

# Notice of Meeting

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## Governance and Audit Committee

**Monday, 20 February, 2012 at 6.00pm**  
in Council Chamber Council Offices  
Market Street Newbury

Date of despatch of Agenda: Friday, 10 February 2012

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Stephen Chard on (01635) 519462  
e-mail: [schard@westberks.gov.uk](mailto:schard@westberks.gov.uk)

Further information and Minutes are also available on the Council's website at  
[www.westberks.gov.uk](http://www.westberks.gov.uk)



**Agenda - Governance and Audit Committee to be held on Monday, 20 February 2012**  
(continued)

**To:** Councillors Jeff Beck (Chairman), Paul Bryant, David Holtby, Tony Linden, Julian Swift-Hook (Vice-Chairman), Tony Vickers and Quentin Webb

**Substitutes:** Councillors Brian Bedwell, Adrian Edwards, Alan Macro and David Rendel

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# Agenda

<b>Part I</b>	<b>Page No.</b>
1. <b>Apologies</b> To receive apologies for inability to attend the meeting (if any).	
2. <b>Minutes</b> To approve as a correct record the Minutes of the meeting of this Committee held on 21 <sup>st</sup> November 2011.	1 - 4
3. <b>Declarations of Interest</b> To receive any Declarations of Interest from Members.	
4. <b>Internal Audit - Interim Report for 2011/12 (GA2388)</b> <i>Purpose: To update the Committee on the outcomes of work performed by Internal Audit during 2011/12.</i>	5 - 12
5. <b>Amendments to the Constitution - Scheme of Delegation (C2454)</b> <i>Purpose: To review and amend sections of the Scheme of Delegation in light of recent legislative changes and to take account of the changes arising from the Senior Management Review.</i>	13 - 96
6. <b>Amendments to the Constitution - Part 14 Management Structure (C2462)</b> <i>Purpose: To review and amend Part 14 of the Constitution – Management Structure to take account of the changes arising from the Senior Management Review.</i>	97 - 112

Andy Day  
Head of Policy and Communication

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

## GOVERNANCE AND AUDIT COMMITTEE

### MINUTES OF THE MEETING HELD ON MONDAY, 21 NOVEMBER 2011

**Councillors Present:** Jeff Beck (Chairman), Paul Bryant, Tony Linden, Julian Swift-Hook (Vice-Chairman), Tony Vickers and Quentin Webb

**Also Present:** Andy Day (head of Policy and Communication)

**Apologies for inability to attend the meeting:** Councillor David Holtby

#### PART I

#### 20. Minutes

The Minutes of the meeting held on 29 September 2011 were approved as a true and correct record and signed by the Chairman.

Andy Day reported that, in respect of the Amendments to the Scheme of Delegation:

1. the amendments proposed at the Governance and Audit meeting on the 29 September 2011 had been included in the report considered by Full Council on the 25 October 2011;
2. Moira Fraser, on behalf of David Holling, had incorporated a response to the queries raised at the meeting in the report considered by Council. A note to this effect was circulated to Members of the Committee via email on the 21 October 2011 and no additional requests for information had been received to date;
3. the index had been updated prior to consideration at Council.

#### 21. Declarations of Interest

There were no declarations of interest received.

#### 22. Amendments to Parts 7, 8 and 12 of the Council's Constitution (C2349)

The Committee considered a report (Agenda Item 4) concerning amendments to Parts 7,8 and 12 of the Constitution. Andy Day reported that the sections of the report had been considered by the Finance and Governance Group and also included responses from professional Officers across the Council, including HR, Planning and Legal.

Paragraph	Amendment	Comment
7.1.7 (Personnel Committee)	Write HR in full	amended
7.2.2 (e) (Order of Business at Ordinary Meetings)	Delete (e) receive petitions from Members	amended and rest of paragraph renumbered
7.2.3 (Extraordinary Meetings)	Insert the word 'or' between Committee and Sub-Committee in the first paragraph	amended
7.2.3 (Extraordinary Meetings)	Clarify that the twenty one days refers to	amended

## GOVERNANCE AND AUDIT COMMITTEE - 21 NOVEMBER 2011 - MINUTES

Meetings	calendar days	
7.2.4 (d) (Order of Business – Extraordinary Meetings)	Replace the word ‘to’ with the word ‘for’	amended
7.3.5 (Quorum)	Reference should be to paragraph 7.3.5 and not 7.3.4	amended
7.3.7 (Continuation of Meeting)	Reference should be to 7.7.3 and not 7.6.2	amended
7.3.8 (Agendas)	Delete ‘subject to Rule (d) below	amended
7.3.9 (Confidentiality and Non-Disclosure of Reports)	Second paragraph replace words ‘the’ with ‘a’ in the first sentence	amended
7.3.10 (Referencing-Up)	Amend reference to 7.3.10 to 7.3.11	amended
7.3.11 (Exceptions)	Amend reference to 7.3.9 to 7.3.10	amended
7.5.1 (Definition of Urgent Items)	Use apostrophes around “urgent items”	amended
7.6 (Petitions)	Delete sections 7.6.1, 7.6.2,7.6.3 and 7.6.4	amended and paragraphs renumbered
7.9.1 (seconding)	Delete the second sentence	amended
7.10.2 (Suspension of Sitting)	Replace the word ‘they’ in the last sentence with the words ‘the Chairman’	Amended
7.11.4 (Appointments to Outside Bodies)	Second sentence the word ‘note’ should be ‘not’	amended
7.13.5 (Suspension or Variation)	Second bullet point replace ‘he/she’ with ‘the Chairman’.	amended

Members noted the amendments to Part 8 of the Constitution (access by the Public to Information Rules of Procedure) and no further amendments were requested. Members requested that in respect to Part 12 (Personnel Rules of Procedure) HR be written in full i.e. Human Resources.

**RESOLVED: that the proposed amendments to Parts 7, 8 and 12 of the Council’s constitution be referred to Council for adoption.**

**GOVERNANCE AND AUDIT COMMITTEE - 21 NOVEMBER 2011 - MINUTES**

*(The meeting commenced at 6.00 pm and closed at 7.10 pm)*

**CHAIRMAN** .....

**Date of Signature** .....

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# Agenda Item 4.

<b>Title of Report:</b>	<b>Internal Audit - Interim Report for 2011-12</b>
<b>Report to be considered by:</b>	Governance and Audit Committee
<b>Date of Meeting:</b>	20th February 2012
<b>Forward Plan Ref:</b>	GA2388

**Purpose of Report:** To update the Committee on the outcomes of work performed by Internal Audit during 2011-12.

**Recommended Action:** Note the contents of the report and consider whether the actions identified in the report are adequate.

**Reason for decision to be taken:**

**Other options considered:**

**Key background documentation:**

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

- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT16 - Excellent Performance Management**

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

Supporting the Council's Governance by reviewing the internal control framework

Portfolio Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Keith Chopping - (0118) 983 2057
<b>E-mail Address:</b>	kchopping@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	22 November 2011

Contact Officer Details	
<b>Name:</b>	Ian Priestley
<b>Job Title:</b>	Chief Internal Auditor
<b>Tel. No.:</b>	01635 519253
<b>E-mail Address:</b>	ipriestley@westberks.gov.uk

## Implications

**Policy:** none

**Financial:** none

**Personnel:** none

**Legal/Procurement:** none

**Property:** none

**Risk Management:** Internal Audit is a key part of the internal control framework and contributes to the identification and effective management of risk across the Council

**Equalities Impact Assessment:** Stage 1 EIA attached as Appendix A.

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input 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 type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	



# Executive Summary

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## **1. Introduction**

- 1.1 The purpose of this report is to provide an interim report to the Governance and Audit Committee as required by the Code of Practice for Internal Audit in Local Government.
- 1.2 The report highlights the results of internal audit work on the Council's systems and procedures and provides assurance on the Council's internal control framework.

## **2. Proposals**

- 2.1 The work carried out by internal audit demonstrates that the Council's main financial systems are very sound. Six of these key systems have been audited so far and all have been assessed as well controlled or very well controlled.
- 2.2 The one area of concern relates to an audit of the Grounds Maintenance contract for the Council, which was assessed as weak. The service has responded positively and has implemented the agreed recommendations.

## **3. Conclusion**

- 3.1 The Council's overall internal control framework remains robust.

# Executive Report

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## 1. Introduction

1.1 The CIPFA Code of Practice for Internal Audit in Local Government requires the “Head of Internal Audit” to make a formal report annually to the Council. The report should:

- (1) include an opinion on the overall adequacy and effectiveness of the organisation’s risk management systems and internal control environment
- (2) disclose any qualifications to that opinion, together with the reasons for the qualification
- (3) present a summary of the audit work from which the opinion is derived, including reliance placed on work by other assurance bodies
- (4) draw attention to any issues the “Head of Internal Audit” judges particularly relevant to the preparation of the statement on internal control
- (5) compare the work actually undertaken with the work that was planned and summarise the performance of the Internal Audit function against its performance measures.

1.2 In addition to the formal annual report, the Head of Internal Audit should make arrangements for interim reporting to the organisation in the course of the year. Such interim reports should address emerging issues in respect of the whole range of areas to be covered in the formal annual report. This report provides an interim view looking at the first 6 months of the year.

