

# Notice of Meeting

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## Governance and Audit Committee

**Monday, 28th April, 2014 at 5.00 pm**  
in Council Chamber Council Offices  
Market Street Newbury

Date of despatch of Agenda: Tuesday, 15 April 2014

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Andy Day / Moira Fraser on (01635) 519459 / (01635) 51904

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**Agenda - Governance and Audit Committee to be held on Monday, 28 April 2014**  
(continued)

**To:** Councillors Jeff Beck (Chairman), Paul Bryant, Sheila Ellison, Tony Linden, Geoff Mayes, Julian Swift-Hook (Vice-Chairman) and Quentin Webb

**Substitutes:** Councillors Peter Argyle, Brian Bedwell, Gwen Mason and Tony Vickers

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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 10 February 2014.	1 - 6
3. <b>Declarations of Interest</b> To remind Members of the need to record the existence and nature of any Personal, Disclosable Pecuniary or other interests in items on the agenda, in accordance with the Members' <a href="#">Code of Conduct</a> .	
4. <b>Internal Audit Plan 2014-17 (GA2842)</b> <i>Purpose: To outline the work programme for Internal Audit.</i>	7 - 46
5. <b>Request for the Revision of the Constitution (C2758)</b> <i>Purpose: For the Governance and Audit Committee to consider an amendment to the Constitution and make a recommendation to full Council</i>	47 - 52
6. <b>Changes to the Constitution - Part 13 Codes and Protocols (C2776)</b> <i>Purpose: To review and amend sections of Part 13 (Codes and Protocols) i.e. Appendices I (Councillor Call for Action Protocol) and J (Protocol for Council Representation on Outside Bodies) in light of legislative changes, policy changes and recent government guidance.</i>	53 - 74

Andy Day  
Head of Strategic Support

If you require this information in a different format or translation, please contact Moira Fraser on telephone (01635) 519045.

## **GOVERNANCE AND AUDIT COMMITTEE**

### **MINUTES OF THE MEETING HELD ON MONDAY, 10 FEBRUARY 2014**

**Councillors Present:** Jeff Beck (Chairman), Paul Bryant, Sheila Ellison, Tony Linden, Gwen Mason (Substitute) (In place of Julian Swift-Hook), Geoff Mayes and Quentin Webb

**Also Present:** Andy Day (Head of Strategic Support), Julie Gillhespey (Audit Manager) and Moira Fraser (Democratic and Electoral Services Manager)

**Apologies for inability to attend the meeting:** Councillor Julian Swift-Hook

#### **PART I**

##### **20. Minutes**

The Minutes of the meeting held on 25 November 2013 were approved as a true and correct record and signed by the Chairman subject to the names of Councillors Geoff Mayes and Julian Swift-Hook not being written in italics in the attendance list.

##### **21. Declarations of Interest**

There were no declarations of interest received.

##### **22. Interim Internal Audit Report 2013/14 (GA2815)**

The Committee considered a report (Agenda Item 4) which set out the results of the work of the Internal Audit Team over the first half of the 2013/14 financial year.

Julie Gilhespey in introducing the report explained that although the Council was only required to produce an annual report this interim report was produced to address any emerging issues within the year.

Members were informed that no fundamental weaknesses were identified in the Council's internal control framework through the work carried out by Internal Audit. No 'weak' opinions had been issued during the first six months of the year. Julie Gilhespey also explained that the delivery of the audit plan was on track for the current year and she was pleased to note that the team was fully staffed at present.

**RESOLVED that the report be noted.**

##### **23. Amendments to the Constitution - Scheme of Delegation (C2770)**

The Committee considered a report (Agenda Item 5) which set out the annual review of Part 3 (Scheme of Delegation) of the Council's Constitution. Andy Day in introducing the report noted that there were relatively few changes to the Scheme of Delegation (SoD) which had been circulated to all Heads of Service and had also been considered by the Finance and Governance Group.

The Chairman noted that Members were required to review the Scheme of Delegation on an annual basis and he thanked Officers for the work that they had put into producing the document.

A number of minor typographical errors had been corrected. In addition the following key changes were being proposed:

## GOVERNANCE AND AUDIT COMMITTEE - 10 FEBRUARY 2014 - MINUTES

### *Head of Highways and Transport*

- Paragraph 3.12.2, fifth bullet point – insert the words ‘including de-minimus arrangements’;
- Paragraph 3.12.3, last bullet point – insert the words ‘and current guidance’;
- Amend the text in 3.12.7 pertaining to the Land Drainage Act 1991;
- Amend the text in 3.12.13 in relation to the Flood and water management Act 2010.
- Insert text in new paragraph 3.12.10 in relation to the Goods Vehicles (Licensing Operators) Act 1985.

### *Head of Culture and Environmental Protection*

- Removal of reference to legislation that was no longer relevant or that had been superseded.

### *Head of Strategic Support*

- Insertion of a paragraph at 3.9.5 delegating authority to the Head of Service to deal with Assets of Community Value.

### *Head of Legal Services*

- Insertion of a paragraph under the heading miscellaneous (3.13.4) which will allow the Monitoring Officer to make minor amendments and corrections to the Constitution;
- Insert a new paragraph 3.13.12 (Localism Act 2011) to align the procedures for dealing with complaints made under the Standards regime with the Scheme of Delegation.

### *Head of Human Resources*

- Amend the final bullet point of paragraph 3.3.3 to take into account the requirements of the Education Act 2002.

Members agreed the proposed changes and requested that the following additional changes made at the meeting be included:

<b>Item/ Ref</b>	<b>Page</b>	<b>Amendment</b>
Paragraph 3.12.7	68	Remove ‘extra’ bullet point
Paragraph 3.12.10	69	Head of Service should be written with a capital ‘H’ (twice) and Legal should be written with a capital ‘L’
Paragraph 3.13.12	73	Capital ‘L’ in the word Localism, Capital ‘C’ in Councillor and Capital ‘D’, ‘C’ and ‘T’ in District, Town and Council

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Paragraph 3.14.5 & 3.14.12	77 & 80	Reference to be made to the Fire 'Service' and not 'Brigade' and 'Authority'.
Paragraph 3.17.6	92	The paragraph should be headed 'Weight Measurement and Children's Sexual Health'
Paragraph 3.17.9	92	The word 'children's' to be written with a lower case 'c'

**RESOLVED** that Full Council be recommended to approve the proposed changes to the Scheme of Delegation as amended above.

### 24. **Changes to the Constitution - Part 13 Codes and Protocols (C2771)**

The Committee considered a report (Agenda Item 6) which set out proposed amendments to sections of Part 13 (Codes and Protocols) i.e. Appendices A (West Berkshire Code of Conduct for Planning), D (Gifts and Hospitality: A Code of Conduct for Councillors), E (Procedure for Local Determination of Allegation) and G (West Berkshire Code of Conduct for Licensing) in light of legislative changes, policy changes and recently issued government guidance.

Moira Fraser in introducing the item reported that West Berkshire Council's revised Code of Conduct for Councillors was adopted by full Council at the December 2013 Council meeting. It was therefore now necessary to re-write Appendix E (Procedure for Local Determination of Allegations) to reflect the revised governance arrangements and procedures for dealing with complaints made against District, Town and Parish Councillors.

It had also previously been agreed that an annual review of the Council's Constitution would be undertaken. A timetable has been established for the Finance and Governance Group to review individual sections of the Constitution. This report proposed amendments to sections of Part 13 (Codes and Protocols) namely: Appendices A (West Berkshire Code of Conduct for Planning), D (Gifts and Hospitality: A Code of Conduct for Councillors), E (Procedure for Local Determination of Allegations) and G (West Berkshire Code of Conduct for Licensing) in light of legislative changes, policy changes and recent government guidance.

The existing Protocol for Planning (Appendix A) and the Protocol for Dealing with Gifts and Hospitality by Councillors (Appendix D) had been substantially re-written and therefore the tracked changes were not been shown on the document.

Appendices D and E had already been considered by the Standards Committee on the 13 January 2014 and they proposed a few minor amendments to Appendix D. The Standards Committee had recommended approval of the two Appendices.

The following key changes had been made to the documents by Officers:

#### *Part 13 Codes and Protocol – Appendix A (West Berkshire Code of Conduct for Planning)*

- this Part of the Constitution had been aligned with the revisions to the Councillors Code of Conduct (Appendix H to Part 13 of the Constitution) and the Officers' Code of Conduct as set out in Part 13 of the Constitution.
- Amended the Code in light of the Localism Act 2011 and the document issued by the Local Government Association entitled "Probity in Planning". Two particular areas of the Localism Act were relevant to this Code. Firstly, with regard to pre-

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determination the Act made it clear that it was proper for Councillors to play an active part in local discussions and that they should not be liable to legal challenge as a result, provided they maintained an open mind. Secondly, and related to pre-determination, the act introduced a new requirement for developers to consult local communities before submitting planning applications for certain developments. This gave Councillors and local residents a chance to comment when there was still genuine scope to make changes to proposals at both pre-application and post submission stage.

### *Part 13 Codes and Protocol – Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors)*

- The document had been substantially re-written with a view to making it easier to read and to ensure it accorded with the revised requirements for declaring interests, gifts and hospitality as set out in the Localism Act 2011.
- A number of discussions had taken place on the threshold for declaring gifts and hospitality. The Standards Committee had recommended retention of the current £25.00 limit on the basis that Councillors were familiar with this limit.
- The amended protocol took into consideration changes required following the enactment of the Bribery Act 2010 which came into force on the 01 July 2011 which created offences of 'bribing another person' or 'being bribed'.
- The revised protocol also gave examples of when it might be appropriate to accept gifts and hospitality.

### *Part 13 Codes and Protocol – Appendix E (Procedure for Local Determination of Allegations)*

- The appendix had been re-written to take into account the revised arrangements pertaining to the Standards Regime adopted at the 01 July 2012 Council meeting and reviewed at the December 2013 meeting.

### *Part 13 Codes and Protocol – Appendix G (West Berkshire Code of Conduct for Licensing)*

- The document had been amended with a view to making it easier to read.
- The document had been amended to reflect the changes that had recently been made to the Code of Conduct for Councillors, the Code of Conduct for Officers and changes to the protocol associated with gifts and hospitality.
- The Localism Act 2011 amended requirements in relation to interests that had to be declared and this had been reflected in the document.
- References to the Standards Board and the old national Code of Conduct had been changed to reflect the current Standards regime.

