special architectural and/or historic character, and to enable decisions on where the boundaries of the Conservation Area should be. The results of such studies will generally be incorporated in a Conservation Area Appraisal (CAA).

2. Peasemore Conservation Area Appraisal

- 2.1 A Conservation Area Appraisal (CAA) has been prepared by the Council to support and justify the proposed designation of Peasemore Conservation Area. The CAA will help guide development within Peasemore and ensure that new development preserves or enhances the special character of the area in accordance with Planning Policy Statement 5 (PPS5). The Appraisal will support the policies contained within the West Berkshire Core Strategy and other subsequent Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs) by providing a framework for sustaining Peasemore’s special architectural and historic interest into the future. By providing a clear definition of those elements which contribute to the special architectural or historic character of the area it will ensure that a robust policy framework is in place for the future management of the area, against which planning applications can be considered. The CAA will help to protect Peasemore’s best features, including historic buildings, attractive green spaces and mature trees, from the potentially destructive effects of new development and property alteration.
- 2.2 Production of the Peasemore CAA followed the Council’s standardised approach and relevant guidance set out in the English Heritage publications ‘Guidance on Conservation Area Appraisals’ and ‘Guidance on the Management of Conservation Areas’. It identifies and appraises the characteristics and features that give the proposed Conservation Area its special interest. It also presents recommendations to help guide decisions made by the Council when applying development plan policies and national planning guidance to help manage and control development affecting the proposed Conservation Area and its setting.
- 2.3 In accordance with English Heritage guidance, once the draft document had been produced it was subject to public consultation. A range of organisations and interested parties were consulted, including English Heritage, national and local heritage societies, local residents and Ward and Parish Councillors. Copies of the

Study were available for viewing at the Council Offices in Market Street, the Newbury Library and the Mobile Library.

- 2.4 The period of consultation ran between November 25th 2009 and December 23rd 2009. In all, 7 written representations were received. These included 4 local residents, English Heritage, Berkshire Archaeological Research Group and WBC Archaeological Service. The responses and the actions that were taken as a result, are summarised in the table in Appendix A.
- 2.5 The final Peasemore Conservation Area Appraisal and appendices which are recommended for adoption by the Council are attached in Appendices B and C.

3. Designation of Peasemore Conservation Area

- 3.1 The proposed Conservation Area for Peasemore is a small but historically and architecturally very significant part of the village. The special character of Peasemore principally derives from the relationship between the historic farms and the 'enclosure' to the south of the village. Appendix C outlines the area proposed for designated as a Conservation Area.

4. Implications of Designation

- 4.1 Conservation Area designation allows the Council to ensure, through the planning system, that the special quality and value that has been identified in the Area will be protected.
- 4.2 The Town and Country Planning (General Permitted Development) (Amendment)(No.2) (England) Order 2008 (GPDO) outlines how permitted development rights that exist generally are restricted.
- 4.3 The implications of Conservation Area designation include the following:
- The details of what works may be carried out without the need to apply for planning permission (permitted development rights) are different from those applicable in an area not subject to any special designation.
 - Extra publicity must be given to planning applications affecting conservation areas and the Council must take account of the desirability of preserving the character of the area when determining such applications.
 - Conservation Area consent is generally required for the demolition of any unlisted building over a certain size, and for the demolition of certain gates, walls or fences, within the Conservation Area (unless such work is authorised under other procedures). Failure to obtain such consent may result in enforcement action and/or criminal prosecution. Any consent for demolition of a building or other structure within a Conservation Area will normally be conditioned to ensure that the appearance of the site subsequent to such demolition does not detract from the character and appearance of the Area.
 - With certain exceptions, notice must be given to the Council before works are carried out to any tree within the Conservation Area.

- The local authority may issue an 'Article 4 direction' specific to particular properties restricting development of a particular type which would, otherwise, not require planning permission. Such directions are rarely issued.

Appendices – Not included but available on request and a copy will be circulated at the meeting

Appendix A - Consultation comments and actions.