## 2. Opinion on the “Internal Control Framework”

2.1 No fundamental weaknesses were identified in Council’s internal control framework through the work carried out by Internal Audit. Where audit work identified weaknesses then management action has been taken to resolve issues identified. Overall the internal control framework remains robust.

2.2 The following table summarises the results of the audit work where an opinion was given, and this demonstrates that, in particular, the main financial systems of the Council are very robust. In addition it should be noted that the identification of weaknesses is an inevitable part of the auditing process. What is then key is that Management responds positively by implementing agreed recommendations.

Type	Very weak	Weak	Satisfactory	Well Controlled	Very Well Controlled
Key Financial System	0	0	0	5	1
Other systems	0	1	5	2	0

2.3 The issue of concern in relation to the weak opinion (Grounds Maintenance - Planning and Countryside) was that there was not a signed contract in place. Also the overall management framework could be strengthened to ensure that all of the key aspects / areas of the contract and operational performance are effectively monitored. We also found that the processes and procedures for monitoring the contract have not been clearly defined and documented to ensure that standard processes have been specified and a consistent approach is followed by all members of staff involved. The Head of Planning and Countryside has confirmed that the lack of a signed contract was resolved immediately and that only one recommendation remains outstanding - relating to the need to document procedures. This was scheduled to be progressed January 2012.

2.4 The following summarises the results of follow up work. This table demonstrates that the Council has responded effectively where weaknesses have been identified.

Type	Unsatisfactory	Satisfactory
Key Financial System	0	4
Other systems	0	2

### 3. Performance of Internal Audit

3.1 Delivery of the audit plan is within target in the current year. The team is fully staffed at present following recruitment of a Senior Auditor in May and a successful redeployment into an Auditor post.

## **Appendices**

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Appendix A - EIA

## **Consultees**

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**Local Stakeholders:** Not consulted

**Officers Consulted:** Corporate Board

**Trade Union:** Not consulted

## Equality Impact Assessment – Stage One

<b>Name of item being assessed:</b>	Internal Audit - Interim Report 2011-12
<b>Version and release date of item (if applicable):</b>	n/a
<b>Owner of item being assessed:</b>	Ian Priestley
<b>Name of assessor:</b>	Ian Priestley
<b>Date of assessment:</b>	1.11.12

<b>1. What are the main aims of the item?</b>
To outline the results of the work of internal audit over the first 6 months of the year.

<b>2. Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this.</b> (Please demonstrate consideration of all strands – age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation)		
<b>Group Affected</b>	<b>What might be the effect?</b>	<b>Information to support this.</b>
none		
<b>Further comments relating to the item:</b>		

<b>3. Result</b> (please tick by clicking on relevant box)	
<input type="checkbox"/>	<b>High Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	<b>Medium Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	<b>Low Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
<input checked="" type="checkbox"/>	<b>No Relevance</b> - This <b>does not</b> need to undergo a Stage 2 Equality Impact Assessment

**For items requiring a Stage 2 equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.**

<b>4. Identify next steps as appropriate:</b>	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	Not required

**Name:** Ian Priestley

**Date:** 1.11.12

<b>Title of Report:</b>	<b>Amendments to the Constitution - Scheme of Delegation</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	01 March 2012
<b>Forward Plan Ref:</b>	C2454

<b>Purpose of Report:</b>	<b>To review and amend sections of the Scheme of Delegation in light of recent legislative changes and to take account of the changes arising from the Senior Management Review.</b>
<b>Recommended Action:</b>	<b>To approve the recommended actions and where necessary produce clarity on the Scheme.</b>
<b>Reason for decision to be taken:</b>	To align functions in line with changes to the Council's Management Structure and governance arrangements, as well as any changes to legislation.
<b>Other options considered:</b>	None - The Constitution has to be updated.
<b>Key background documentation:</b>	Relevant legislation

<p>The proposals will also help achieve the following Council Plan Themes:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> <b>CPT12 - Including Everyone</b></li> <li><input checked="" type="checkbox"/> <b>CPT15 - Putting Customers First</b></li> <li><input checked="" type="checkbox"/> <b>CPT16 - Excellent Performance Management</b></li> </ul> <p>The proposals contained in this report will help to achieve the above Council Plan Themes by: ensuring that the Constitution is up to date.</p>
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Member Details	
<b>Name &amp; Telephone No.:</b>	Councillor Jeff Beck
<b>E-mail Address:</b>	jbeck@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	2 February 2012

Contact Officer Details	
<b>Name:</b>	Andy Day
<b>Job Title:</b>	Head of Policy and Communication
<b>Tel. No.:</b>	01635 519459
<b>E-mail Address:</b>	aday@westberks.gov.uk

## Implications

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**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 1 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 type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>



# Executive Summary

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## 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. This report lists all of the proposed changes for Council to consider.
- 1.2 The following principles have been used to make changes to the Scheme of Delegation:
  - (i) References to Personnel Committee.
  - (ii) Changes in delegation relating to the Returning Officer.
  - (iii) Amendments following the Senior Management Review.
  - (iv) Changes in legislation.

## 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 area names, job roles and changes to legislation.

# Executive Report

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## 1. Introduction

- 1.1 Following an internal audit of the Management of the Constitution in 2010 it was noted that one of the responsibilities of the Finance and Governance Group is to have ownership of the Council's Constitution. The content of the Local Code of Corporate Governance says that there will be an annual review of the operation of the Constitution.
- 1.2 A timetable has now been established for the Finance and Governance Group to review individual sections of the Constitution and a number of Officers have been involved in revising specific parts of the Constitution. This report proposes amendments to Part 3 of the Constitution, the Scheme of Delegation.
- 1.3 The Scheme of Delegation summarises which part of the decision-making process (e.g. the Council, Executive, the Area Planning Committees, Licensing Committee/Sub-Committee, the Standards Committee and the Personnel Committee) is responsible for which function. This Scheme also sets out the extent to which the powers and duties of the Council are delegated to Officers.
- 1.4 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 report proposes a number of changes for the Council to consider. These are set out below.
- 1.5 The following key changes have been made to the document by Officers:
- Amendments to make reference to the functions of the Personnel Committee;
  - Insertion of a paragraph in the general pre-ambule in an endeavour to ensure continuity following any reorganisation / restructure;
  - Changes to the delegations relating to the Returning Officer;
  - Amendments and re-alignment of functions to Service Areas, following reorganisation within the Council;
  - Updates in respect of changes to legislation;
  - Throughout this section, the words 'Officer Delegation Rules' have been replaced by 'Scheme of Delegation'.
- 1.6 A full list of amendments is set out in the table below.

<b>Constitution Page No</b>	<b>Paragraph</b>	<b>Change</b>	<b>Comments/Reason</b>
1	3.1.2 - Table 1	Delete the words 'Housing/ Homelessness = 3 Members'	Amendment
2 & 3	3.1.2 – Table 1	Delete – 'Head of Property and Public Protection' and replace with 'Head of Culture and Environmental Protection'.	SMR
3	3.1.2 – Table 1	For the function "The obtaining of information under Section 330 of the Town and Country Planning Act 1990" the delegation of function to be amended to read "the Head of Planning and Countryside" rather than the Head of Legal and Electoral Services	SMR
5	3.1.3 – Table 2	Under the function "Power to make Standing Orders as to contracts" the delegation of functions should read "the Head of Legal Services" and not the Head of Legal and Electoral Services	SMR
6 & 7	3.1.3 – Table 2	Delete – 'Head of Property and Public Protection' and replace with 'Head of Culture and Environmental Protection'. Delete 'Head of Legal and Electoral Services' and replace with 'Head of Legal Services'	SMR
6	3.1.3 – Table 2 – 5 <sup>th</sup> row	Function should read 'Duty to keep and maintain a register of commons' and the words 'register of information in respect of maps, statements and declarations' should be deleted. Delegation of functions should read 'Functions delegated to the Head of Legal Services as set out in the Scheme of Delegation' and the words 'Functions delegated to the Head of Planning and Countryside as set out in the	SMR

Constitution Page No	Paragraph	Change	Comments/Reason
		Officer Delegation of Rules' to be deleted.	
11	3.2.4	General Requirements – 2 <sup>nd</sup> bullet – delete the words 'Parts 4 – 12 of' and 'Contract and Financial Rules of Procedure'.  3 <sup>rd</sup> bullet – add the word 'and;' at the of the bullet point.  4 <sup>th</sup> bullet – delete the words 'and the Members and Officers' Code of Conduct'.	Amendment
12	3.2.3 – last paragraph	Delete the words 'Head of Legal and Electoral Services' and replace with 'Head of Legal Services'	SMR
13	3.3.3 – 19 <sup>th</sup> main bullet	Delete the words 'Head of Policy and Communication' and replace with the words 'Head of Strategic Support'	SMR
14	3.3.6 – (a) Heading	Delete the words 'Children and Young People' and replace with 'Communities'	SMR
15	3.3.6	Delete the heading '(b) Community Services'	SMR
16	3.4	'Head of Legal and Electoral Services' to be replaced with 'Head of Legal Services';  'Head of Policy and Communication' to be replaced with 'Head of Strategic Support';  'Head of Property and Public Protection' to be replaced with 'Head of Culture and Environmental Protection'.	SMR
19	3.4.1	'3.17' should read '3.16'	Amendment