The following additional changes set out in the table below were also requested at the meeting:

Item/ Ref	Page	Amendment
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**GOVERNANCE AND AUDIT COMMITTEE - 10 FEBRUARY 2014 - MINUTES**

Item Appendix A - Paragraph 15.3	107	This paragraph did not reflect current practice and should be amended to read 'A site visit is used to assess the impact of the proposed development on any locality.'
Item Appendix A - Paragraph 16.2	107	Replace the word 'may' with 'must' in the first line.
Item Appendix D	111	Last paragraph remove the reference to the form
Item Appendix D - Gifts which are most likely to be considered as acceptable	115	Sentence to start with a capital 'M'
Item Appendix E – Paragraph 1.2	119	Remove the word 'the' before the 01 July 2012
Item Appendix E – Paragraph 5.3	123	Insert the word 'member' after 'subject' in the first line
Item Appendix E – Paragraph 6.2	123	Insert the word 'the' before Director of Public Prosecutions in the first line.
Item Appendix E – Paragraph 8.8	125	Penultimate line replace the word 'complaint' with 'complainant'
Item Appendix E – Paragraph 11.3 (v)	130	Insert a bracket after the word appropriate.
Item Appendix G paragraph 4.3	132/133	Delete the last it paragraph on page 132 as it has been repeated
Item Appendix G Paragraph 6	133	Should be headed 'Interests'
Item Appendix G Paragraph 13.3	136	Should refer to Licensing Policies

**RESOLVED** that Full Council be recommended to approve the changes to the Codes and Protocols as set out above.

*(The meeting commenced at 5.00 pm and closed at 6.15 pm)*

**CHAIRMAN**

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**GOVERNANCE AND AUDIT COMMITTEE - 10 FEBRUARY 2014 - MINUTES**

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



# Agenda Item 4.

<b>Title of Report:</b>	<b>Internal Audit Plan 2014-17</b>
<b>Report to be considered by:</b>	Governance and Audit Committee
<b>Date of Meeting:</b>	28 April 2014
<b>Forward Plan Ref:</b>	GA2842

**Purpose of Report:** To outline the programme of work for Internal Audit.

**Recommended Action:** Note the programme.

**Reason for decision to be taken:** This report forms part of the Council's performance framework.

**Other options considered:** None

**Key background documentation:** None

The proposals will help achieve the following Council Strategy principles:

- CSP6 - Living within our means**
- CSP8 - Doing what's important well**

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

Reviewing the systems and procedures the Council has in place for the delivery of the Council Strategy

<b>Portfolio Member Details</b>	
<b>Name &amp; Telephone No.:</b>	Councillor Alan Law - Tel (01491) 873614
<b>E-mail Address:</b>	alaw@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	10 April 2014

<b>Contact Officer Details</b>	
<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:** none

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

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 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"/>
Report is to note only		<input checked="" type="checkbox"/>

## **Executive Summary**

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### **1. Introduction**

- 1.1 This report sets out the proposed plan of work for internal audit over the next three years.
- 1.2 The report outlines the method used to compile the plan, which is based around risk.

### **2. Proposals**

- 2.1 The audit plan sets out a range of proposed audits. In addition work carried out in the previous year will be followed up. A copy of the audit plan is at appendix C.
- 2.2 The main areas of focus will be the "Key Financial Systems" and the anti fraud work, particularly the National Fraud Initiative.

### **3. Equalities Impact Assessment Outcomes**

- 3.1 This item is not relevant to equality.

### **4. Conclusion**

- 4.1 The work of internal audit is designed to provide the Council with assurance on the state of the Council's internal control framework. The work is also designed to highlight and remedy weaknesses identified in the Council's service delivery systems.

## Executive Report

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- 4.2 The purpose of this report is to set out a risk based plan of work for Internal Audit. that will provide assurance to the Governance and Audit Committee on the operation of the Council's internal control framework and support the Committee's review of the Annual Governance Statement.
- 4.3 The work of internal audit is regulated by the "Public Sector Internal Audit Standards" based on the Institute of Internal Auditors (IIA) International Professional Practices Framework (IPPF). These provide a:
- (1) Definition of Internal Auditing
  - (2) Code of Ethics
  - (3) International Standards for the professional practice of internal auditing (including interpretations and glossary)
- 4.4 The report covers the following points:
- (1) Audit objectives and outcomes
  - (2) How audit work is planned to ensure significant local and national issues are addressed.
  - (3) Basis for the opinion of the Chief Internal Auditor on the internal control framework
  - (4) Methods of providing and resourcing the service.
- 4.5 The main areas of focus will be the audits of the "Key Financial Systems", anti fraud work,
- (1) The audits of the "Key Financial Systems", in Customer Services and Finance, are carried out annually, partly because of the scale and materiality of them and partly as the Council's external auditor relies on the work Internal Audit does on these systems. These audits are highlighted in the audit plan with an F.
  - (2) The main element of anti fraud work is in relation to the National Fraud Initiative, which is a data matching exercise run by the Audit Commission.

## 5. Audit Objectives and Outcomes

- 5.1 The Public Sector Internal Audit Standards provide the following definition of Internal Audit :

"Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes"

- 5.2 Translated into plain English, Internal Audit is there to help Services deliver the Council Strategy by identifying and helping to mitigate weaknesses in service delivery systems and procedures.
- 5.3 The objectives for Internal Audit are set out in the Audit Charter which forms an appendix to the Terms of Reference of the Governance and Audit Committee. The full charter is attached at appendix B.
- 5.4 The main outcomes from the work of Internal Audit are:
- (1) Audit reports produced at the conclusion of each audit, for the relevant Head of Service and Director.
  - (2) Monitoring reports on progress with implementation of agreed audit recommendations.
  - (3) An annual assurance report and an interim update report for Management Board and Governance and Audit Committee on the outcomes of Internal Audit work.

## **6. Audit Planning**

- 6.1 The work programme for Internal Audit for the period 2014-17 is attached at appendix C. The plan analyses the different areas of Council activity that Internal Audit feel require auditing. The Plan is laid out by, Corporate Audits, then by Head of Service and for each audit covers:
- (1) The key risks that the audit will cover
  - (2) The level of risk associated with the subject, as assessed by Internal Audit
  - (3) The complexity of the audit.
  - (4) The type of audit
  - (5) An initial estimate of the number of days that will be required to complete the audit, and the year in which the audit is planned
- 6.2 The process of putting the plan together is extensive in terms of the documents and people who are consulted. The following identifies the key drivers:
- (1) The Council Strategy. This is reviewed to ensure that audit resources are used to support the delivery of Council objectives.
  - (2) The Council's risk registers, particularly the Strategic Risk Register. This is used to highlight areas where assurance is required for controls that are in place to significantly reduce levels of risk to the Council.
  - (3) Results of previous audit, inspection and scrutiny work, by internal teams and external agencies, is considered.
  - (4) The views of stakeholders, Heads of Service, Corporate Board, Management Board are considered.

- (5) Plans are made available to the Council's external auditor to ensure that there is no unnecessary duplication of effort.

6.3 The work programme is based on levels of risk. The risk registers are used to inform the level of risk where appropriate and this is supplemented by an audit view of risk. This takes account of:

- (1) Results of risk self assessments (Strategic and Operational Risk Registers);
- (2) Complexity/scale of system and processes / volume and value of transactions;
- (3) Fraud and corruption - eg the risk of fraud or corruption occurring;
- (4) Inherent risk - eg degree of change/instability/confidentiality of information;
- (5) Internal Audit knowledge of the control environment based on previous audit work.

## **7. Audit approach and opinion**

7.1 The work of Internal Audit forms the basis of the opinion given by the Chief Internal Auditor on the Council's internal control framework. The work of Internal Audit is regulated by the Public Sector Internal Audit Standards. This sets out the standards and methods that should be applied in doing the work. At an operational level Internal Audit have a procedure manual that explains in detail how work is delivered. In addition an Audit Protocol is published to all Heads of Service setting out how the service operates. A copy of this is at Appendix D

7.2 There are a number key elements to the process that ensure the output from audit is fit for purpose.

- (1) Consultation takes place at various stages of each audit with the service under review (Terms of reference, rough and formal draft and final reports and action plans are all discussed and agreed with the service under review)
- (2) Audits are followed up to ensure that agreed actions are implemented. (Method and approach to follow up work varies depending on the nature of the issues identified in the original audit)
- (3) All audit work is reviewed before being released. (The review process is ongoing during the course of each audit)
- (4) The External Auditor relies on the work of Internal Audit, and will raise any concerns in their annual audit letter, to date no concerns have been raised.

7.3 The work produced by Internal Audit is designed to identify and remedy weaknesses in the internal control framework. Weaknesses that are identified are categorised according to their severity (fundamental, significant, moderate and minor).

7.4 Taken together, the above provides a sound basis for the Chief Internal Auditor to provide an annual opinion of the internal control framework of the Council.

## **8. Service provision and resources**

8.1 Resources have been reduced for the section, in order to support the need to reduce the Council's budget. The Chief Internal Auditor now has the support of 6 FTE's. Corporate Board take the view that this is the minimum level of resource to provide adequate assurance to the Council.

## **Appendices**

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Appendix A - Internal Audit Charter

Appendix B - Internal Audit Work plan

Appendix C - Internal Audit Protocol

## **Consultees**

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**Local Stakeholders:** N/a

**Officers Consulted:** Directorate SMT's, Corporate Board

**Trade Union:** N/a

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## **Appendix A**

### **AUDIT CHARTER**

#### **1 Definition and Purpose of Internal Audit**

- 1.1 The Public Sector Internal Audit Standards provide the following definition of Internal Audit.

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes

- 1.2 Internal Audit is a statutory service in the context of the Accounts and Audit Regulations 2006, which state in respect of Internal Audit:
- 1.3 'A relevant body shall maintain an adequate and effective system of internal audit of its accounting records and its system of internal control in accordance with the proper internal audit practices.'
- 1.4 The existence of an Internal Audit function does in no way diminish the responsibility of management to establish systems of internal control to ensure that activities are conducted in an efficient, secure and well ordered manner within the Authority.

#### **2 Responsibility & Objectives**

- 2.1 As an independent appraisal function within the Authority, the objectives of Internal Audit are:
- To review, appraise and report on the adequacy of internal controls as a contribution to the economic, efficient and effective use of resources.
  - Ascertain the extent of compliance with procedures, policies, regulations and legislation.
  - Provide reassurance to management that their agreed policies are being carried out effectively
  - Facilitate good practice in managing risks
  - Recommend improvements in control, performance and productivity in achieving corporate objectives.
  - Review the value for money processes, best value arrangements, systems and units within the Authority.
  - Work in partnership with External Audit
  - Identify fraud as a consequence of its reviews and deter crime.

### **3 Scope and Accountability**

- 3.1 Internal Audit as a function will remain independent of the Authority's operational activities, and its auditors will undertake no operational duties. This will allow auditors to perform duties in a manner which facilitates impartial and effective professional judgements and recommendations.
- 3.2 The scope of Internal Audit allows for unrestricted coverage of the Authority's activities and access to all staff, records and assets deemed necessary in the course of the audit.
- 3.3 Accountability for the response to advice and recommendations made by Internal Audit lies with the management of the Authority. Management can accept and implement advice and recommendations provided or formally reject it. Internal Audit is not responsible for the implementation of recommendations or advice provided.
- 3.4 Internal Audit sits within the Finance Service and supports the statutory functions of the Head of Finance. However, Internal Audit is also accountable to the Governance and Audit Committee for the delivery of assurance in relation to the Council's system of internal control

### **4 Reporting**

- 4.1 All audit assignments will be the subject of a formal report written by the appropriate auditor. The report will include an 'opinion' on the adequacy of controls in the area that has been audited.
- 4.2 Every Internal Audit report issued, is subject to a follow up in order to ascertain whether actions stated by management in response to the audit report have been implemented. Internal Audit will determine if progress made in response to recommendations stated in the issued audit report is satisfactory, or if a further follow up is required.
- 4.3 Internal Audit will prepare half yearly reports for the Governance and Audit Committee and give an opinion on the Council's internal control framework.
- 4.4 Internal Audit will bring to the attention of the Governance and Audit Committee any serious matters of concern that may arise in the course of audit work

### **5 Resources**

- 5.1 Internal Audit will prepare an Audit Strategy each year that sets out the aims and objectives of the service.
- 5.2 A detailed risk based plan of work will be prepared for information for the Governance and Audit Committee, including the resources required

to carry out the work. This will set out the key areas / risks that are to be subject to audit.