Appendix B - Peasemore Conservation Area Appraisal.

Appendix C - Peasemore Conservation Area Appraisal appendices.

Consultees

Local Stakeholders: Consulted as part of the production of the CAA

Officers Consulted: Paula Amorelli, Corporate Board

Trade Union: N/A

Title of Report:	Streatley Conservation Area Appraisal
Report to be considered by:	Council
Date of Meeting:	09 December 2010
Forward Plan Ref:	C2163

Purpose of Report: To allow full Council to consider and adopt the Streatley Conservation Area Appraisal as a template for other conservation area appraisals to follow.

Recommended Action: That the Council adopts the Streatley Conservation Area Appraisal and adopts a standardised approach to the preparation of future Conservation Area Appraisals as outlined in the report.

Reason for decision to be taken: The Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990 places local authorities under a duty to formulate and publish proposals for the preservation and enhancement of their Conservation Areas.

Other options considered: None

Key background documentation: Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990.
 Planning Policy Statement 5 - Planning for the Historic Environment.
 English Heritage -Guidance on the Management of Conservation Areas (Feb 2006).
 English Heritage - Guidance on Conservation Area Appraisals (Feb 2006).

The proposals will also help achieve the following Council Plan Themes:

- CPT4 - High Quality Planning**
- CPT6 - Vibrant Villages**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
 Setting a positive framework for the future planning of Peasemore.

Portfolio Member Details	
Name & Telephone No.:	Councillor Alan Law - Tel (01491) 873614
E-mail Address:	alaw@westberks.gov.uk
Date Portfolio Member agreed report:	01 August 2010

Contact Officer Details	
Name:	Debra Hammond
Job Title:	Conservation Officer
Tel. No.:	01635 519931
E-mail Address:	dhammond@westberks.gov.uk

Implications

- Policy:** The CAA will support the policies contained within the West Berkshire Core Strategy.
- Financial:** There are no direct financial implications at this stage.
- Personnel:** There are no direct personnel implications at this stage.
- Legal/Procurement:** There are no direct legal implications at this stage.
- Property:** There are no specific Property implications at this stage. Permitted development rights are generally restricted in Conservation Areas and so there will be implications for individual property owners.
- Risk Management:** There are no direct risk management issues arising from the CAA.
- Equalities Impact Assessment:** The consultation carried out in support of the CAA helps ensure that all people have an opportunity to have their views and concerns heard.

Is this item subject to call-in?	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"/>
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 Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 The following report was considered by the Planning Task Group on the 27th August 2010 who agreed that a report should be taken to full Council with a recommendation to adopt the Streatley Conservation Area Appraisal and use its methodology employed in all future Conservation Area Appraisals with delegated authority to the Planning Portfolio Holder to approve as an Individual Decision. A report will be brought to the March 2011 Council meeting proposing an amendment to the Individual Decision Protocol to this effect.
- 1.2 The Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990 defines Conservation Areas as “areas of special architectural and historic interest, the character and appearance of which it is desirable to preserve and enhance”. There are presently 52 Conservation Areas in the District. The Act places Local Authorities under a duty to formulate and publish proposals for the preservation and enhancement of these Areas and the Council is taking steps to meet this obligation by setting up a programme of Conservation Area Appraisals (CAAs).

2. Proposals

- 2.1 A pilot study has been undertaken for the Conservation Area in Streatley. Prepared in accordance with guidance published by English Heritage, the CAA will help to protect Streatley’s best features, including historic buildings, attractive green spaces and mature trees, from the potentially destructive effects of new development and property alteration.

3. Conclusion

- 3.1 The appraisal will support the policies contained within the West Berkshire Core Strategy and other subsequent Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs) by providing a framework for sustaining Streatley’s special architectural and historic interest into the future. By providing a clear definition of those elements which contribute to the special architectural or historic character of the area it will ensure that a robust policy framework is in place for the future management of the area, against which planning applications can be considered.
- 3.2 To ensure that the process of producing future Conservation Area Appraisals is clear, it is proposed that the Council adopts a standardised approach to their production and adoption.