<b>Constitution Page No</b>	<b>Paragraph</b>	<b>Change</b>	<b>Comments/Reason</b>
20	3.5.3.	Second bullet point – Head of Legal and Electoral Services should read Head of Legal Services	Amendment
20	3.5.3	Third bullet point – Communities should read Community Services	Amendment
20	3.5.3	Fifth bullet point – Head of Care Commissioning, Housing and Safeguarding – delete Head of Housing	Amendment
20	3.5.3	Tenth bullet point – delete Rule 11.3.2. Contract Rules of Procurement should read Contract Rules of Procedure	Amendment
22	3.5.13	First bullet point – Head of Legal and Electoral Services should read Head of Legal Services	Amendment
22	3.5.13	Fifth bullet point – Head of Legal and Electoral Services should read Head of Legal Services	Amendment
22	3.2.14	First bullet point – conjunction should read consultation. Head of Legal and Electoral Services should read Head of Legal Services.	Amendment
23	3.5.15	Sixth bullet point – Head of Legal and Electoral Services should read Head of Legal Services	Amendment
23	3.5.15	Seventh bullet point – Head of Legal and Electoral Services should read Head of Legal Services	Amendment
28	3.8	Head of Housing & Performance should read Head of Care Commissioning, Housing and Safeguarding.	Amendment
29	3.8.4	Delete Housing Associations	Amendment

<b>Constitution Page No</b>	<b>Paragraph</b>	<b>Change</b>	<b>Comments/Reason</b>
29	3.8.5	Second bullet point – Housing act 2004 – replace with Housing Act 2004.	Amendment
30	3.9	Replace Head of Policy and Communication with Head of Strategic Support.	Amendment
31	3.12.2	Third bullet point – replace Head of Legal and Electoral Services with Head of Legal Services.	Amendment
32	3.12.3	Third bullet point – replace Head of Legal and Electoral Services with Head of Legal Services.	Amendment
32	3.12.3	Eighth bullet point – replace Head of Legal and Electoral Services with Head of Legal Services.	Amendment
33	3.12.3	Thirty-sixth bullet point – replace Head of Legal and Electoral Services with Head of Legal Services.	Amendment
34	3.12.3	Thirty-ninth bullet point – replace Closures with Clauses	Amendment
34	3.12.3	Fortieth bullet point – delete (in consultation with Head of Finance)	Amendment
35	3.12.6, bullet point 14	Insert the wording: ‘In consultation with the Head of Finance’	Amendment
36	3.12.6, bullet point 1	Insertion of the word: ‘powers’	Amendment
36	3.12.7, 4 <sup>th</sup> paragraph	Insert the wording: ‘As amended by the Flood and Water Management Act 2010  To grant consent for any works on ordinary water	In line with the Flood and Water Management Act 2010.

<b>Constitution Page No</b>	<b>Paragraph</b>	<b>Change</b>	<b>Comments/Reason</b>
		courses.'	
36	3.12.13	<p>Insert the wording: 'Flood and Water Management Act 2010</p> <p>Section 7 – to act as Lead Local Flood Authority for West Berkshire;</p> <p>Sections 14 &amp; 15 – Power to request information in connection with the Authority's flood risk management functions;</p> <p>Section 30 – Power to designate structures and features that affect flooding (in consultation with the Head of Legal Services).'</p>	In line with the Flood and Water Management Act 2010.
37	3.13	Delete 'Head of Legal and Electoral Services' and replace with 'Head of Legal Services'	SMR
37	3.13.1, 3 <sup>rd</sup> bullet point	Insert the wording: 'Sealing of all documents on behalf of the Council'	Amendment
40	3.13.11, final bullet point	Delete 'Community Services' and insert 'Communities'	SMR
41	3.14.1, first, second and fourth bullet point	Delete 'Head of Legal and Electoral Services' and replace with 'Head of Legal Services'	SMR
42	3.14.4, second bullet point	Delete 'Head of Legal and Electoral Services' and replace with 'Heads of Legal Services and Highways and Transport.'	Amendment
42	3.14.4, Point 4	Delete 'arrange for the temporary use of land for the dumping or storing of highways material or equipment'. Insertion of: 'keep	Amendment

Constitution Page No	Paragraph	Change	Comments/Reason
		the definitive maps and statement under review'	
49	3.15	Delete 'Head of Property and Public Protection' and replace with 'Head of Culture and Environmental Protection'	SMR
49	3.15.1	Delete '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 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	Legislation



Constitution Page No	Paragraph	Change	Comments/Reason
		<p>vehicles. 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.</p> <p>Insertion of: 'The Head of Culture and Environmental Protection 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 the legislation set out below: Anti Social Behaviour Act 2003 Clean Neighbourhoods and Environment Act 2005 Control Of Pollution Act 1974 Control of Pollution (Amendment) Act 1989 Environment Act 1995 Environmental Protection Act 1990 European Communities Act 1972 Refuse Disposal (Amenity) Act 1978</p>	
49	3.15.2	Delete 'Clean Neighbourhoods and Environment Act 2005. To exercise powers in relation to Clean Neighbourhoods and Environment Act 2005.'	Legislation
49 & 50	3.15.3	Delete 'This authorisation shall also apply to matters delegated to West Berkshire District Council by Wokingham Borough Council in the agreement of 2 <sup>nd</sup> June 2010'.	Joint arrangement with Wokingham Borough Council for Trading Standards.

Constitution Page No	Paragraph	Change	Comments/Reason
		Insertion of 'set out below. This authorisation shall also apply to matters set out in the agreement between West Berkshire District Council by Wokingham Borough Council dated 2 <sup>nd</sup> June 2010:'	
52	First main paragraph	<p>Insertion of 'the' legislation 'set out below. This authorisation shall also apply to matters set out in the agreement between West Berkshire Council by Wokingham Borough Council dated 2<sup>nd</sup> June 2010.</p> <p>Deletion of 'This authorisation shall also apply to matters delegated to West Berkshire District Council by Wokingham Borough Council in the agreement of 2<sup>nd</sup> June 2010'.</p>	Joint arrangements with Wokingham Borough Council for Trading Standards.
53		<p>Insertion of:</p> <p>'Gambling Act 2005' Housing Acts '2004'</p>	Legislation
54	3.15.5	Delete 'Head of Property and Public Protection' and replace with 'Head of Culture and Environmental Protection'.	SMR
54	3.15.5, final bullet point	Insertion of 'Head of Legal Services'	SMR
54	3.15.6	<p>Insertion of:</p> <p><b>'Culture General</b> Local Government (Miscellaneous Provisions) Act 1982, Section 41 - Action considered appropriate in relation to property found in buildings or premises administered by Cultural and Environmental Protection Services. Letting of recreation facilities and premises (also Head of</p>	SMR

Constitution Page No	Paragraph	Change	Comments/Reason
		<p>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 act 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 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.'</p>	

## Appendices

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Appendix A – Equality Impact Assessment – Stage 1

Appendix B – Part 3 Scheme of Delegation

## Consultees

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**Local Stakeholders:** Not consulted

**Officers Consulted:** All Heads of Service; Legal Services Team; Corporate Board

**Trade Union:** Not consulted

## Equality Impact Assessment – Stage One

<b>Name of item being assessed:</b>	West Berkshire Constitution – Part 3 Scheme of Delegation
<b>Version and release date of item (if applicable):</b>	May 2011
<b>Owner of item being assessed:</b>	Andy Day
<b>Name of assessor:</b>	Moira Fraser
<b>Date of assessment:</b>	19 August 2011

<b>1. What are the main aims of the item?</b>
The item is to approve the amendments to the section in the Council's constitution on the Scheme of Delegation.

**2. Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this.** (Please demonstrate consideration of all strands – Age, Disability, Gender, Race, Religion or Belief and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this.

**Further comments relating to the item:**  
 There are not believed to be any implications affecting any groups with this item. The item is to discuss the proposed amendments in the Scheme of Delegation in the Council's constitution. This means that Officers making decisions will be required to act accordingly to Council Policy already in place, and remain neutral when making a decision.

<b>3. Result</b> (please tick by double-clicking on relevant box and click on 'checked')	
<input type="checkbox"/>	<b>High Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	<b>Medium Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
<input type="checkbox"/>	<b>Low Relevance</b> - This needs to undergo a Stage 2 Equality Impact Assessment
<input checked="" type="checkbox"/>	<b>No Relevance</b> - This <b>does not</b> need to undergo a Stage 2 Equality Impact Assessment

**For items requiring a Stage 2 equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.**

<b>4. Identify next steps as appropriate:</b>	
Stage Two required	
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	
Stage Two not required:	19/08/11

**Name:** Moira Fraser

**Date:** 19/08/11

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## Part 3

### Scheme of Delegation

#### Document Control

Document Ref:	WB/P&C/MF/2008-11	Date Created:	May 2007
Version:	<a href="#">4</a>	Date Modified:	<a href="#">March 2012</a>
Revision due			
Author:	Moirra Fraser – Democratic Services Manager		
Owning Service	Policy and Communication		

Deleted: December 2010

#### Change History

Version	Date	Description	Change ID
2	June 2008	Updated to incorporate new legislation and to apply the scheme to officers in two services	
2.1	Dec 2008	Paragraph 3.15.1	
3	Dec 2010	Entire document revised to align functions following Senior Management Review and to make amendments in line with changes to legislation	
4	October 2011	Entire document revised	
<a href="#">5.</a>	<a href="#">March 2012</a>	<a href="#">Entire document revised to align functions following Senior Management Review and to make amendments in line with changes to legislation</a>	



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 paragraph 3.2 (Officer's Scheme of Delegation) of this Constitution.