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Key risks to be covered

Complexity (Using a scale of 1-4, 1 being least complex)

Risk Assessment Category

Audit Type

Date last audited

2014-15

2015-16

2016-17

TOTAL Days 2014- 2017 Est

**AUDIT PLAN RATIONALE**

- 1) Frequency of review is based on the overall risk rating and when the previous review was carried out.
- 2) Level of audit resource is dependent on complexity of the area to be reviewed and the level of assurance required for the risks identified.
- 3) Risk assessment factors taken into account when determining the risk category:- degree of instability/complexity of system/sensitivity of information/likelihood of fraud or corruption/previous audit control opinion

**AUDIT TYPE - KEY**

- SR Strategic Risk
- KFS Key Financial System
  
- AFW Anti Fraud Work
- ACW Anti Corruption Work
- VFM Value for Money
- OR Operational Risk
- Sch Schools

# Internal Audit Work Programme - 2014-17

## Appendix B

Key risks to be covered

Complexity (Using a scale of 1-4, 1 being least complex)

Risk Assessment Category

Audit Type

Date last audited

2014-15

2015-16

2016-17

TOTAL Days 2014- 2017 Est

### Corporate Audits

Key risks to be covered	Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est	
Mileage Claims - Essential Users	a) Inaccurate/inappropriate claims resulting in theft/fraud	1	Medium	AFW	2013-14			0	
Income collection - spot checks	a) Theft/Fraud	1	High	AFW	2013-14	15	15	15	45
Capital planning / programme / use of PMM	a) Ineffective project management - budgets exceeded/deadlines exceeded/outcome does not meet client needs b) Implementation and usage of PMM	4	High	SR	2012-13			0	
Capital Programme - Education Services	a) Ineffective project management - budgets exceeded/deadlines exceeded/outcome does not meet client needs	4	High	OR	New	15			
Establishing processes for Community Infrastructure Levy (CIL)	a) The Council is not effectively recording/monitoring CIL funds that are due/have been paid b) Policy targets are not met c) Corruption d) Income is not maximised	4	High	ADV	2013-14			0	
NFI Investigation work	a) fraud by employees/residents	2	High	AFW	2012-13	30	30	30	90
Ensure information security	a) Non compliance with Data Protection Act b) Information not stored securely c) Personal information issued/sent to incorrect parties b) data could be amended/destroyed/sensitive data made public		High	SR	New		15	15	
Telecommunications	a) Inappropriate use of equipment/ineffective monitoring of persona calls resulting in unnecessary expenditure being incurred possibility of Fraud/abuse b) There isn't a consistent approach when determining who can be allocated telecoms equipment, therefore assessing the need for Telecoms equipment	3	Medium	AFW	2010-11		15	15	
Procurement cards	Ineffective monitoring of card usage resulting in inappropriate expenditure being incurred	2	High	AFW/SR	2012-13		15	15	
Grant Allocation/monitoring	a) Grants not awarded appropriately b) Grant allocations are not accurately recorded/effectively monitored	2	Low	SR	2006-07		15	15	
Corporate Fraud Review	a) Council's approach to dealing with fraud does not meet the revised CIPFA guidance b) The Council is not being a pro-active as it could in deterring/highlighting fraud	2	Medium	AFW	2013-14			0	

# Internal Audit Work Programme - 2014-17

Key risks to be covered

## Appendix B

		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
Strategic Risk Assurance Process	a) Control mechanisms have not been determined, are not appropriate and/or are not working effectively.	3	High	SR	New			20	20
<b>total</b>						<b>60</b>	<b>90</b>	<b>80</b>	<b>215</b>

# Internal Audit Work Programme - 2014-17

## Appendix B

	Key risks to be covered	Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est	
<b>Resources Directorate</b>										
	Travel Claims	a) Fraudulent claims b) Inaccurate payments	1	Medium	AFW	2010-11	10		10	
	<b>total</b>					<b>0</b>	<b>10</b>		<b>10</b>	
<b>Head of Public Health and Wellbeing</b>										
	Public Health Unit	a) Non compliance with legislation b) Ineffective joint working arrangements resulting in poor budgetary control and/or service provision	3	High	SR	New	25		25	
<b>Head of Finance</b>										
	Insurance	a) Inappropriate assessment of uninsured losses b) inaccurate claims record for management information	2	High	SR	2011-12			0	
	Governance / Risk Management	a) Non compliance with Legal requirements b) Ineffective framework for AGS reporting	3	High	SR	2007-08	20		20	
	Health and Safety	a) Non compliance with H&S Legislation - legal action/penalties	2	High	SR	2012-13			0	
	Webrisk	a) Poor use of information	2	Medium	SR	2008-09			0	
<b>F</b>	General Ledger (managed audit)	a) Inaccurate information for management decisions b) Budgets exceeded c) Qualified accounts	2	Medium	KFS	2012-13	10	10	10	30
	Asset Management Strategy	a) Non compliance with legislation, b) Mis mgt of asset portfolio	2	Medium	SR	2005-06		15	15	
	Fixed Asset Register	a) Non compliance with accounting standards b) Qualified Accounts	2	Low	SR	2010-11	15		15	
	Budget Monitoring	a) Inaccurate Information b) poor decision making	2	High	SR	2007-08	15		15	
	MTFS (to incorporate Business Rates estimating and profiling)	a) Council's financial targets are not realised b) Budget pressures c) Increases in Council Tax	4	High	SR	2013-14			0	
<b>F</b>	Treasury Management (managed audit)	a) Inappropriate cashflow decisions - income not maximised b) Legislation/Internal polices not complied with	2	Low	KFS	2013-14	10	10	10	30
	Bank Reconciliation (cover Chaps payments)	a) Inappropriate transactions processed through the bank b) Inaccurate year end accounts c) Qualified opinion from External Auditors	2	Medium	OR	2010-11			15	15



# Internal Audit Work Programme - 2014-17

## Appendix B

	Key risks to be covered	Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
VAT	a) Non compliance with Revenues & Customs requirements - financial penalties	2	Medium	OR	2013-14				0
Commercial Rents	a) Non compliance with legislation, b) Loss of income/increased void periods, c) Misappropriation of leases	3	High	OR	2013-14				0
<b>Total</b>						<b>50</b>	<b>55</b>	<b>35</b>	<b>140</b>
<b>Head of HR</b>									
Recruitment (process)	a) Delays in appointing staff - disruption to service delivery b) Non compliance with employment legislation c) CRB failure	2	High	AFW/SR	2012-13				0
Absence Management	a) Council's sickness policy not being adhered to b) Inaccurate information for performance management	2	High	SR	2011-12		15		15
Code of Conduct / HR Policies & Procedures	a) Staff not being managed consistently/to the Council's standards required standards b) New managers not being aware of the required standards and related procedures	1	Low	SR	2007-08				0
Staff Training and Development (Corporate and Professional Training - across whole Council)	a) Failure to develop staff in accordance with good practice b) Failure to inform new employees of legislation, key corporate policies and procedures they need to be aware of adhere to c) VFM/cost effectiveness not taken into account within services when making spending decisions	1	Low	SR	2003-04	15			15
<b>Total</b>						<b>15</b>	<b>15</b>	<b>0</b>	<b>30</b>
<b>Head of Legal Services</b>									
Legal Services	a) The collaborative agreement is not being effectively recorded/monitored b) Terms of the joint agreement are not being adhered to c) The service fails to retain its quality standard accreditation	2	Medium	OR	2010-11			15	15
Contract letting	a) Non-compliance with Contract rules of Procedure b) Non compliance with EU legislation (Remedies Directive) c) Corruption	3	High	ACW	2004-05	20			20
Contract monitoring	a) Non-compliance with Contract rules of Procedure b) Contract spec not met c) Contract costs exceeded	3	High	SR	2007-08		20		20
<b>total</b>						<b>20</b>	<b>20</b>	<b>15</b>	<b>55</b>

# Internal Audit Work Programme - 2014-17

## Appendix B

	Key risks to be covered	Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Head of Strategic Support</b>									
Service Planning/targets and performance management	Service Delivery / intervention / legal obligations / performance indicators / linkages to Timelord	4	Medium	SR	2013-14				0
Equality Impact Assessments	a) Non compliance with national guidance b) Unaware of impact of changes in policy/decisions on local community c) lack of transparency/accountability d) Judicial review overturns decisions	3	High	SR	2013-14				0
Members expenses	a) Inappropriate payments, b) Over payments on budgets, c) Non compliance with legislation/policies	1	High	OR	2009-10	15			15
Complaints / Code of Conduct	a) Ineffective policies and processes in place, b) Non compliance with policies/processes	3	Medium	SR	2012-13				0
Data Protection / Freedom of Information	a) Non compliance with legislation b) No Standard approach for dealing with requests c) Adequate records not maintained of requests/responses	3	High	SR	2006-07	20			20
Intranet/Internet/Communication/Publications	a) Ineffective processes and procedures, b) Inappropriate information published - version control.	2	Medium	SR	2011-12				0
Civil Contingencies	a) Contingency arrangements not in place/not effective - impact on ability to provide services b) Lack of compliance with legislation	2	Medium	SR	2011-12				0
Electoral Services	a) Non compliance with legislation, b) Inappropriate entries on register, c) Incorrect payments/expenditure/charges	2	Low	OR	2005-06		15		15
Land Charges	a) Non compliance with legislation b) Income collection not effective	2	Low	OR	2007-08			15	15
<b>total</b>						<b>35</b>	<b>15</b>	<b>15</b>	<b>65</b>

# Internal Audit Work Programme - 2014-17

## Appendix B

Key risks to be covered			Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Head of Customer Services</b>										
<b>F</b>	Payroll / PAYE (managed Audit)	a) Ghost employees set up b) Inaccurate payments made c) Inaccurate deductions made	3	High	KFS	2013-14	15	15	15	<b>45</b>
<b>F</b>	Accounts Payable (managed audit)	a) Inappropriate/fraudulent payments b) budgets exceeded	2	High	KFS	2013-14	15	15	15	<b>45</b>
<b>F</b>	Accounts Receivable (managed audit)	a) Council's cashflow affected b) Income not maximised	2	High	KFS	2013-14	15	15	15	<b>45</b>
	Car Loans & Car Leasing	a) Inaccurate payroll deductions b) Non compliance with Inland Revenue requirements	2	Low	OR	2013-14				<b>0</b>
	Cash Office	a) Inaccurate processing of income - affecting cash flow decisions b) Fraud/theft c) Accounts could be qualified	2	Medium	AFW	2006-07		15		<b>15</b>
	National Non-domestic Rates (managed audit)	a) Non compliance with legislation/local schemes for exemptions b) Income generation/collection not maximised c) Qualified accounts	3	High	KFS	2013-14	15	15	15	<b>45</b>
	Housing Benefits (managed audit)	a) Non compliance with legislation b) Inaccurate/inappropriate payments made c) Accounts qualified	3	High	KFS	2013-14	15			<b>15</b>
<b>F</b>	Council Tax (managed audit)	a) Non compliance with legislation/local schemes for reductions b) Income generation/collection not maximised c) Accounts qualified	3	High	KFS	2013-14	15	15	15	<b>45</b>
	Registrars Service	a) Ineffective budgetary control, b) Insufficient control of income, c) Insufficient control of assets, d) Inappropriate expenditure	2	Low	OR	2010-11	15			<b>15</b>
<b>Total</b>							<b>105</b>	<b>90</b>	<b>75</b>	<b>270</b>

# Internal Audit Work Programme - 2014-17

## Appendix B

Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Head of I.C.T. and Corporate Services</b>									
I.T. Strategy	a) Does not meet changing needs of the organisation b) Progress not measured/monitored - objectives not achieved	3	Medium	SR	2007-08				0
Software licenses	a) Non compliance with legislation (software licenses)	2	Low	OR	2003-04			15	15
Change control Management	a) Inappropriate changes b) Changes do not meet the needs of users c) Changes not operationally effective	3	High	OR	2005-06		15		15
Project Management (IT investment)	a) Systems do not meet business/user needs b) Escalation of costs/time to implement	3	High	SR	2006-07				0
Post Implementation Reviews (IT investment)	a) Systems do not meet business/user needs b) Escalation of costs/time to resolve system issues	3	Medium	SR	2013-14				0
Ensure continuous service (Disaster Recovery for I.T. Service)	a) Contingency plan not in place/not effective - service delivery affected	3	High	SR	2011-12				0
Compliance with CoCo	a) Non compliance with Government Connect requirements	4	Low	SR	2010-11				0
Ensure systems security	a) Non compliance with Data Protection Act b) Unauthorised access to data b) data could be amended/destroyed/sensitive data made public	3	High	SR	2011-12		20		20
Manage problems and incidents (help desk)	a) Interruptions to service delivery b) Staff performance adversely affected	3	High	OR	2012-13				0
Manage data (File controls)	a) Inaccurate/lost data	3	Medium	OR	2004-05				0
EDI (BACs)	a) Inaccurate/inappropriate electronic transactions	3	Low	OR	Not audited				0
Printing Service (assisting in progressing the VFM work in this area)	a) Inefficient operations b) Delivery targets not met	2	Low	OR	Pre 2001	15			15
Business Continuity Planning	a)Flu / fire / flood / terrorism / service delivery	3	High	SR	2007-08	20			20
I.T. Asset Management	a) Loss of I.T assets - increased cost on replacement equipment	3	Medium	OR	2007-08			20	20
Facilities Management	a) Poorly maintained facilities, compromised H&S, b) Theft of stock items, c) Ineffective out of hours service	3	Medium	OR	2011-12				0