Executive Report

1. Introduction

- 1.1 The Planning (Listed Buildings and Conservation Areas) (LB&CA) Act 1990 defines Conservation Areas as “areas of special architectural and historic interest, the character and appearance of which it is desirable to preserve and enhance”. There are currently 52 Conservation Areas in West Berkshire. Under the Act the Council has a duty to formulate and publish proposals for the preservation and enhancement of its Conservation Areas. Undertaking Conservation Area Appraisals (CAAs) fulfils this obligation and allows the Council to ensure, through the planning system, that the special character and appearance of its Conservation Areas are protected.
- 1.2 The Council’s performance in preparing up-to-date character appraisals for its Conservation Areas is currently the subject of a heritage “Best Value Performance Indicator” (BV219).

2. Purpose of the Streatley Conservation Area Appraisal

- 2.1 The Streatley Conservation Area Appraisal is the first in a series of such appraisals that will address all of the District’s Conservation Areas. It has been prepared to help guide development within Streatley and ensure that new development preserves or enhances the special character of the area in accordance with Planning Policy Statement 5 (PPS5). The appraisal will support the policies contained within the West Berkshire Core Strategy and other subsequent Development Plan Documents (DPDs) and Supplementary Planning Documents (SPDs) by providing a framework for sustaining Streatley’s special architectural and historic interest into the future. By providing a clear definition of those elements which contribute to the special architectural or historic character of the area it will ensure that a robust policy framework is in place for the future management of the area, against which planning applications can be considered. The CAA will help to protect Streatley’s best features, including historic buildings, attractive green spaces and mature trees, from the potentially destructive effects of new development and property alteration.

3. How it was produced

- 3.1 Production of the Streatley CAA followed the relevant guidance set out in the English Heritage publications ‘Guidance on Conservation Area Appraisals’ and ‘Guidance on the Management of Conservation Areas’. It identifies and appraises the characteristics and features that give the Conservation Area its special interest. It also presents recommendations to help guide decisions made by the Council when applying development plan policies and national planning guidance to help manage and control development affecting the Conservation Area and its setting.
- 3.2 In accordance with English Heritage guidance, once the draft document had been produced it was subject to public consultation. A range of organisations and interested parties were consulted, including English Heritage, national and local heritage societies, local residents and Ward and Parish Councillors. Copies of the draft CAA were available for viewing at the Council offices in Market Street and the libraries at Newbury, Pangbourne and Goring.

- 3.3 The period of consultation ran between 16th September 2009 and 28th October 2009. In all, 15 written representations were received. These included 8 local residents, English Heritage, Streatley Parish Council, Natural England and Bettina Kirkham - Landscape Consultant. The responses, and the action that was taken as a result, are summarised in the table in Appendix A.
- 3.4 The final Streatley Conservation Area Appraisal and appendices which are recommended for adoption by the Council are attached in Appendices B and C.

4. Future Conservation Area Appraisals

- 4.1 To ensure that the process of producing future Conservation Area Appraisals is clear, it is proposed that the Council adopts a standardised approach to their production and adoption as follows:

Stage 1

Production of draft CAA in accordance with the most up to date English Heritage guidance (which is currently outlined in their publications 'Guidance on Conservation Area Appraisals' (Feb 2006) and 'Guidance on the Management of Conservation Areas' (Feb 2006)).

Stage 2

Four to six week period of public consultation.

Stage 3

Amendments to CAA made as appropriate.

Stage 4

Final CAA presented to the Council for adoption as an Individual Executive Member decision.

Appendices – Not included but available on request and a copy will be circulated at the meeting

Appendix A - Consultation comments and actions.

Appendix B - Streatley Conservation Area Appraisal

Appendix C - Streatley Conservation Area Appraisal appendices

Consultees

Local Stakeholders: Consulted as part of the production of the CAA

Officers Consulted: Paula Amorelli, Corporate Board

Trade Union: N/A

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