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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 Personnel Committee 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 Scheme of Delegation
The determination of an appeal against any decision made by or on behalf of the Authority	Council (Appeals Panel)	Dependent on nature of appeal: Home/ School Transport = 3 Members Housing/Council Tax Benefit = 3 Member	These functions will not be further delegated.
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.

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Housing/Homelessness = 3 Members

Function	Decision-Making Body	Membership	Delegation of Function
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 (School 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 (School 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 (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	Leader of the Council	All Members	These functions will not be further delegated.
Any function related to contaminated land	Licensing Committee	14 Members	Functions delegated to the <a href="#">Heads of Culture and Environmental Protection</a> , in accordance with the Scheme of Delegation
The discharge of any function relating to control of pollution or the management of air quality	Licensing Committee	14 Members	Functions delegated to the <a href="#">Head of Culture and Environmental Protection</a> in accordance with the Scheme of Delegation
The serving of an Abatement Notice in respect of a statutory nuisance	Licensing Committee	14 Members	Functions delegated to the <a href="#">Head of Culture and Environmental Protection</a> in accordance with the Scheme of Delegation

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Function	Decision-Making Body	Membership	Delegation of Function
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 <a href="#">Head of Culture and Environmental Protection</a> in accordance with the Scheme of Delegation
The inspection of the Authority's area to detect any statutory nuisance	Licensing Committee	14 Members	Functions delegated to the <a href="#">Head of Culture and Environmental Protection</a> in accordance with the Scheme of Delegation
The investigation of any complaint as to the existence of a statutory nuisance	Licensing Committee	14 Members	Functions delegated to the <a href="#">Head of Culture and Environmental Protection</a> in accordance with the Scheme of Delegation
The obtaining of information under Section 330 of the Town and Country Planning Act 1990	District/Area Planning Committees	12 Members	Functions delegated to the <a href="#">Head of Planning and Countryside</a> in accordance with the Scheme of Delegation
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 Heads of Service in accordance with the Scheme of Delegation
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 the Scheme of Delegation
The appointment of any individual: a) to any office other than an office in which they are employed by the Authority; b) to any other body 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	Executive (for major and district-wide appointments) Individual Decision Scheme (for local appointments)	Executive Leader plus 9 other Members Members of the relevant Wards	These functions will not be delegated further.

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Function	Decision-Making Body	Membership	Delegation of Function
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 Scheme of Delegation
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 delegated further except for requests for the early release of pensions (subject to the financial implications of each request being approved through the Executive decision making process) which are delegated to the Personnel Committee
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)	Governance and Audit	7 Members	These functions will not be further delegated
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 Scheme of Delegation
Power to amend the Council's Constitution	Council	All Members	These functions will not be further delegated

Functions	Committee	Membership	Delegation of Functions
Power to appoint Officers for particular purposes (appointment of 'Proper Officers')	Personnel Committee	5 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	Personnel Committee	5 Members	These functions will not be further delegated
Duty to designate an Officer as the Monitoring Officer, and to provide staff	Personnel Committee	5 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 <u>Head of Legal Services</u> as set out in the Scheme of Delegation
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 Development Framework, these will be referred to the District Planning Committee. Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation. Some functions are delegated to the Head of Planning and Countryside in consultation with the Head of Legal Services as set out in the Scheme of Delegation.

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Functions	Committee	Membership	Delegation of Functions
Powers relating to the Planning and Compulsory Purchase Act 2004	Area Planning Committees	12 Members	Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation
Licensing and registration functions	Licensing Committee	14 Members	Functions delegated to the <a href="#">Head of Culture and Environmental Protection</a> as set out in the Scheme of Delegation
Power to make closing order in respect of take-away shops	Licensing Committee	14 Members	Functions delegated to the <a href="#">Head of Culture and Environmental Protection</a> as set out in the Scheme of Delegation
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 <a href="#">Head of Culture and Environmental Protection</a> as set out in the Scheme of Delegation
Duty to keep <a href="#">and maintain a register of commons</a>	Area Planning Committees	12 Members	Functions delegated to the <a href="#">Head of Legal Services</a> as set out in the Scheme of Delegation
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 Scheme of Delegation
Powers relating to the preservation of important hedgerows	Area Planning Committees	12 Members Members for the relevant Wards	Functions delegated to the Head of Planning and Countryside as set out in the Scheme of Delegation
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 <a href="#">Head of Legal Services</a> as set out in the Scheme of Delegation
Powers relating to the preservation of trees	Area Planning Committees	12 Members	Functions delegated to Head of Planning and Countryside as set out in the Scheme of Delegation

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**Deleted:** register of information in respect of maps, statements and declarations

**Deleted:** Functions delegated to the Head of Planning and Countryside as set out in the Officer Delegation of Rules.

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Functions	Committee	Membership	Delegation of Functions
Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Council	All Members	Powers to appoint staff at Head of Service level and above delegated to the Personnel Committee by means of an Appointments Panel. Appointments below Head of Service level are delegated to the Chief Executive or the relevant Head of Service
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

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### 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 unspent convictions		All cases	
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

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
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

<b>Responsibility</b>	<b>Member-ship</b>	<b>Delegation of Functions</b>	<b>Onward limits on delegations</b>
Executive	Executive Leader plus 9 Members	The formulation, review and monitoring of the Budget and Policy Framework, including consultation with relevant 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

<b>Responsibility</b>	<b>Member-ship</b>	<b>Delegation of Functions</b>	<b>Onward limits on delegations</b>
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. This will include the management, control and supervision of :</p> <p>measures to promote the economic, environmental and social wellbeing of the District</p> <p>the development and review of plans and strategies to support the Council's Budget and Policy Framework and statutory responsibilities</p> <p>the Council's own financial and property resources</p> <p>Revenue Services and Benefits administration</p> <p>Support Services</p> <p>Library and Information Services</p> <p>Education Services and the promotion of Lifelong Learning</p> <p>Social Services and Health</p> <p>Environmental Services including planning, countryside, public protection and highway services</p>	<p>Functions will be delegated to the Chief Executive, Corporate Directors and Heads of Service in accordance with the Scheme of Delegation</p> <p>Functions delegated to the Head of Paid Service (Chief Executive in accordance with Scheme of Delegation and in consultation with Members of the Joint Consultative Panel)</p>
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 the Scheme of Delegation

## 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.

Powers designated to a Head of Service under this Scheme of Delegation shall immediately transfer to a successor Head of Service following a transfer of any functions as a result of a restructuring of Council Services.

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.

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### 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 they consider, 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

#### 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.

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#### General Requirements

Any exercise of delegated powers shall comply with:

- any statutory restrictions;
- Rules of Procedure as contained in **the Constitution**;
- Policies and Plans approved by full Council, the Executive or the Council's committees; **and**
- Codes and Protocols.

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#### 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.

#### 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.

#### 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 Services](#)).

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### 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 licences, 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).
- Employment of consultants to advise on specialist aspects of work within the relevant Service Area
- 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)

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- 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 and the Council's relevant policies (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 Strategic Support](#) for ex-gratia payments for maladministration.)
- General organisation of services within policy laid down by Council.
- To approve compensation and other payments to all current and former employees of the Council by way of a compromise agreement / COT3 in conjunction with the relevant Head of Service to an amount not exceeding £10,000. For amounts over £10,000 to approve compensation in conjunction with the relevant Head of Service, Head of Finance and Head of Legal Services.

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### 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) Communities

- 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 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

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Rules of Procedure, and where necessary, in consultation with the Monitoring Officer.

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(b) . Community 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), Revised in 2005 document, any relevant guidance from the Department of Health, 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 [Care Commissioning, Housing and Safeguarding](#) 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 [in relation to the Council's statutory housing function](#).
- Assessing current and future need for affordable housing and demand for market housing

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**(b) Chief Executive**

The Power to approve new and revised HR policies and procedures is delegated to the Chief Executive. The Chief Executive may decide

to refer particular HR policies and procedures to the Personnel Committee rather than exercise the delegation.