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## Appendix B

	Key risks to be covered	Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
Superfast Broadband Project	a) Ineffective Contract Management b) Key deliverables not being achieved/achieved as per contract c) External Funding may be withdrawn	4	Medium	OR	New	15		15	30
<b>Total</b>						<b>50</b>	<b>35</b>	<b>50</b>	<b>135</b>

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## Appendix B

Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Communities Directorate</b>									
Disclosure and Barring Service	a) Vulnerable adults/children could be put at risk due to the Council Scheme not meeting the requirements of the national guidance and/or local processes have not been established to ensure that backgrounds check are undertaken/recorded and updated.		High	SR	New	15			15
Travel Claims	a) Fraudulent claims b) Inaccurate payments	1	Medium	AFW	2011-12			10	10
<b>total</b>								<b>10</b>	<b>25</b>
<b>Head of Adult Social Care</b>									
Integration with Health	a) Ineffective governance/communication between parties b) Effectiveness of arrangement not monitored - objectives not achieved/budgets exceeded.	4	High	SR	New		20		20
Agency Staff	a) Inappropriate people could be appointed - risk to client b) Budgets could be exceeded c) Standards of service required not met	2	High	OR	2009-10		15		15
Assessment of Needs/Purchase of Care - (MH/LD)	a) Legislation is not adhered to b) Inappropriate care packages c) Budgets could be overspent	3	Medium	OR	2008-9				0
Assessment of need /Purchase of Care - Respite	a) Legislation is not adhered to b) Inappropriate care packages c) Budgets could be overspent	3	Medium	OR	2012-13				0
Resource Centres (3)	Establishment reviews - key risks - budgetary control/appropriateness of expenditure	1	Low	OR	2013-14				0
Residential Homes - Elderly (4)	Establishment review - key risks - budgetary control/appropriateness of expenditure	1	Low	OR	2010-11	6			6
Assessment of needs/Purchase of care - Home Care	a) Legislation is not adhered to b) Inappropriate care packages c) Budgets could be overspent	3	Medium	OR	2006-07			20	20
Assessment/Purchase of Care - Residential	a) Legislation is not adhered to b) Inappropriate care packages c) Budgets could be overspent	3	Medium	OR	2001-02	15			15
O/T - Equipment - pooled budget	a) Ineffective governance/communication between parties b) Effectiveness of arrangement not monitored - objectives not achieved/budgets exceeded	2	Medium	OR	2011-12				0

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Key risks to be covered

## Appendix B

		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
Personal Budgets (Use of payment cards)	a) Legislation/internal procedures not adhered to b) Inappropriate care packages c) Budgets could be overspent	4	High	OR	New		20		20
Personal Budgets - Direct Payments	a) Legislation/internal procedures not adhered to b) Inappropriate care packages c) Budgets could be overspent	3	High	OR	2013-14			20	20
<b>total</b>						<b>21</b>	<b>35</b>	<b>40</b>	<b>116</b>

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## Appendix B

Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Head of Care Commissioning, Housing and Safeguarding</b>									
Fairer Charging	a) Non compliance with legislation/Council's policy b) Inaccurate charges calculated c) Ineffective income collection/recovery procedures	3	High	OR	2008-09	20			20
Residents Property (Appointeeship/Deputyship)	a) Misappropriation of client property b) Inaccurate records of level/type of property held c) Non compliance with legislation	2	High	OR	2013-14			15	15
Social Fund Reform (Community Care Grants/Crisis Loans)	a) Grants not awarded in accordance with legislation/Council procedures b) Inappropriate payments made c) Records not up-to-date/accurate	2	Medium	OR	New	15			15
Contract Letting/Management (Including Supporting People) (Care)	a) Value for money not obtained when choosing external providers b) Care provision not formalised/not monitored - escalation of costs, care standards not met b) Non compliance with EU legislation (Remedies Directive)	3	High	OR	2001-02			20	20
Common Housing Register / Advice	a) Legislation is not adhered to b) Register not appropriately administered	2	Medium	OR	2009-10				0
Homelessness	a) Legislation not adhered to b) Accommodation is not obtained promptly/cost effectively	2	Medium	OR	2011-12				0
Renovation Grants/Disabled Facility Grants	a) Grants not awarded in accordance with legislation/Council procedures b) Inappropriate payments made c) Records not up-to-date/accurate	2	Medium	OR	2006-07		15		15
<b>Total</b>						<b>35</b>	<b>15</b>	<b>35</b>	<b>85</b>



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Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Head of Education</b>									
Secondary Schools	Review of key risks - budgetary control, income collection, control of assets, school governance	2		Sch	Annual Programme	24	12	12	48
Primary Schools	Review of key risks - budgetary control, income collection, control of assets, school governance	1		Sch	Annual Programme	120	120	120	360
Nursery Schools (2) to include Children's Centres	Review key risks: Compliance with legislation, accurate completion of grant claims	1		Sch	2012-13				0
Special Schools (2)	Review key risks: Compliance with legislation, budgetary control, control of assets,	1		Sch	2010-11				0
Alternative Curriculum	Review key risks: Budgetary control, appropriateness of expenditure	1		OR	2011-12				0
Reintegration Service	Review key risks: Budgetary control, appropriateness of expenditure	1		OR	2011-12				0
Children's Centres	a) Centres have not been set up in accordance with government guidelines b) governance arrangements between the Centre and	2		OR	New	12		12	24
Formula funding / DSG	a) Non compliance with legislation, b) Ineffective budget builds	2	High	OR	2009-10			20	20
School Census	a) Submission of incorrect returns, b) Inaccurate funding	1	High	OR	2012-13				0
Family Support Packages for Disabled Children (to include short breaks)	a) Non compliance with legislation, b) Inappropriate packages, c) Overspends on budgets	3	Medium	OR	2009-10				0
School Admissions Policy	a) Non compliance with legislation, b) Unsuitable school offers, c) Invalid admissions data	2	High	OR	2009-10				0
Home to School Transport Entitlement	a) Employment of inappropriate individuals, b) Misallocation of free transport,	2	Low	OR	2008-09		15		15
Child Protection in Schools	a) Non compliance with legislation, b) Schools are not adequately supported/trained by WBC	2	High	OR	2008-09				0
Nursery Provision - central review	Review key risks: Compliance with legislation, accurate completion of grant claims	1	Low	OR	2010-11				0
After Schools Clubs	a) Non compliance with government targets/legislation, b) Misuse of grant funds, c) Activities are not effectively monitored	3	Medium	OR	2007-08		15		15
Special Needs Assessment & Statementing and Recoupment	a) Non compliance with legislation b) Inaccurate assessments c) Not meeting needs of children d) Expenditure may not be effectively monitored	3	Medium	OR	New		20		20
School Library Service (Joint arrangement)	a) Contract not effectively monitored b) Service not meeting client needs c) Value for money not obtained	2	Medium	OR	Not Audited	15			15
Connexions	a) Contract not effectively monitored b) Service not meeting client needs c) Value for money not obtained	2	Low	OR	Not audited				0

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## Appendix B

	Key risks to be covered	Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
Resource Units (7)	Review key risks: Compliance with legislation, budgetary control, control of assets.	1	High	OR	2011-12				0
Adult Education	a) Non compliance with legislation, b) Non achievement of targets and standards, c) Overspends on budgets	2	Low	OR	Not audited		15		15
Building Maintenance	a) Ineffective maintenance programme, b) Non compliance with legislation (internal, H&S, EU tendering policies)	3	High	OR	2008-09	20			20
Asset Project Management	a) Failure to deliver major projects on budget, timely manner, to meet need of clients, b) Non compliance with legislation	4	High	SR	Not Audited	20			20
School Meals Contract	Review of schools not in the contract a) Non compliance with legislation, b) Not meeting service user requirements, c) Contract not effectively monitored.	3	Medium	OR	2011-12			20	20
<b>total</b>						<b>211</b>	<b>197</b>	<b>184</b>	<b>592</b>

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Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Head of Children's Services</b>									
Castlegate	Review of key risks: Budgetary control, control of assets & cash, appropriate expenditure.	1	Medium	OR	2010-11		5		5
Assessment of Need/Purchase of care - Residential	a) Non compliance with legislation, b) Inappropriate packages, c) Overspends on budgets	3	High	OR	2008-09				0
Assessment of needs/Purchasing Care - Respite	a) Legislation is not adhered to b) Inappropriate care packages c) Budgets could be overspent		High	OR	2013-14				0
Assessment & collection of contributions	a) Non compliance with legislation, b) Incorrect assessments, c)	3	Medium	OR	2011-12				0
Foster Care (including recruitment)	a) Non compliance with legislation/standards, b) Inability to recruit sufficient levels of suitable placements, c) Incorrect payments	3	Medium	OR	2008-09				0
Adoption - Recruitment, Placement and Allowances	a) Non compliance with legislation, b) Ineffective training/strategies in place, c) Inappropriate people recruited, d) Inaccurate payments	3	Low	OR	Not audited		15		15
Turnaround Families Programme	a) Non compliance with requirements of the scheme b) Ineffective procedures to monitor and track outcomes c) Lack of evidence to validate grant payments claimed	3	Medium	OR	Ongoing	10	5	5	20
Payment of Carers (foster carers)	a) Non compliance with legislation, b) Incorrect/inappropriate payments, c) Overspends on budget	2	Medium	OR	2012-13				0
S17 - Payment of Support Costs/Allowances	a) Non compliance with legislation, b) Incorrect/inappropriate payments, c) Overspends on budget	2	Medium	OR	2006/7	15			15
Child Care Lawyers (joint arrangement with Berkshire Authorities	a) Incorrect submission of charges by WB, b) Ineffective communication with Children's' services, c) Cases wrongly undertaken by WB, d) Costs incorrectly calculated	2	Medium	OR	2004-05			15	15
Unaccompanied Children - Asylum Seekers	a) Non compliance with legislation, b) Asylum seekers/care leavers are not adequately supported, c) Inadequate financial controls re payment of allowances/fraud.	3	Medium	OR	2004-05		15		15
Agency Staff	a) Non compliance with legislation, b) Inappropriate people recruited	2	Medium	OR	2008-09			15	15
Pooled budget Child & Adolescent mental health (section 37 contract)	a) Effectiveness of arrangements & monitoring, b) Achievement of targets and objectives, c) Ineffective communication between parties	3	Low	OR	Not audited		15		15
Child Protection Conferencing Processes	a) Inappropriate arrangements in place, b) Non adherence to guidance, legislation.	2	Medium	OR	2010-11				0

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Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
Youth Centres (3)	Review of key risks: Budget monitoring, control of expenditure, collection of income, security of assets	1	Low	OR	2010-11				0
Area Teams (2 teams - Youth Services)	Review of key risks: Budgetary control, control of assets & cash, appropriate expenditure.	1	Low	OR	Not audited				0
Offsite Activities - review of external provision of service	a) Non compliance with legislation, b) Poor risk assessment c) Inappropriate activities undertaken	1	Medium	OR	2005-06			20	20
Supervision compliance checks	a) Non compliance with the Service's management processes b) ineffective performance management of staff and/or poor caseload monitoring and management	1	Medium	OR	2013-14				0
Quality Assurance system	a) Service quality requirements are not being met and this is not highlighted/rectified which could result in service outcomes not being achieved b) Council criticised/legal action taken for not meeting duty of care	1	Medium	OR	Client Request	20			20
<b>total</b>						<b>45</b>	<b>55</b>	<b>55</b>	<b>155</b>

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Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Environment Directorate</b>									
Travel Claims	a) Fraudulent claims b) Inaccurate payments	1	Medium	AFW	2010-11		10		10
<b>total</b>						<b>0</b>	<b>10</b>	<b>0</b>	<b>10</b>
<b>Head of Culture and Environmental Protection</b>									
Clean and Green agenda	a) Failure to deliver change b) failure to deliver cost savings	4	Medium	SR	2012-13				0
Waste Management and disposal PFI	a) Ineffective contract management resulting in increased costs/service quality issues b) Recycling initiatives not being met	4	High	SR	2009-10	20			20
<b>Environmental Health Joint Arrangement covering:-</b>	a) Non compliance with terms of the joint arrangement b) ineffective monitoring of quality of service provision and costs	3	Medium	OR	New			20	20
Contract Management					New				0
Service requests for intervention					2002-03				0
Health and Safety					2002-03				0
Taxi Licensing					2008-09				0
Licensing Reform					2012-13				0
<b>Trading Standards - Joint Arrangement covering:-</b>	a) Non compliance with terms of the joint arrangement b) ineffective monitoring of quality of service provision and costs	3	Medium	OR	2013-14				0
Contract Management					2013-14				0
Purchase/Disposal of samples					2013-14				0
Service requests for intervention					2013-14				0
Food Safety and Standards					2013-14				0
Leisure Centre Management	a) Non compliance with legislation, b) Ineffective contract monitoring and management	3	High	ADV	2009-10		20		20
Museums (1)	Review of key risks: Budgetary control, control of assets & cash, appropriate expenditure.	1	Low	OR	2004-05				0
Archaeology	a) Non compliance with legislation and government guidelines, b) Ineffective communication between services	2	Low	OR	2011-12				0
Tourist Information Centre	Review of key risks: Budgetary control, control of assets & cash, appropriate expenditure.	1	Low	OR	2010-11				0
Berkshire Archive Service	Non compliance with terms of the joint arrangement/ineffective management of facilities	2	Medium	OR	2013-14				0

# Internal Audit Work Programme - 2014-17

## Appendix B

Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
Libraries Purchasing/stock control	a) Budgets overspent b) Inaccurate financial information for management decisions c) Stock may be misappropriated d) Purchasing arrangements are not cost effective	3	Medium	OR	2008-09	15			15
Libraries Income	a) Loss of stock is not reimbursed, resulting in additional expenditure b) Income collection not maximised	3	Medium	OR	2010-11			15	15
Shaw House	a) Facilities' use/income opportunities are not being maximised b) The facilities do not offer value for money c) Costs are not being effectively controlled	3	Medium	OR	2008-09		15		15
Adventure Dolphin & Outdoor Youth Activity	Review of key risks: Budgetary control, control of assets & cash, appropriate expenditure.	1	Low	OR	2011-12				0
<b>total</b>						<b>35</b>	<b>35</b>	<b>35</b>	<b>105</b>

# Internal Audit Work Programme - 2014-17

## Appendix B

Key risks to be covered		Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Head of Highways and Transport</b>									
Structural Maintenance / Engineering	a) Non compliance with legislation, b) Ineffective maintenance programme	3	Medium	OR	2012-13				0
Major Road Repairs (Projects)	a) Projects/schemes targets not met, b) Non compliance with internal policies, plans		Medium	OR	Not audited		20		20
Traffic Management	a) Projects/schemes targets not met, b) Non compliance with internal policies, plans	3	Medium	OR	2013-14				0
Highway Term Contract (excluding major road projects)	a) Non compliance with H&S legislation, b) Ineffective contract monitoring, c) Non compliance with policies	2	High	OR	2011-12			20	20
Home to School Transport / CRB checks	a) Employment of inappropriate individuals, b) Misallocation of free transport, c) contracts for transport	3	High	OR	2007-08	20			20
Electrical (including Street Lighting)		2	Low	OR	Not audited			15	15
Street Naming/numbering	a) Income not maximised, b) Misappropriation of funds	2	Low	OR	2004-05				0
Concessionary Fares / Bus Passes	a) Fraud/theft, b) Non compliance with regulations	2	Medium	OR	2010-11	15			15
Parking	a) Non compliance with legislation, b) Loss of income c) Fraud/theft	3	High	OR	2013-14				0
Fleet Management	a) Use of vehicles b) contracts for non fleet transport		High	OR	2010-11		20		20
<b>total</b>		<b>3</b>				<b>35</b>	<b>40</b>	<b>35</b>	<b>110</b>
<b>Head of Planning and Countryside</b>									
Enforcement	a) Planning Legislation is not adhered to b) Management information is not up-to-date/accurate	2	Low	OR	2010-11				0
Community Infrastructure Levy (CIL)	a) Planning Legislation/local schemes are not adhered to b) Policy targets are not met c) Corruption d) Income is not maximised	2	High	OR	New			20	20
Building Control	a) Building Control Regulations are not adhered to b) Income is not maximised	2	high	OR	2009-10	20			20
Grounds Maintenance Con.	a) Contract specification is not met b) Inappropriate/inaccurate payments could be made	2	Medium	OR	2010-11			15	15
Management of Parks and Commons Partnership Arrangement	a) Non compliance with terms of the joint arrangement/ineffective monitoring of service provision	3	Medium	ADV	New		15		15
<b>total</b>						<b>20</b>	<b>15</b>	<b>35</b>	<b>70</b>

# Internal Audit Work Programme - 2014-17

Key risks to be covered

## Appendix B

	Complexity (Using a scale of 1-4, 1 being least complex)	Risk Assessment Category	Audit Type	Date last audited	2014-15	2015-16	2016-17	TOTAL Days 2014- 2017 Est
<b>Other Chargeable work (non service specific)</b>								
Preparation of the audit plan/school visit programme					10	10	10	30
Monitoring the audit plan/school visit programme					15	15	15	45
Liaison with Portfolio Members Governance and Audit Committee updates					3	3	3	9
Audit Follow-ups					100	100	100	300
Audit Advice					20	20	20	60
School advice					10	10	10	30
External Professional Liaison					5	5	5	15
								0
<b>Total</b>					<b>166</b>	<b>166</b>	<b>166</b>	<b>498</b>
								0
Contingencies					120	120	120	360
<b>Total</b>					<b>120</b>	<b>120</b>	<b>120</b>	<b>360</b>
<b>Planned Audit Days total</b>					<b>1,043</b>	<b>1,028</b>	<b>985</b>	<b>3,059</b>



## **Appendix C - INTERNAL AUDIT REPORTING PROTOCOL April 2013**

### **1 Purpose and Scope**

- 1.1 This document outlines the way internal audit will initiate, and report on work for the Council. This protocol relates only to Council Services, a separate protocol exists for Schools.
- 1.2 In terms of this protocol there are three types of audit work that will involve different approaches to reporting. These are:
  - Routine planned audits to provide assurance
  - Advisory work carried out at the request of the client
  - Unannounced audits – to check cash accounting on site.
- 1.3 A set of tables are attached which summarise the key elements of this protocol for each of the above.

### **2 Initiating work**

- 2.1 The following highlights the key stages for commencing Internal Audits
- 2.2 Terms of reference will be issued for all audits, apart from establishments and unannounced audits that will set out the scope of the work to be carried out and confirm the reporting arrangements.
- 2.3 In the case of Establishments a formal memo will be issued to outline the key areas that will be covered by the work.
- 2.4 In the case of unannounced audits the Head of Service will be informed that the audit has been carried out immediately after the conclusion of the visit. (These audits are expected to take no more than half a day.)

### **3 Reporting the results of Internal Audit work**

- 3.1 The reporting process planned work has three key stages :-  
  
Rough Draft Report (Memo in the case of unannounced cash audits);  
Draft Report / Memo;  
Final Report / Memo.
- 3.2 The rough draft will be issued to the Service Manager to check the factual accuracy, and to obtain their initial observations.
- 3.3 The formal draft will be issued once the Service Manager is satisfied with the accuracy of the report. The circulation of the formal draft report will ensure that all relevant people have had an opportunity to comment on the content of the report, prior to it being finalised.
- 3.4 We request comments/observations from all recipients, however, we treat the relevant Head of Service/Unit Manager as the main client, and as such we require the Head of Service to agree to the details, and comment on the

## Appendix C - INTERNAL AUDIT REPORTING PROTOCOL April 2013

recommendations, of the report before it is finalised. Where a recommendation is not agreed, we require the Client's reasoning for this, and this detail is included in the action plan (attached to the report) for future reference.

- 3.5 Where, during an audit, a serious problem is discovered which requires immediate attention, it may be necessary to issue an interim report. The relevant auditor will contact the Head of Service to discuss any such issues prior to an interim report being issued.
- 3.6 Internal Audit reports will normally be issued within 3 weeks of the completion of the work. The Terms of Reference for the audit should give an indication of the timescales for reporting.

### 3 Follow Up of Audit Recommendations

- 3.1 A follow up process is required in order to be able to give management/members assurance that the agreed action plans have been implemented. A follow will normally be carried out for all audits where recommendations have been made
- 3.2 A follow-up review is carried out roughly six months after the audit report was finalised. The exception to this is where an annual review is required to be undertaken in accordance with KPMG's requirements (usually the key financial systems in Benefits and Exchequer and Finance). The follow-up then forms part of the following year's review.

### 4 Timescales for receipt of Client Responses to Audit Requests for information/Responses to Audit Reports

- 4.1 This protocol sets out the timeframes by which we require a response from the Client, together with the processes to be followed where these timeframes are not met.

#### Suggestion of Timeframe protocol:-

	<b>Timeframe For Receipt of Response</b>	<b>Action where no response is received</b>
<b>Rough Draft Report</b>	Within 3 weeks of receipt (or notification of when a response will be received)	<b>Stage 1</b> - Reminder issued to the Line Manager (Head of Service copied in) specifying a response is required within two weeks otherwise the Corporate Director is to be informed.
	Within two weeks of stage 1	<b>Stage 2</b> - Corporate Director informed of lack of a response (Copied to the Line Manager and Head of Service) specifying a response is required

## Appendix C - INTERNAL AUDIT REPORTING PROTOCOL April 2013

		within two weeks otherwise this will be reported to the Corporate Board
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	<b>Timeframe For Receipt of Response</b>	<b>Action where no response is received</b>
<b>Draft Report</b>	Within 3 weeks of receipt (or notification of when a response will be received)	Stage two of the Rough draft will apply

4.2 These timeframes, together with action to be taken where no response is received will be incorporated into the standard letters/memos we issue with each report.

4.3 The auditor will use his/her judgement on each case to take into account any extenuating circumstances, and will notify the Head of Finance where there are issues with non-compliance that needs to be reported to Corporate Board. The Head of Finance will raise the matter with the relevant Director.

### **5 Reporting to the Governance and Audit Committee**

5.1 The Chief Internal Auditor will provide the Committee, on a half yearly basis with a report that will summarise the results of completed audits and follow up audits.

5.2 Where an audit is categorised as weak or very weak a written comment from Internal Audit will be provided to the Committee and a written response / comment / update will be sought from the Head of Service.

5.3 Where a follow up is classed as unsatisfactory then again written comment and response will be provided. In addition the Head of Service will normally be asked to attend the Governance and Audit Committee to outline the reasons for the failure to implement the agreed action plan and answer Members questions on the audit.