### 3.4 Schedule of Proper Officer Appointments

Sect	Function	Exercised by	
<b>The following Officers have been appointed Proper Officer for the purposes of the under-mentioned provisions of the Local Government Act 1972:</b>			
83	Witness and receipt of declarations of acceptance of office	The Chief Executive or <a href="#">Head of Legal Services</a>	<b>Deleted:</b> Head of Legal and Electoral Services
84	Receipt of declarations of resignation of office	The Chief Executive or Head of Legal Services	
86	Declaration of a vacancy	<a href="#">The Chief Executive or Head of Legal Services</a>	<b>Deleted:</b> Head of Legal and Electoral Services
88(2)	Convening of meeting of Council to fill a casual vacancy in the office of Chairman	<a href="#">Head of Strategic Support</a>	<b>Deleted:</b> Head of Policy and Communication
89(1)(b)	Receipt of notice of casual vacancy from two local government electors	<a href="#">The Chief Executive or Head of Legal Services</a>	<b>Deleted:</b> Head of Legal and Electoral Services
151	Officers having responsibility for the administration of the Council's financial matters	Head of Finance or deputy appointed in writing	
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 <del>Services</del>	<b>Deleted:</b> and Electoral Service
212(1) & (2)	Proper Officer to act as local registrar for Land Charges Act 1925	<a href="#">Head of Strategic Support</a>	<b>Deleted:</b> Head of Legal and Electoral Services <b>Deleted:</b> Legal Services
225(1)	Proper Officer for the depositing with the Independent Adjudicator the list of politically restricted posts under Section 2(4) of the Local Government & Housing Act 1989	Chief Executive	
225(1)	Deposit of Documents	Head of Legal <del>Services</del>	<b>Deleted:</b> and Electoral
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	

Sect	Function	Exercised by	
234	Authentication of all documents on behalf of the Council	Appropriate Director or Head of Service from which the document originates	<p><b>Deleted:</b> and sealing</p> <p><b>Deleted:</b> (1)</p> <p><b>Deleted:</b> &amp; (2)</p>
	<del>Sealing of all documents on behalf of the Council</del>	<del>Head of Legal Services or his deputy authorised in writing.</del>	<b>Deleted:</b> 234(2)
236(9)	To send copies of byelaws for Parish records	<u>Head of Legal Services</u>	<b>Deleted:</b> Head of Legal and Electoral Services
	To receive copies of byelaws and deposit them with public documents of parish or community	<u>Head of Legal Services</u>	<b>Deleted:</b> Head of Legal and Electoral Services
238	Certification of Byelaws	<u>Head of Legal Services</u>	<b>Deleted:</b> Head of Legal and Electoral Services
248	Keeping a Roll of Freeman	<u>Head of Strategic Support</u>	<b>Deleted:</b> Head of Legal and Electoral Services
Sch. 12 Para 4(2)(b) & 4(3)	Signature of summonses to Council meetings	<u>Head of Strategic Support</u>	<b>Deleted:</b> Head of Policy and Communication
	Schedule 12 Receipt of notices regarding Para 4(3) address to which summons to meetings is to be sent	<u>Head of Strategic Support</u>	<b>Deleted:</b> 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		<u>Head of Strategic Support</u>	<b>Deleted:</b> Head of Policy and Communication
Representation of the People Act 1983 as follows:			
Section 8 - Registration Officer and the Deputy Registration Officer under Section 8 of the Act		Chief Executive	
Section 35 - Returning Officer for elections		Chief Executive	
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	

Sect	Function	Exercised by
	To ensure that the Council's policies on Data Protection and Freedom of Information are complied with.	<a href="#">Head of Strategic Support</a>
	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 and Countryside
	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.	<a href="#">Head of Culture and Environmental Protection</a>
	For the purpose of: - Marriage Act 1949 - Registration Services Act 1953 - Local Registration Scheme - Provisions relating to new governance of the Registration Services	<a href="#">Head of Legal Services with Superintendent Registrar as deputy</a>
Local Government Act 1972 as amended:		
Section 100B(2)	Circulation of Reports and Agendas	<a href="#">Head of Strategic Support</a>
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.	

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Sect	Function	Exercised by
	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 Services or deputy appointed in writing <u>by the Monitoring Officer</u> .
	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 <u>Head of Culture and Environmental Protection</u>
	Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997.	Head of Finance (Section 151 Officer)
<b>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:</b>		
	For the Chief Executive	Appropriate Corporate Director
	For the <u>Head of Legal Services</u>	<u>Team Leaders within Legal Services with relevant knowledge</u>
	<b>For the Head of Finance</b>	<b>Appropriate Corporate Director</b>
	Others	Appropriate Corporate Director

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### **3.4.1** Delegations to Heads of Service

The following delegations are granted to the Heads of Services set out in section 3.5 to 3.16 below.

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## **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 Services](#)). **Deleted:** 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 ([Communities](#))). **Deleted:** 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 Care Commissioning, Housing and Safeguarding](#)). **Deleted:** 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 [Contract Rules of Procedure](#)). **Deleted:** Rule 11.3.2  
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- 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.
- [Section 42A compilation and maintenance, in accordance with section 42B, of a rural settlement list](#)  
*(Note: this relates solely to the provisions for rate relief for certain types of property in rural settlements having populations of less than 3,000)*
- 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 Local Authorities (Calculation of Council Tax Base) Regulations 1992

- [Regulations 3 to 5 - calculation of the amount of a billing authority’s council tax base for the purposes of the calculation of its council tax.](#)

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- [Regulation 6 calculation of a billing authority’s council tax base for a part of its area for the purposes of the calculation of its council tax similarly to the way in which the council tax base is to be calculated for the whole of a billing authority’s area under regulations 3 to 5.](#)
- [Regulation 7 the calculation of the council tax base of the area or part of the area of a billing authority for the purposes of the calculation of a major precepting authority’s council tax and the amount payable by a billing authority to a major precepting authority, based on the rules set out in regulations 3 to 6.](#)

*(Note: the power to delegate to officers is contained in section 67 of the [Local Government Finance Act 1992 as amended by s.84 of the Local Government Act 2003](#))*

**3.5.13 Matters Relating to Children and Young Persons**

- Where requested by the [Head of Legal 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 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.

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**3.5.14 Local Government (Miscellaneous Provisions) Act 1976**

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

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**3.5.15 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 tenants for the erection of garages, sheds, hardstanding etc., subject to conformity with Building Regulations

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and Planning requirements. Decisions on all matters relating to Council's conditions of tenancy.

- 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 Services as instructed by Head of Finance)
- Institution of proceedings for possession of mortgaged houses. (Head of Legal 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.

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### 3.5.16 **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.

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### 3.5.17 **Insurance**

All insurance arrangements and settlement of claims.

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### 3.5.18 **Human Resources**

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

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## 3.6 **Head of Children's Services**

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### **3.6.1 General**

- Within the provisions of Part III of the Children Act 1989 and 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 child minding and day-care for young people under the Children Act 1989.
- To revise and cancel registration.
- To vary the conditions of registrations.
- 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.

### 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 Social Care

### 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 Deputy in all matters in which it is appropriate for the Council to act and in accordance with any Court Orders made by the Court of Protection.
- To accept a guardianship application and to exercise the powers of Guardianship under ss.7-10 of the Mental Health Act 1983.

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- 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.
- To exercise the functions as laid out in the Deprivation of Liberty Safeguards guidance April 2009

### 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.

### 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.

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## 3.8 Head of Care Commissioning, Housing and Safeguarding

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### 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

- 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.

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Housing Associations.

### 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 travellers 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.

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### 3.8.6 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

### 3.8.7 Home Energy and Conservation Act 1995

To promote energy efficient homes including administering grants for energy efficiency

### 3.8.8 Future Development Sites

The Head of Care Commissioning, Housing and Safeguarding, in consultation with the Head of Planning and Countryside, 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 Care Commissioning, Housing and Safeguarding be given delegated authority to determine the level of affordable housing financial contribution in line with current policy.

### 3.8.9 Sites with Existing Planning Permission

The Head of Care Commissioning, Housing and Safeguarding 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 Services, the Head of Planning and Countryside, and in line with adopted planning policies

## 3.9 Head of Strategic Support

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### 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.
- Section 248 – to retain a roll of Freeman

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### 3.9.3 Electoral Matters

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

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## 3.10 Head of Customer Services

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### 3.10.1 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.](#)

### 3.11 **Head of ICT and Corporate Services Service**

[Local Government \(Miscellaneous Provisions\) Act 1982 - Section 38 – Use of spare capacity of computers of Local Authorities.](#)

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### 3.12 **Head of Highways and Transport**

#### 3.12.1 **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.

#### 3.12.2 **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 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.

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- To make objections to applications for Vehicle Operators Licences under Sections 12 to 14 of the Goods Vehicles (Licensing of Operators) Act 1995

### 3.12.3 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 they are 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 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 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.

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- 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.
  - the placing of tables and chairs on the public 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 their opinion (and that of the [Head of Legal 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.

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- Selection of sites for street seats.
- Approval of requests for street closures [or for making orders for the prevention of obstructions in the street during public processions etc](#) in accordance with Section 21 of the Town Police [Clauses Act 1847](#).
- Approval of applications for permission to hold events in Council car parks.
- 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.

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### 3.12.4 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.

### 3.12.5 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.

### 3.12.6 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.
- In consultation with the Head of Finance 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.

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- Section 219 - To exercise **powers** 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.

### 3.12.7 Land Drainage Act 1991

- 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.
- To exercise powers to require works for maintaining the flow of a watercourse including serving of notices.