### **6. Role of Portfolio Holders in the audit process**

6.1 Portfolio Holders are involved in the audit process at their discretion and to the extent that they choose.

6.2 Portfolio Holders can choose to vary the extent of their involvement at any time. In addition if they wish they can vary their involvement on an audit by audit basis, by informing the Chief Internal Auditor.

6.3 The role of the Portfolio Holder in the audit process is to:

## Appendix C - INTERNAL AUDIT REPORTING PROTOCOL April 2013

- Feed in any issues of concern at the start of the audit so that these can be considered by the auditor in scoping the review.
  - Support the relevant Head of Service in considering weaknesses identified during the audit and action plans proposed by the auditor at the conclusion of the audit
  - Support the Head of Service in implementing agreed action plans
- 6.4 The lead auditor is responsible to the Chief Internal Auditor for managing the audit in compliance with the CIPFA Code of Practice for Internal Audit. Responsibility for the content of the resulting audit report will remain with the relevant lead auditor and the Chief Internal Auditor.
- 6.5 The Head of Finance as s151 Officer has overall responsibility for ensuring that the Internal Audit service complies with the CIPFA Code of Practice for Internal Audit

## Reporting arrangements

### 1 Audit Reviews to provide Assurance

Client	Terms of reference	Rough Draft Report	Formal Draft Report	Final Report	Follow-up details
S151 Officer (Head of Finance)	All cases		Where there are fundamental weaknesses in the service	All cases	All cases
Service / Unit Manager	All cases	All cases	All cases	All cases	All cases
Head of Service	All cases	Only where serious issues relating to the service, i.e. lots of fundamental weaknesses or issues of concern relating to the service manager. Such issues would normally be raised before the report is written	All cases	All cases	All cases
Corporate Director	All cases		Where there are fundamental weaknesses in the service	All cases (except for schools)	All cases
Chief Executive	For his service areas		Only where serious issues relating to the service, i.e. lots of fundamental weaknesses or issues of concern relating to the service manager. Such issues would normally be raised before the report is written.	Any report with fundamental weaknesses	Any report with fundamental weaknesses

## Reporting arrangements

Client	Terms of reference	Rough Draft Report	Formal Draft Report	Final Report	Follow-up details
			<b>The Chief Internal Auditor will decide on the necessity to issue a report at this level.</b>		
Relevant Portfolio Member	All cases		If the Portfolio member for the service has expressed an interest when the TOR have been issued.	All reports	All Cases
Chief Internal Auditor	All cases		All cases	All cases	All Cases

## Reporting arrangements

### 2 Advisory/VFM Reviews

(The approach will be agreed with the Client prior to commencing a review, and to be noted in the terms of reference to provide clarity of how the findings are to be reported). Advisory reviews may arise from the need for advice on key controls in systems where the Service concerned is already aware that improvement is needed or where the systems are being changed by the service area, (eg a new ICT system is being implemented).

Client	Terms of Reference	Rough Draft Report	Formal Draft Report	Final Report
Line Manager	All cases	All cases	All cases	All cases
Head of Service	All cases		All cases	All cases
Corporate Director	All cases			All cases
Chief Internal Auditor	All cases		Relevant auditor will decide on the necessity to issue a report at this level where there are serious issues relating to the service, i.e. lots of fundamental weaknesses or issues of concern relating to the service manager. Such issues would normally be raised before the report is written.	All cases

Further escalation of the advisory / VFM reviews reporting to the Chief Executive and the relevant portfolio Member will depend upon the significance of issues / number of weaknesses identified and will be determined by the relevant auditor.

Due to the nature of the work an overall opinion will not be given for an advisory/VFM review. However, these reviews will follow the standard follow process for follow-ups (progress categorisation/circulation of findings).

## Reporting arrangements

### 3 Unannounced Audits

<u>Client</u>	<u>Terms of Reference</u>	<u>Rough Draft Memo</u>	<u>Formal Draft Memo</u>	<u>Final Memo</u>
Line Manager / Headteacher	None issued	All cases	All cases	All cases
Head of Service	None issued		All cases	All cases
Corporate Director	None issued			All cases
Relevant Portfolio Holder	None issued			All cases
Chief Internal Auditor	None issued		All Cases	All cases



# Agenda Item 5.

<b>Title of Report:</b>	<b>Request for the Revision of the Constitution</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	15 May 2014
<b>Forward Plan Ref:</b>	C2758

**Purpose of Report:** For the Governance and Audit Committee to consider an amendment to the constitution and make a recommendation to full Council.

**Recommended Action:**

1. That Governance and Audit Committee recommend to full Council that a petition of 1,500 or more signatures will trigger a debate at Full Council.
2. That authority be delegated to the Head of Legal to amend the Constitution to reflect the amendment.

**Reason for decision to be taken:** The matter was discussed at a previous Council meeting where it was suggested that a formal request be brought back to Council for a decision.

**Other options considered:** None

**Key background documentation:** None

The proposals will also help achieve the following Council Strategy principle:

**CSP9 - Doing what's important well**

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

<b>Member Details</b>	
<b>Name &amp; Telephone No.:</b>	Councillor Jeff Brooks
<b>E-mail Address:</b>	jbrooks@westberks.gov.uk
<b>Date Portfolio Member agreed report:</b>	31 March 2014
<b>Contact Officer Details</b>	
<b>Name:</b>	Gillian Durrant
<b>Job Title:</b>	Lib Dem Group Executive
<b>Tel. No.:</b>	01635 519097
<b>E-mail Address:</b>	gdurrant@westberks.gov.uk

## **Implications**

**Policy:** The constitution would need to be amended  
**Financial:** None  
**Personnel:** None  
**Legal/Procurement:** None  
**Property:** None  
**Risk Management:** None  
**Corporate Board's Recommendation:** Corporate Board were supportive of the proposals in the report.

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

Is this item subject to call-in?	Yes:	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"/>
Report is to note only		<input type="checkbox"/>

## Executive Summary

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### 1. Introduction

- 1.1 The Constitution currently allows a debate at full council following receipt of a petition of 5,000 or more signatures (see 2.2 below). This report recommends that this be reduced to 1,500 signatures, in line with many other local authorities.

### 2. Proposals

- 2.1 This report proposes that the Council's constitution be amended so that when a petition of 1,500 or more signatures is presented at Full Council, a debate will be held on the subject of the petition.

The constitution currently states in Appendix C (Procedure Rules for Dealing with Representations) to Part 13 (Codes and Protocols), paragraph 1.4

- (e) **Petitions for Debate.** For a petition to be reported to a Full Council meeting for debate by the elected Members of West Berkshire Council, it must contain a minimum of **5,000** petitioners. Where a petition relates to a local issue, affecting no more than two electoral wards in West Berkshire, this requirement may be reduced to **500 per ward at the discretion of the Monitoring Officer.**
- (f) Where a Full Council meeting debate is triggered by a petition, the Petition Organiser or their nominated spokesperson will have up to five minutes to present their petition and the petition will then be discussed by Councillors for a maximum of 15 minutes. The Council may decide to take the action the petition suggests, not to take the action requested for reasons put forward in the debate or to commission a further investigation into the matter.
- 2.2 The number of signatures required on a petition to trigger a debate at Full Council in the 6 unitary authorities in Berkshire are:

<b>Authority</b>	<b>signatures required</b>	<b>Electoral Roll (Dec 2012)</b>	<b>Percentage of Electorate</b>	<b>Population (2011 census)</b>
Windsor & Maidenhead	1,000	106,474	0.93%	144,600
Bracknell Forest	1,500	85,724	1.75%	113,205
Reading	1,500	118,219	1.26%	155,700
Slough	1,500	94,330	1.59%	140,200
Wokingham	1,500	113,379	1.32%	154,400
West Berkshire	5,000	120,970	4.13%	153,800

- 2.3 Following the consultation on the proposed 2014-2016 budget cuts, the residents of Pangbourne and the surrounding area raised a petition requesting that the opening

hours of Pangbourne library be maintained. They were advised by the Council's Monitoring Officer, that because the library users came from more than two wards (some lived across the border in Oxfordshire), the petition would need to have over 5,000 signatures in order to trigger a debate at Full Council. The petition organisers felt that this was unachievable because the numbers on the electoral roll in the wards concerned were relatively small, and only a proportion of them use the library. Their problem was compounded by the fact that the Council's e-petition software did not permit people living outside of West Berkshire to sign this petition.

2.4 The numbers on the electoral roll in Pangbourne ward and neighbouring West Berkshire wards:

Ward	Electoral Roll	percentage of electorate	Population (2011 census)	Percentage of population
Pangbourne	2,262		2,984	
Basildon	2,470		3,107	
Sulhamstead	2,212		2,963	
Purley-on-Thames	5,275		6,552	
<b>Total</b>	<b>12,219</b>	<b>41%</b>	<b>15,606</b>	<b>32%</b>

2.5 As you can see from the above figures, 41% of the electorate of these four wards would have had to sign the petition (or 32% of the entire population, including babies and children) for a debate to be triggered at Full Council. A large number of people living in these wards may also be members of their nearest library, which could be in Goring, Theale or Tilehurst, and therefore not be inclined to sign a petition for Pangbourne library.

Had the petition limit for a debate at Full Council been set at a reasonable figure of 1,500 instead of 5,000 this amount of signatures may have been achievable, and the users of Pangbourne library would have had a greater impact on local democracy.

### 3. Equalities Impact Assessment Outcomes

3.1 This item is not relevant to equality.

### 4. Conclusion

4.1 This amendment would enable the people in West Berkshire to bring to Full Council matters that are important to them, and to hear the councillors debate these issues in a public meeting. The lower number of signatures required to trigger a debate would encourage the engagement of the local population with politics.

### Appendices

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There are no Appendices to this report.

### Consultees

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**Local Stakeholders:** N/a  
**Officers Consulted:** None  
**Trade Union:** N/a

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# Agenda Item 6.

<b>Title of Report:</b>	<b>Changes to the Constitution – Part 13 Codes and Protocols</b>
<b>Report to be considered by:</b>	Council
<b>Date of Meeting:</b>	15 May 2014
<b>Forward Plan Ref:</b>	C2776

**Purpose of Report:** To review and amend sections of Part 13 (Codes and Protocols) i.e. Appendices I (Councillor Call for Action Protocol) and J (Protocol for Council Representation on Outside Bodies) in light of legislative changes, policy changes and recent government guidance.

**Recommended Action:**

1. To consider the amendments and any additional changes required and recommend them to Full Council for approval.
2. To agree that the changes will come into effect on the 16 May 2014.

**Reason for decision to be taken:** To ensure that the Council has adjusted the scheme in light of legislative and policy changes.

**Other options considered:** Not to agree the changes

**Key background documentation:** None

The proposals will help achieve the following Council Strategy principles:

**CSP7 - Empowering people and communities**

**CSP9 - Doing what's important well**

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

Ensuring that the Constitution is up to date

<b>Member Details</b>	
<b>Name &amp; Telephone No.:</b>	Councillor Jeff Beck
<b>E-mail Address:</b>	<a href="mailto:jbeck@westberks.gov.uk">jbeck@westberks.gov.uk</a>
<b>Date Portfolio Member agreed report:</b>	

Contact Officer Details	
<b>Name:</b>	David Holling
<b>Job Title:</b>	Monitoring Officer
<b>Tel. No.:</b>	01635 519422
<b>E-mail Address:</b>	<a href="mailto:dholling@westberks.gov.uk">dholling@westberks.gov.uk</a>

## Implications

<b>Policy:</b>	Will require changes to the Constitution
<b>Financial:</b>	None – will be undertaken within existing resources.
<b>Personnel:</b>	None
<b>Legal/Procurement:</b>	Will require the Constitution to be updated
<b>Property:</b>	None
<b>Risk Management:</b>	None

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

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



# Executive Summary and 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 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 sections of Part 13 (Codes and Protocols) i.e. Appendices I (Councillor Call for Action Protocol) and J (Protocol for Council Representation on Outside Bodies) of the Council's Constitution in light of legislative changes, policy changes and recent government guidance.