As amended by the Flood and Water Management Act 2010

- To grant consent for any works on ordinary water courses.

### 3.12.8 Reservoirs Act as Amended by the Flood and Water Management Act 2010

To exercise the Council's powers and duties under the Reservoirs Act 1975 and the Flood and Water Management Act 2010.

### 3.12.9 Environmental Protection Act 1990

To exercise powers including serving of notices in respect of statutory nuisance relating to drainage.

### 3.12.10 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.

### 3.12.11 Clean Neighbourhoods and Environment Act 2005

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

### 3.12.12 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.

### 3.12.13 Flood and Water Management Act 2010

- Section 7 – to act as Lead Local Flood Authority for West Berkshire;
- Sections 14 & 15 – Power to request information in connection with the Authority's flood risk management functions;
- Section 30 – Power to designate structures and features that affect flooding (in consultation with the Head of Legal Services).

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### 3.13 Head of Legal Services

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#### 3.13.1 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.
- Sealing of all documents on behalf of the Council

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#### 3.13.2 Local Government Act 1972

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

#### 3.13.3 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.

#### 3.13.4 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.

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#### 3.13.5 Commons Registration

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

#### 3.13.6 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.

### 3.13.7 Highways Act 1980

*(All powers under this Act to be exercised in consultation with the Head of Highways and Transport and to be exercised also in consultation with the Head of Planning and Countryside where relating to a Public Rights of Way.)*

- 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.

### 3.13.8 Notices and Orders in relation to Highways and Public Rights of Way

*(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.)*

- Head of Planning and Countryside to be able to serve Notices, in consultation with the Head of Legal Services
- 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

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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)
- 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.

### **3.13.9 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.

### **3.13.10 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

### **3.13.11 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 instructions of the Head of Planning and Countryside, subject to the conditions below:

- Article 4: the making, service and confirmation of directions restricting permitted development;
- Part 6: Determination whether planning permission is required following notification of agricultural development
- The delegations relating to Stop Notices and Article 4 Directions above shall be exercised subject to the following:
  - The action shall be taken after consultation with the Chairman or in their absence the Vice-Chairman of the District Planning 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, [Communities](#)).

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### 3.13.12 Property Matters

- Agreements for easements and wayleaves to an unlimited value.
- Agreement for 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.
- Surrenders.
- Lifting of all restrictive covenants up to a value of £300,000.

## 3.14 Head of Planning and Countryside

### 3.14.1 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 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.

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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 Services](#)

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- To approve and protect development and improvement lines.

- The exercise (in consultation with the [Head of Legal Services](#)), of the common law duty to 'seek, prevent and remove obstructions' (Bagshaw vs Buxton Local Board of Health 1875).

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### 3.14.2 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
- To extinguish rights of way, where appropriate, and in consultation with ward members
- To divert public rights of way, where appropriate, and in agreement with ward members.
- To enter into maintenance agreements, where appropriate, and in consultation with ward members.

### 3.14.3 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.

### 3.14.4 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 [Heads of Legal Services and Highways and Transport](#):
  1. to accept dedications of land donated to the Council for highway purposes.
  2. In the exercise of the functions of the Council as Highway Authority, to advise on the highway aspects of development control.
  3. To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
  4. To [keep the definitive maps and statement under review](#).
  5. 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.

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- 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.

### 3.14.5 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 7,000m<sup>3</sup>.
- Section 38 – To ensure adequate fire precautions in high buildings.

### 3.14.6 Planning

- Subject to the conditions set out below, the determination, granting or refusal of Notifications and Applications for permission, certification 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:

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- 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.

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(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:

- Where the application is a major one or there are five or more objections and it is 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,
- 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.

### 3.14.7 Town and Country Planning Act 1990

Subject to the conditions at paragraph 3.14.6 (Planning) above, to exercise the powers and duties of the Council under the Town and Country Planning Act 1990 and any secondary legislation made

thereunder, and including any amendments or updates to the legislation, including but not limited to the following powers:

- Determination of applications as to whether Planning Permission is required.
- Response to Purchase Notices.
- The serving and enforcement of Planning Contravention Notices.
- The issuing, service and enforcement of Enforcement Notices including action in default when required.
- The service and enforcement of Stop Notices.
- The service and enforcement of Breach of Condition Notices.
- Injunctions restraining breaches of planning controls.
- The issue of Lawful Use or Development Certificates.
- The making and enforcement of Tree Preservation Orders and the determination of applications for consent in respect of such Orders.
- The service of Notices in relation to untidy land and consequent action to secure compliance.
- 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.

#### **3.14.8 Planning (Listed Buildings and Conservation Areas) Act 1990**

Subject to the conditions at paragraph 3.14.6 above (Planning), to exercise the powers and duties of the Council under the Planning (Listed Buildings and Conservation Areas) Act 1990 and any secondary legislation made thereunder, and including any amendments or updates to the legislation, including but not limited to the following powers:

- The service of Building Preservation Notices.
- Enforcement in respect of unauthorised works to listed buildings.
- The issuing and service of Listed Building Enforcement Notices.
- The issuing and service of Urgent Works Notices and execution of works as contained in the Notice.
- 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.

### 3.14.9 Other Powers – Technical, Legal and Consultation Provisions

- Authority to sign Decision Notices regarding the granting or refusal of planning permissions, consents or approvals.
- Authority to enter into Legal Agreements to secure planning obligations for the provision of mitigation where unacceptable harm would otherwise result as a consequence of development
- 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.

### 3.14.10 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);

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- 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.

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### 3.14.11 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.

### 3.14.12 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.

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#### **3.14.13 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.

#### **3.14.14 Environmental Protection (Controls on Injurious Substances) Regulations 1993**

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

#### **3.14.15 Local Government (Miscellaneous Provisions) Act 1982**

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

#### **3.14.16 Clean Air Act 1993**

Section 16 – Height of chimneys.

#### **3.14.17 The Building Regulations 2010**

Section 16 – Laying open uninspected work.

#### **3.14.18 The Building (Local Authority Charges) Regulations 1998**

Section 3 – Fix charges for Building Regulation fees.

**3.14.19 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.

**3.14.20 Party Walls Act 1996**

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

**3.14.21 Planning and Compulsory Purchase Act 2004**

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

**3.14.22 The Building (Local Authority Charges) Regulations 2010 – Scheme of Charges**

**3.15 Head of Culture and Environmental Protection**

**3.15.1 Waste Management**

The Head of Culture and Environmental Protection 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 the legislation set out below:

- Anti Social Behaviour Act 2003
- Clean Neighbourhoods and Environment Act 2005
- Control Of Pollution Act 1974
- Control of Pollution (Amendment) Act 1989
- Environment Act 1995
- Environmental Protection Act 1990
- European Communities Act 1972
- Refuse Disposal (Amenity) Act 1978

**3.15.2 General**

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

**3.15.3 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 the legislation set out below. This authorisation shall also apply to matters set

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<#>In consultation with the Head of Legal 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 (Amenit... [3]

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out in the agreement between West Berkshire District Council by Wokingham Borough Council dated 2<sup>nd</sup> 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  
 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

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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  
Petroleum (Consolidation) Act 1928  
Petroleum (Transfer of Licences) Act 1936  
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  
Regulatory Enforcement and Sanctions Act 2008  
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  
Sunbeds (Regulation) Act 2010  
Tattooing of Minors Act 1969

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- 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*

The Environmental Health and Licensing Manager 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 include any amending or updating the legislation set out below. This authorisation shall also apply to matters set out in the agreement between West Berkshire District Council by Wokingham Borough Council dated 2<sup>nd</sup> June 2010.

**Environmental Health and Licensing**

- Animal Boarding Establishments Act 1963
- Berkshire Act 1980
- Breeding of Dogs Act 1973
- Breeding of Dogs Act 1991
- Building Act 1984
- Caravan Act 1968
- Caravan Act 1985
- Caravan Sites and Control of Development Act 1960-1985
- Chronically Sick and Disabled Persons Act 1970
- Cinema Act 1968-1985
- Clean Air Acts 1956-1993
- Clean Neighbourhoods and Environment Act 2005
- Control of Pollution Act 1974
- Crime and Disorder Act 1997
- Criminal Justice and Public Order Act 1994

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Dangerous Dogs Act 1991  
Dangerous Wild Animals Act 1976  
Disabled Persons Act 1981  
Dogs (Fouling of Land) Act 1996  
Environment Act 1995  
Environmental Protection Act 1990  
Factories Act 1961  
Food Safety Act 1990  
[Gambling Act 2005](#)  
Guard Dogs Act 1975  
Health and Safety at Work etc. Act 1974  
Health Act 2006  
Home Safety Act 1961  
Housing Acts 1957, 1985, 1996, [2004](#)  
Housing Grants, Construction and Regeneration Act 1996  
Land Compensation Act 1973  
Late Night Refreshment Houses Act 1969  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government Acts 1953-1989  
Local Government and Housing Act 1989  
National Assistance (Amendment) Act 1951  
National Assistance Act 1948  
Noise Act 1996  
Noise and Statutory Nuisance Act 1993  
Offices, Shops and Railway Premises Act 1963  
Pesticides Act 1996  
Pet Animals Act 1951  
Pollution, Prevention and Control Act 1999  
Prevention of Damage by Pests Act 1949  
Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002  
Public Health (Control of Disease) Act 1984  
Public Health Acts 1936, 1961  
Radioactive Substances Act 1993  
Rag Flock Act 1961

Regulation of Investigatory Powers Act 2000  
 Riding Establishments Act 1964/1970  
 Scrap Metal Dealers Act 1964  
 Safety of Sports Grounds Act 1975  
 Slaughter of Poultry Act 1967  
 Slaughterhouses Act 1974  
 Sunday Trading Act 1994  
 Theatres Act 1968  
 Town Police Clauses Acts 1847-1889  
 Transport Act 1980  
 Water Acts 1945-1989  
 Water Industries Act 1991  
 Zoo Licensing Act 1981

### **3.15.4 Clean Neighbourhoods and Environment Act 2005**

To exercise powers in relation to the Clean Neighbourhoods and Environment Act 2005.