## 2. Part 13 Codes and Protocol – Appendix I (Councillor Call for Action)

- 2.1 The following minor changes have been made to the document by Officers:
- (a) The correction of the job title of the Scrutiny and Partnerships Manager and the Overview and Scrutiny Management Committee,
  - (b) The correction of some typographical errors and an amendment to reflect the procedure in terms of making recommendations to other committees or boards.

## 3. Part 13 Codes and Protocol – Appendix J (Protocol for Council Representation on Outside Bodies)

- 3.1 The following minor changes have been made to the document by Officers:
- (a) The document has been aligned to the recently agreed Gifts and Hospitality Protocol for Members.
  - (b) The sections pertaining to Members Interests have been updated to take cognisance of the new local Code of Conduct for Members.

## 4. Proposals

- 4.1 It is proposed that the amendments to Part 13 Appendices I and J of the Council's Constitution be considered and if appropriate referred to Full Council for approval.

## 5. Equalities Impact Assessment Outcomes

- 5.1 This item is not relevant to equality.

## 6. Conclusion

- 6.1 The report is a required update to take cognisance of legislative and policy changes. For the avoidance of doubt the changes will come into effect on the 16 May 2014 if approved at Full Council.

## **Appendices**

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Appendix A – P13 Appendix I – Councillor Call for Action

Appendix B – P13 Appendix J – Protocol for Council Representation on Outside Bodies

## **Consultees**

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**Local Stakeholders:** N/a

**Officers Consulted:** Andy Day, Sarah Clarke, Moira Fraser, Finance and Governance Group, Ian Priestley, David Lowe, Corporate Board

**Trade Union:** Not consulted

## Appendix I

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### ***Councillor Call for Action Protocol***

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#### **Introduction**

This protocol provides a description of a 'Councillor Call for Action'; guidance on who may initiate one, when and how; specific exclusions from the process; investigation and resolution; and monitoring.

#### **Description**

The Councillor Call for Action (CCfA) is a mechanism that provides Members of the Council with the opportunity to ask for discussions at the Overview and Scrutiny Management Commission on issues where local problems have arisen and where other methods of resolution have been exhausted.

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CCfA is not guaranteed to provide a solution to a problem but can provide:

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- A public forum for discussion of the issues
- An opportunity to discuss the issues in a balanced way
- An opportunity to discuss the problem with the explicit and sole aim of providing an appropriate recommendation
- A high profile process owned by the Ward Member.

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All of these factors can make resolution easier to achieve.

The CCfA is a whole Council process and is not solely related to scrutiny. Scrutiny is however the forum for bringing together evidence from multiple sources, including partner organisations.

It is a technique for helping to resolve queries, which may lead to the forming of recommendations for the consideration of the Executive or other bodies.

#### **Eligibility criteria for the initiation of a Councillor Call for Action**

Any Member of the Council may submit a Councillor Call for Action (CCfA) for inclusion in the agenda of the Overview and Scrutiny Management Commission (OSMC).

The issue for consideration must relate to a single locality only rather than the entire district, for which other channels for consideration exist. In this context a 'single locality' could be a town, village, ward or part thereof.

CCfA may only be initiated after all other appropriate methods of problem resolution have been exhausted. These methods might include, but not be limited to:

- Questions at Executive/Council;
- Informal discussions with officers or other Members;
- Formal letters written on behalf of constituents;
- Public meetings;

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- Petitions and deputations;
- Motions on the agenda at full Council;
- Communication with local MPs;
- Communication with Councillors in other authorities;
- The Council's complaints process;
- Web or e-mail based campaigns;
- Communications with relevant Portfolio Holder.

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Members bringing forward a CCfA will be required to define their preferred outcomes and resolutions prior to discussion and, wherever possible, attend the relevant committee meeting(s).

To raise a CCfA a Member should in the first instance contact the Scrutiny and Partnerships Manager outlining the issue, the desired outcome and the processes previously undertaken to resolve it. A submission form is available on the intranet. Submissions must be received by no later than 10.00am, seven clear working days prior to the date of the Overview and Scrutiny Management Commission meeting at which it is to be considered.

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On receipt of the proposal, the OSMC Chairman and Vice Chairman, along with the Scrutiny and Partnerships Manager, will assess its suitability for consideration by the OSMC. If the issue is considered appropriate it will be added to the next OSMC agenda. If it is assessed that the issue is not appropriate then the member making the CCfA will be directed to other courses of action for issue resolution.

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### Exclusions from Councillor Call for Action

Specifically excluded from becoming a CCfA are:

- Any matter relating to a planning decision.
- Any matter relating to a licensing decision.
- Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.
- Any matter which is vexatious, discriminatory or not reasonable.
- Any matter that has been considered by the Overview and Scrutiny Management Commission or task group in the previous six months.

### Investigation and resolution

Following initial acceptance by the Scrutiny and Partnerships Manager, Members of the Overview and Scrutiny Management Commission will then consider whether they wish to accept the matter for investigation and the most appropriate forum and course of action to determine resolution. This may include the establishment of a time limited task group or examination of the subject as a full Commission. The matter will then be dealt with as any other item of Scrutiny.

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In conducting its investigation, the Scrutiny body will have regard to the issue and the resolution required by the Member raising the CCfA. Reviewing Members may challenge the expected outcome if they feel that it is unreasonable.

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The Council's scrutiny function only has the power or authority to require the Council or other organisations to have regard to its considerations and cannot of itself impose a resolution. Therefore at the conclusion of its investigation the OSMC will produce a report containing recommendations for the consideration of the Council's Executive, West Berkshire Partnership Board or other organisations as appropriate.

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As with other scrutiny reports, a response to each of the OSMC's recommendations will normally be given within 56 calendar days (8 weeks) of the report's production. The Council service most closely involved with delivery of the recommendations will have responsibility for the production of the response report.

## Monitoring

The responding service will provide implementation progress reports to the OSMC at intervals not normally more frequent than 6 monthly.

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# Protocol for Council Representation on Outside Bodies

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## 1. Introduction

- 1.1 Elected Members are appointed by West Berkshire Council to serve on a range of Outside Bodies. In the context of this Protocol, an “Outside Body” covers organisations such as Trusts, Voluntary Bodies, Charities, Community Associations and Companies etc.
- 1.2 Service on Outside Bodies has always been an established part of a Councillor’s role. A Member appointed to an external body will be able to use their knowledge and skills both as a Council Member, and as a representative of their communities, to assist the organisation to which they are appointed, as well as the Council which they represent.
- 1.3 This Protocol is designed to provide guidance as to the roles, experience and responsibilities as well as the liabilities that Members may attract in connection with their involvement with these organisations. Councils are increasingly working in partnership with external organisations. This means that it is important that everyone is clear exactly what the role of Councillors appointed to these bodies is. Questions of accountability and governance are likely to arise particularly as more funding may be channelled through the Council to these Outside Bodies
- 1.4 Membership of an Outside Body brings into play different considerations to those which relate to Council membership. As members of Outside Bodies, elected Members will have different duties, obligations and liabilities depending upon the type of organisation involved. Members’ roles on these Outside Bodies may appear to conflict, sometimes with each other, and sometimes with their position as a West Berkshire Councillor. This can be eased by giving clear guidance, which is what this document aims to do. Appendix A1 to this Protocol provides information on registering interest (paragraphs 9 and 10) and dealing with conflicts of interest (paragraph 11).
- 1.5 Depending on the legal nature of the body and the role fulfilled by the Member they may attract personal responsibility for decisions and actions of the body. It is a Members’ responsibility to ensure that they are aware of their liabilities and any insurance arrangements that are in place where they participate in Outside Bodies. Officers will strive to ensure that Members are provided with as much information as possible

prior to their appointment. Paragraphs 4 and 5 of the Protocol set out the general roles and responsibilities for Members on Outside Bodies.

- 1.6 To aid Members further, this Protocol sets out the different types of bodies and responsibilities. Members with any doubts or questions should consult the Head of Legal Services at the earliest opportunity for help and advice. More detailed information, relating to Limited Companies, Charitable Trusts, Partnerships and Unincorporated Organisations, is set out in Appendices A2, A3, A4 and A5 of the Protocol.
- 1.7 The Council will indemnify Members representing the Council on Outside Bodies in many circumstances. There are however specific statutory limitations as to the extent of indemnification the Council is able to provide. These are set out in Appendix A6 of the Protocol.
- 1.8 Members can serve on Outside Bodies in their personal capacity provided that there is no conflict of interest with their duties as a Member of West Berkshire Council. Again, legal advice is available to help Members assess their position.

## **2. How are Appointments made?**

- 2.1 In accordance with the Council's Constitution authority to appoint Members as representatives on Outside Bodies has been delegated to the Executive. With the exception of appointments to regulatory bodies i.e. Police and Fire Authorities appointments to Outside Bodies have been further delegated to the Leader of the Council or the relevant Portfolio Holder to make as an Individual Decision. The authority to appoint School Governors has been delegated to the Head of Education Services.
- 2.2 The majority of appointments are aligned to the electoral cycle and representatives are appointed for four years. A small number of appointments, most notably those to the regulatory bodies, are made on an annual basis. The majority of the appointments are made as early in the Municipal Year as is practicably possible.
- 2.3 The choice of the most appropriate representative will depend on the nature of the Outside Body, the interests and experience of the prospective representative, and why the Council wishes to be involved with that body.
- 2.4 The Strategic Support team is responsible for maintaining a database setting out details of the appointment and information relating to the Outside Bodies.

## **3. Before Accepting the Appointment**

- 3.1 Before accepting the appointment Members should establish:



- the time commitment required by the role and whether or not they have the time and capacity to take on the responsibility;
- what the nature of the organisation is as this will affect their role and help with identifying the potential risks involved. One of the most important things is to find out if the organisation is a separate legal organisation (i.e. a body which has an identity of its own such as a company) or whether it is simply a group of people coming together with a common purpose (an unincorporated organisation). An unincorporated organisation generally poses a more significant risk to those involved in it because if something goes wrong, personal legal action can be taken against everyone managing it.
- in what capacity they are being asked to serve on the Outside Body:
  - as a member of an Outside Body where they represent the Council's position as a 'member' of the Outside Body but take no part in its management or governance other than to attend and vote at annual or general meetings. Here they will be mainly concerned with representing the Council and will not have responsibilities for governance of the body; or
  - as a member of the management committee, board of directors or committee of trustees of the Outside Body. Whilst the Member may have been appointed to the body by the Council, their primary responsibility will be to the body itself, to advance the interests of the body or of the beneficiaries of the trust, as opposed to acting as a representative of the Council. They will have detailed responsibilities which are outlined further in this guidance
- what the body has been set up to do;
- the governance arrangements of the organisation; and
- the financial position of the organisation.

3.2 The Council representatives are also advised to:

- consider if there is likely to be any significant conflict of interest between their role in the outside organisation and their Council role before accepting the office;
- clarify the insurance arrangements (does it cover the key risks of the organisation as well as the Member and is the liability limited or unlimited) and assess the possibility of any implications on themselves as individuals (specifically consider the nature and function of the body and the amount of money it deals with – always be aware of the added risk where the organisation employs staff);
- if no insurance exists this must be weighed up in the decision to accept the appointment;

- ask about any specific legal responsibilities attached to the membership of the organisation;
- read the constitution of the organisation and be aware of its powers, duties and objectives;
- attend meetings regularly and present apologies in good time when they are unable to attend;
- satisfy themselves that they receive regular reports on the activities of the organisation and its financial position;
- satisfy themselves that the organisation has adequate Health and Safety and Equalities Policies;
- obtain a copy of the annual report and accounts to ensure that funds are spent on agreed objectives where the organisation is funded by or through the Council; and
- seek advice from the appropriate Council Officers in the event of any doubt or concerns about the running of the organisation.