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### **3.15.5 Authorisation**

The [Head of Culture and Environmental 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.

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The Trading Standards Manager and the Environmental Health and Licensing Manager shall be authorised to:

- to authorise Officers for the purpose of enforcement and administration of the legislation listed;
- to institute proceedings or authorise other 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 Services](#).

### **3.15.6 Culture General**

- [Local Government \(Miscellaneous Provisions\) Act 1982, Section 41 - Action considered appropriate in relation to property found in](#)

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buildings or premises administered by Cultural and Environmental Protection 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 act 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 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.

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### 3.16 Head of Education Services

#### 3.16.1 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

#### 3.16.2 Admissions

- To consult annually with governing bodies about admission arrangements as required by Section 88 of the School Standards and Framework Act 1998.

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- 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.

### **3.16.3 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.

### **3.16.4 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.

### **3.16.5 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.

### **3.16.6 Name of School**

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

### **3.16.7 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.

### **3.16.8 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.

### **3.16.9 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.

### **3.16.10 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.

### **3.16.11 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).

### **3.16.12 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.



### 3.16.13 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.

### 3.16.14 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.
- To approve minor amendments to the Council's Code of Conduct regarding the use of Fixed Penalty Notices for school non-attendance.

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### 3.16.15 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 6.

<b>Title of Report:</b>	<b>Amendments to the Constitution - Part 14 Management Structure</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	01 March 2012
<b>Forward Plan Ref:</b>	C2462

<b>Purpose of Report:</b>	<b>To review and amend Part 14 of the Constitution - Management Structure to take account of the changes arising from the Senior Management Review 2011.</b>
<b>Recommended Action:</b>	<b>To approve the amendments to Part 14 - Management Structure post the Senior Management Review 2011.</b>
<b>Reason for decision to be taken:</b>	To reflect changes to the Council's Management Structure following the Senior Management Review.
<b>Other options considered:</b>	None - the Constitution has to be updated
<b>Key background documentation:</b>	None

<b>Member Details</b>	
<b>Name &amp; Telephone No.:</b>	Councillor Jeff Beck
<b>E-mail Address:</b>	jbeck@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	9 February 2012

<b>Contact Officer Details</b>	
<b>Name:</b>	Andy Day
<b>Job Title:</b>	Head of Policy and Communication
<b>Tel. No.:</b>	01635 519459
<b>E-mail Address:</b>	aday@westberks.gov.uk

## Implications

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**Policy:** Will require changes to the Constitution  
**Financial:** None  
**Personnel:** None  
**Legal/Procurement:** Will require the Constitution to be updated  
**Property:** None  
**Risk Management:** None  
**Equalities Impact Assessment:** None

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 Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

## Supporting Information

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### 1. Introduction

- 1.1 Following the Senior Management Review conducted in 2011 a number of changes have been made to the Council's management structure. These changes will be fully implemented from 1 April 2012.
- 1.2 As a result amendments are proposed to Part 14 of the Constitution (Management Structure) and an updated version of this document is attached at Appendix A for Members consideration.

### 2. Recommendation

- 2.1 The Governance and Audit Committee is recommended to approve the amendments for the consideration of Full Council on 1 March 2012.

### Appendices

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Appendix A – Constitution Part 14 – Management Structure

### Consultees

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**Local Stakeholders:** Not consulted  
**Officers Consulted:** Corporate Board  
**Trade Union:** Not consulted

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## Part 14

## Management Structure

### Document Control

<b>Document Ref:</b>	WB/P&C/MF/2008-11	<b>Date Created:</b>	
<b>Version:</b>	2	<b>Date Modified:</b>	January 2011
<b>Revision due</b>			
<b>Author:</b>	Nick Carter – Chief Executive		
<b>Owning Service</b>	Strategic Support		

### Change History

Version	Date	Description	Change ID
1			
2			
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.



# West Berkshire Council Constitution

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14.14.1	Role of Chief Executive.....	4
14.14.2	Communities.....	7
14.14.3	Environment.....	9

Appendix: West Berkshire Council Management Structure

## **14.14 Introduction**

### **14.14.1 Role of Chief Executive**

The Council's management structure is headed by the Chief Executive, the most senior officer employed by the Council. The Chief Executive holds the statutory post of Head of Post Service and is the Council's Returning Officer.

The Chief Executive is supported by two Corporate Directors each, along with the Chief Executive, responsible for a Directorate focused on the following themes;

- Communities (People)
- Environment (Place)
- Resources;

A copy of the current Directorate structure and the service units that sit within each is set out at Appendix .

Strategic and key operational decision making at an officer level is undertaken through Corporate Board which meets fortnightly. This is chaired by the Chief Executive and includes the Corporate Directors and the two statutory posts of Monitoring Officer (Head of Legal Services) and the Section 151 officer (Head of Finance).

The Chief Executive and the Corporate Directors each have a variable number of Heads of Service reporting to them. Each Head of Service is responsible for managing a discrete service. Heads of Service assist the Chief Executive and Corporate Directors in the corporate management of the Authority, although their primary purpose is to oversee the day to day management of services.

Heads of Service meet on a bimonthly basis as the Council's Corporate Management Team.

### **Chief Officers**

The Council defines Chief Officers as the Chief Executive, Corporate Directors, Deputy Director (Communities) and Heads of Service. A List of the Chief Officer posts as at April 1st 2012 is set out below:

Chief Executive (also designated as Head of Paid Service and Returning Officer.

# West Berkshire Council Constitution

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Corporate Director (Communities)

Deputy Director (Communities) and Head of Education Services

Corporate Director (Environment)

Head of Finance (also designated as Section 151 Officer)

Head of Legal Services (also designated as Monitoring Officer)

Head of Adult of Social Care

## The Three Directorates

On April 1<sup>st</sup> the Council moved to a new senior management structure comprised of three, as opposed to four Directorates. The structure is based around the themes of People, Place and Resources. The names of the Directorates reflect these themes namely Communities, Environment and Resources. A description of each and the service units that sit within them are set out below.

### Resources

The Resources Directorate is managed by the Chief Executive and comprises six discrete service units each headed by a Head of Service. These service units encompass the Council support services along with those functions supporting the corporate and democratic core of the Authority. Customer Services is also managed within this Directorate.

### Customer Services

A new larger Customer services Unit was created on April 1<sup>st</sup> 2011 bringing together the previous Customer Services and Benefits and Exchequer Services.

The new Service embraces a number of distinct activities and functions. The Customer Services Team manage much of the Council's 'front door' activity supporting not only the Council's Contact Centre but also the switchboard, reception facilities and the Council's Customer Centre at Calcot.

The primary aim of the Service is to provide a single point of contact for the majority of the Council's customers whether that is provided by telephone, face to face or electronically.

As from April 2011 the Registration of Births, Marriages, Partnerships and Deaths, which is based at Shaw House in Newbury, also forms part of this Service.

The new Service is also responsible for the collection of Council Tax, National Non Domestic Rates ('Business Rates'), the payment of Housing and Council Tax Benefits and the provision of cash office facilities. The Unit is also responsible for the prevention and detection of benefit fraud. It also provides a range of services internal to the Council including payroll, pensions and accounts payable and receivable and the administration of the car leasing scheme.

### **Finance**

This Service provides a wide range of financial services and advice to the Council. In addition to strategic medium term financial planning, the service also leads on revenue and capital budget formulation, treasury and tax advice, internal audit services, risk management, health and safety and insurance. Advice and support is also provided directly to Schools. The Head of Finance also holds the statutory post of Section 151 Officer.

### **Human Resources**

Human Resources provide a range of personnel services and advice to both the Council and to schools. This includes staff recruitment, policy and strategy development and industrial and employee relations. Human Resources also manage a corporate learning and development team which provides a wide range of training support across a number of disciplines.

### **Information and Communications Technology (ICT) and Corporate Services**

This Service was expanded in April 2011 to encompass a range of corporate support functions. ICT however remains the main activity and a range of functions are provided both internally and to schools. Policy development responsibilities include preparation and review of the ICT Strategy as well as business continuity and information security policies. As well as infrastructure and systems development the service also runs two help desks (one for Schools and one for the Council) which provide technical assistance and support.

Corporate support functions include the Print Unit, Postal Services Team and Facilities.

### **Legal Services**

This Unit provides legal support to the Council, Members and its various services, including Schools. A contract management and procurement function is also provided from within Legal Services as is oversight of the Coroners Service. The Head of Legal Services also holds the statutory post of Monitoring Officer.

## **Strategic Support**

This Service provides a wide range of functions with its primary activities focused around supporting the corporate core of the Council and the democratic support that is required for the Council to function.

Specific functions include democratic services, notably committee and appeals administration and Member Services. The Unit is responsible for the development of corporate policy and strategy and manages performance management and research and consultation activity for the whole Council.

Scrutiny and partnership activities including advice and support to the West Berkshire Partnership are also provided by Strategic Support alongside economic development and community planning activities.

The Unit also supports the Chief Executive in managing the corporate complaints process, data protection and Freedom of Information requests.

As from April 1<sup>st</sup> the Unit also maintains the Register of Electors and manages elections. It also provides land searches.

Emergency planning activity is also managed by Strategic Support and the Joint Safer Communities Team based at Mill Lane also falls within the remit of this Service, along with Public Relations and broader communications activity.

## **14.14.2 Communities**

This Directorate brings together most of the services that were previously provided by the Children and Young People and Community Services Directorates. Adult and Children's Social Care are provided services by this Directorate along with Education Services and support to schools. Housing and safeguarding are also functions supported within the Communities Directorate.

The Children and Young People Directorate consists of the following Service Units:

The individuals and teams in the Service provide the following functions:

- Restorative and family group conferencing
- Independent reviewing of placements for looked after children
- Child protection conferencing
- Community conferencing
- Statutory returns to central government
- Performance management reports
- Systems training

### **Adult Social Care**

This is the largest of the Council's Service Units providing a wide range of support to adults requiring social care and support. The main areas of activity include the commissioning and provision of support to older people largely through home care, day services and residential services. Support for adults with learning disabilities, again either at home, through day provision or through residential or supported living placements is also a major area of activity. Adults with physical disabilities are also supported and the Unit also provides a range of support to adults with mental health problems.

The provision of respite and carer support are also important elements of provision. This service works closely with the NHS managing transfers from local hospitals and providing a rapid response service. There is also close working with the voluntary sector who are engaged in providing social care support.

### **Children's Services**

The service safeguards and promotes the welfare of children and young people within the West Berkshire area who are in need. This includes children in need of protection, in care (and after care), children who are vulnerable for a range of other reasons and children for whom youth offending may be a concern.

Children's Services provide a broad range of services, some of which are integrated with its partners (such as the Primary Care Trust) and provide a range and level of services appropriate to each child's and family's particular assessed needs.

This service also manages the Youth Offending Team, Youth Services and the Connexions Intensive Service and restorative and family group conferencing.

### **Education Services**

The Education Service is responsible for around 80 schools (including five Pupil Referral Units) and some 20,000 pupils and 2,655 students. It promotes effective teaching and learning, and raising of standards and quality learning environments.

It encompasses a wide range of functions including school funding, school admissions, home to school transport, school meals, school support, governor support, educational psychology, behaviour support, education other than at school, education welfare, parent partnership, special educational needs, children in care, early years and childcare, children's centres and school improvement.

From April 2012 the Education Service will also provide the Council's corporate property maintenance and development functions which also support the delivery of much of the Council's capital programme.

## **Social Care Commissioning and Housing**

Housing strategy and operations are provided from within this Service Unit alongside the provision of social care commissioning support. The Service therefore has close links with Adult Social Care. In this regard this service also manages financial payments in relation to adult social care, the provision of benefits advice, appointee ship and deputyship functions.

All safeguarding activity – both children’s and adults – is also now managed from within this Unit alongside independent reviewing activity.

### **14.14.3 Environment**

#### **Culture and Environmental Protection**

This new Service was created in April 2012 largely through the combination of the previous Property and Public Protection and Cultural Services Unit.

Key areas of activity include waste collection and disposal including management of a 25 year PFI integrated waste management contract with Veolia. Environmental Health and Licensing are also managed within this Directorate alongside Trading Standards. Both of these services are operated as a shared service with this Council managing a service for both West Berkshire and Wokingham.

Cultural services embrace the provision of libraries and heritage and tourism services. The provision of Leisure facilities through a contract with Parkwood Leisure is also the responsibility of this service unit alongside support for the Arts, notably the Corn Exchange in Newbury through the provision of grants. Cultural Services are also responsible for the Berkshire Archive Service which the Council manages on behalf of all the other unitary authorities.

#### **Planning and Countryside**

Planning activity includes the provision of planning and transport policy which encompass the Local Development Framework and the Local Transport Plan. Development Control includes the processing of planning applications and planning enforcement while planning services manage planning registration and provide administrative support across the service.

Building Control ensures that building work satisfies the minimum standards required by the Building Regulations.

Countryside Services embrace a wide range of activities including grounds maintenance, the management of parks and green spaces, Tree Preservation Orders, public conveniences, the Dog Warden Service and the provision of a Gypsy and Traveller Liaison Service. Wider responsibilities include the management of nature conservation sites, including the Nature Discovery Centre at Thatcham and management of the public rights of way network.

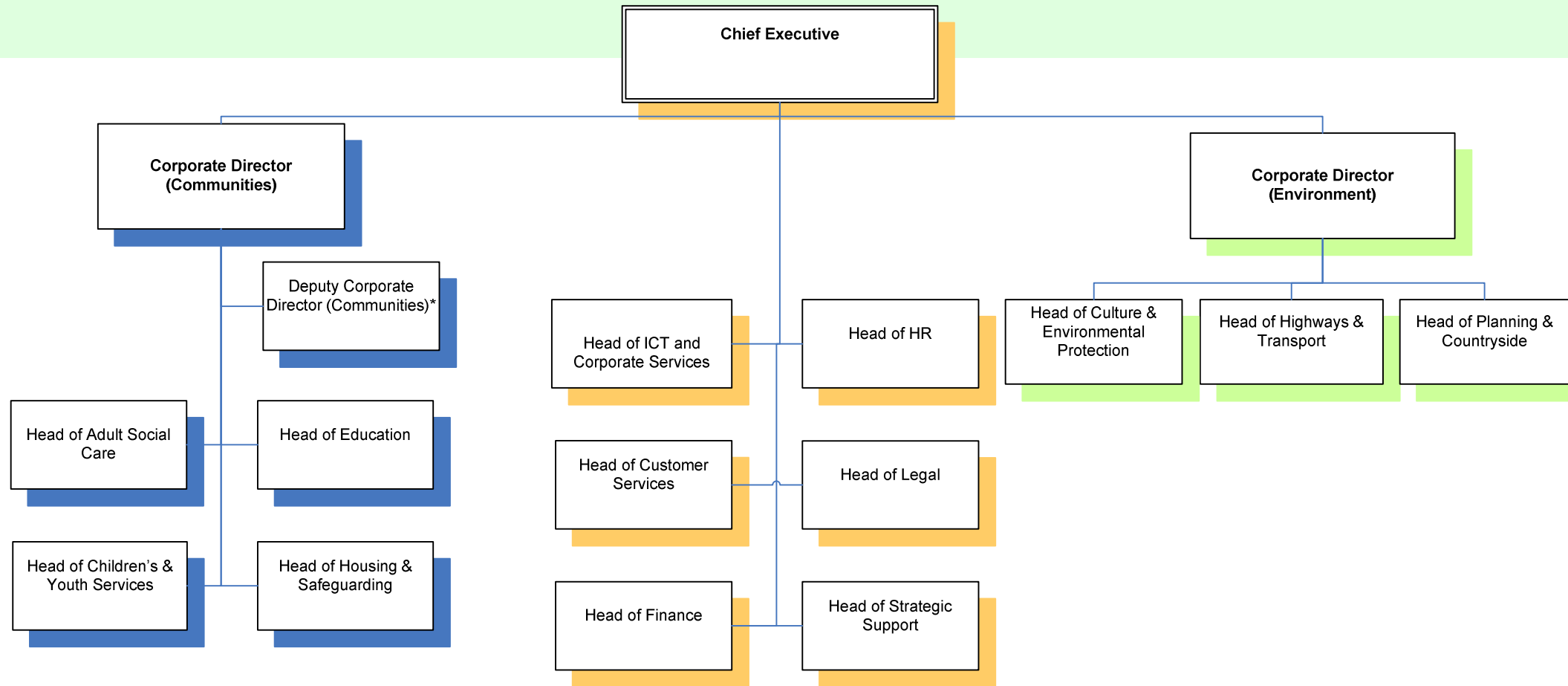
### **Highways and Transport**

The Highways and Transport Service provides a range of services including maintenance of the local road network, the co-ordination of street works and the maintenance of street lighting. Traffic services embraces the management of the Council's car parks, the provision of a traffic management and road safety service and support for the Council's under development control activities.


Transport services are responsible for home to school and social care transport. They also assist in the management of public transport alongside local operators through the provision of various subsidies.





# West Berkshire Council Constitution



\* This role will be assumed by one of the existing Heads of Service within the Directorate who will also retain their Head of Service role.

 Communities Directorate

 Resources Directorate

 Environment Directorate

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