#### **4. The Responsibilities of the Councillor**

- 4.1 In carrying out the role of a representative on the Outside Body, Councillors act both as individuals and as representatives of the Council:
- 4.2 Members should:
- act according to the rules, constitution and framework set by the Outside Body;
  - take an active and informed role in the Outside Body's affairs;
  - make independent and personal judgements in line with their duty of care to the Outside Body;
  - report back to West Berkshire Council annually (by the 1st May ) using the form attached at Appendix J(1);
  - promote equality as an integral part of the role and to treat everyone with fairness and dignity;
  - from time to time it is possible that a conflict of interest may arise between the role of the Councillor and the role they are undertaking on an Outside Body. Members are referred to Appendix A6. Members are advised to seek legal advice before setting off on a course of action.
  - behave ethically and follow as far as applicable the Code of Conduct for Members; and
  - wherever possible approach the lead officer for the Outside Body for a briefing on agenda items before attending meetings of the Outside Body.

4.3 Members should not:

- represent the political party to which the Councillor is aligned;
- consider matters purely from the Council's perspective;
- commit the Council to any expenditure; (In accordance with the Council's Financial Rules of Procedure any additional expenditure requests must be authorised by the appropriate person or body).

4.4 More Specific information pertaining to Limited Companies, Charitable Trusts, Partnerships, and Unincorporated Organisations is set out in Appendices A2, A3, A4 and A5 of this Protocol.

## 5. The Role of the Councillor

5.1 The role of Council representatives on Outside Bodies will vary but essentially the role will be:

- to help to secure any objectives of the Council in participating in the organisation;
- to help the organisation to achieve its aims and objectives legally, properly and effectively;
- to meet any specific legal responsibilities attached to membership of the organisation; and
- to safeguard the Council's interest on those organisations which are funded by or through the Council.

5.2 More Specific information pertaining to Limited Companies, Charitable Trusts, Partnerships, and Unincorporated Organisations is set out in Appendices A2, A3, A4 and A5 of this Protocol.

## 6. Expenses, Remuneration and Benefits

6.1 As a general rule Members should not benefit personally from their appointment to outside organisations.

6.2 Travel and subsistence expenses should be claimed through the organisation if available otherwise through the Council in accordance with the relevant Part of the Constitution (Members' Allowances Scheme).

6.3 Any Councillors offered any gift or hospitality, in their capacity as Members must treat the offer in accordance with Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors) to Part 13 (Codes and Protocols) of the Constitution.

6.4 Free access to a Company's facilities should only be accepted where it is necessary to discharge duties and responsibilities as a Director and should be declared to the Council.

6.5 The Code of Conduct should be followed at all times.

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When accepting gifts and hospitality Members should be mindful of the Council's Constitution in respect of gifts and hospitality which states that 'A Member should treat with extreme caution any offer or gift, favour or hospitality that is made to them personally. The person or organisation making the offer may be doing, or seeking to do, business with the Council, or may be applying to the Council for planning permission or some other kind of decision.'

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## 7. Representatives Reporting Back

- 7.1 Councillors are under a specific obligation as a result of the 1995 Local Authorities (Companies) Order to report back to the Council on their involvement in outside companies to which they have been nominated by the Council. Where the Council provides financial assistance to a charity or voluntary organisation of over £2,000 per annum then the body is under an obligation to state in writing to the Council how the funding has been used (s137A Local Government Act 1972).
- 7.2 While the law now makes this a requirement for involvement in outside companies, it is self evident that the requirement to report back should apply to involvement in all Outside Bodies. It is important that anyone who is appointed to an Outside Body provides appropriate information on what the organisation is doing. Members are not required to disclose information which is commercially confidential to the body.
- 7.3 Accordingly Members are required to submit their annual report to the Head of Strategic Support using the attached form by the 1st May each year. The reports will then be circulated to all Members. Where there is more than one Member appointed to an outside body a joint submission should be made.
- 7.4 There are a number of organisations to which the Council appoints Members where more regular feedback from Members would be appropriate. In these circumstances Members or Officers attending the meeting should provide a brief summary for dissemination to all Members and relevant Officers.

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## 8. Further Advice

- 8.1 Relationships between the Council, Outside Bodies and the Council's representative can be complex. In any case of dispute or difficulty, Members should seek advice from the Secretary or Clerk to the Outside Body, who can then take advice from professional advisors where necessary.
- 8.2 If Members are concerned about the position they find themselves in as a Councillor on an Outside Body, they should contact the Monitoring Officer for further advice.

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## 9. Interests

- 9.1 Members are required to register interests in line with section 4 (Disclosable Pecuniary Interests and Interests other than Disclosable Pecuniary Interests) of Appendix H (Code of Conduct) to Part 13 (Codes and Protocols) of the Council's Constitution.

## 10. Council's Code of Conduct – General Provisions

10.1 The Council Code of Conduct requires that a Member must observe the Code of Conduct whenever the Member is acting as a representative of the authority.

10.2 The Code of Conduct also states:

“2 (5) *Where you are acting as a representative of the authority:*

(a) *on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or*

(b) *on any other body, you must, when acting for that other body, comply with the authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.”*

## 11. Conflicts of Interest

11.1 Appointment to an Outside Body can take various forms, and before taking up active membership it is advisable to establish exactly in what capacity the Member is being appointed.

11.2 If Members are appointed to an Outside Body they will have a personal interest in that body and will need to consider their position when they sit on Council, the Executive, a Council committee or other decision-making body which is considering a matter which relates to that body.

11.3 If Members attend a meeting where there is an item of business which relates to or affects the Outside Body, they will need to disclose the interest at the meeting, regardless of whether or not they were appointed onto the Outside Body by the Council, or by the Outside Body itself. This may not be a report which specifically mentions the body, but will affect it. For example, the budget setting meeting of Full Council can have implications for council funding of voluntary organisations.

11.4 The next issue is to consider whether they also have a Disclosable Pecuniary Interest (DPI) which would require them not only to disclose it but also to withdraw from consideration of that item of business.

11.5 If a Member does decide that they have a DPI, they must disclose this and leave the meeting room and not influence the debate or decision in any way. If the Council body making the decision has a policy of allowing members of the public to speak, Members can use this avenue legitimately to speak to the meeting but they must follow the rules of the public speaking session and then leave the room as soon as they have spoken on the matter.

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<#>You must register a personal interest in:¶  
“8 (1) (a) (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Authority”¶¶  
So if a Member is appointed in that capacity to an Outside Body they must register that interest with the Monitoring Officer.

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**Deleted:** <#>The Code of Conduct provides a three part test, as follows –¶  
<#>Firstly, does the Member have a personal interest in the item of business? Prejudicial interests can only arise if Members first have a personal interest.¶  
<#>Secondly, the interest must be so immediate that “a member of the public with knowledge of the relevant facts would reasonably regard (it) as so significant that it is likely to prejudice your judgement of the public interest”. That means that it must be probable that the Member feels such allegiance or loyalty to the Outside Body on which they serve that they could allow that loyalty to affect the way that they would speak or vote on the matter - i.e. that they will act because a particular decision benefits the Outside Body rather than because it is in the genuine public interest. ¶¶  
<#>Finally, the item of business must either affect the financial position of the Outside Body or relate to the determination of a planning or other application of the Outside Body. ¶¶

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**11.6** Members should take advice from the Monitoring Officer if any situation arises where they think they might have a problem with an interest arising from their involvement with the Outside Body.

**11.7** Whilst a failure by a Member to disclose a personal interest, or to disclose and withdraw for a DPI, may lead to sanctions against the individual Councillor, it will not of itself invalidate the decision of the authority in which the Councillor participated. However, where there is a real possibility that the decision of the Council might have been affected by bias or predetermination on the part of one or more Councillor, that decision can be held by a Court of Law to be invalid. Members therefore need also to be careful about the possibility of bias and predetermination when they are dealing with matters involving an Outside Body on which they serve.

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**11.8** Any Councillor who is about to take part in a decision, either collectively with other Councillors or via Individual Decision, must not allow themselves to be unduly influenced by their allegiance to any Outside Body or individual, nor should they give the impression that they might be influenced by it. That is bias and apparent bias. It arises because of a connection to an Outside Body or person.

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**11.9** It also follows that, whilst a Councillor may have preferences and predispositions, they must not finish the decision-making process until they have received and considered all the relevant information relating to the matter. To do so would be predetermination. Whilst it is accepted that Councillors live in the real world and will discuss matters with colleagues and constituents, and bring the benefit of those discussions to the Committee Room, they must still listen to the arguments and be prepared to change their mind if the evidence presented requires it.

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**11.10** From this it will be apparent that particular difficulties arise where a Councillor is a member of an Outside Body such as a pressure group, which is seeking to influence the authority's decision on a particular matter, as such membership can readily be taken as evidence of bias and/or predetermination. On occasion, and particularly in respect of local, single-issue pressure groups, a Member may have to choose whether to be a campaigning Councillor, participating in a pressure group, or to remain outside the campaign but be able to vote on the issue when it comes before the Council.

**11.11** In some instances a Member may also find that they are unable to properly carry out their functions as a Member of the Council and a Member of the Outside Body. In these instances the Member may consider resigning from one body or another. Members should seek advice from the Monitoring Officer before taking such action.

## 12. Limited Company

- 12.1 A company has a separate legal personality to its shareholders (also described as company members or subscribers). One of the main advantages of acting through a limited company is that shareholders can claim the benefit of limited liability. In the case of a company limited by shares this means that they will not be liable for the debts of the company if the company makes losses over and above the amount which they have pledged to pay the company for their shares. In a company limited by guarantee this means that the shareholders 'guarantee' to contribute a specified sum if called upon to do so (usually a nominal amount of £1) in the event that the company goes into insolvent liquidation.
- 12.2 An appointment as a director of a company needs to be confirmed by the completion of a form (known as '288') which needs to be signed and submitted to Companies House. The secretary of the Outside Body should assist you with this.
- 12.3 The Directorship should also be recorded in the Council's Register of Members' Interests (within 28 days of the appointment). Directors take responsibility for all the main decisions in relation to the operation of the company, including entering into contracts.
- 12.4 The position of Council Members acting as Company Directors is that although Members have been appointed by the Council they have a duty to act in the best interest of the Company.
- 12.5 Although Members are advised to consider the specific rules pertaining to the Company they have been appointed to, the general legal responsibilities of Company Directors are:
- to ensure that the Company acts within its legal powers;
  - to act honestly and in good faith in the best interests of the Company;
  - not to make a personal profit and to take proper care of the assets;
  - to avoid conflicts of interest and not to allow personal interest to influence action as a Director;
  - to record personal interests in the Company's Register of Director's Interests;
  - to act with reasonable competence and care;
  - to exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience); and
  - not knowingly allow the Company to trade fraudulently, recklessly or in an insolvent position.
- 12.6 Council appointed Directors are advised to:

- clarify the insurance arrangements and assess the possibilities of any implications on themselves as individuals;
- to be familiar with the Articles and Memorandum of Association of the Company;
- to ensure that their interests are registered with the Company;
- to attend Board meetings regularly, read the agenda in advance and seek a briefing from officers where necessary;
- to ensure that the Company has proper procedures for reporting performance and financial information to board members at each meeting;
- to take an interest in the appointment of the management of the Company to ensure that suitable qualified and experienced managers are in place;
- to ensure that the Company has adequate Health and Safety and Equalities Policies; and
- to seek advice from the appropriate Council Officers if in any doubt about the financial viability of the Company or any aspect of its operation.

12.7 Members need to be particularly careful when acting as a Company Director if there is any prospect of the company becoming insolvent i.e. not having sufficient assets to pay its debts. When a company becomes insolvent, or it is foreseeable that it will be insolvent, directors of the company have a higher duty of competence and attention to company business than when the company is still solvent. If they fail to take every possible step to minimise the company's debts, they may be personally liable for any additional losses suffered by creditors of the company ("wrongful trading"). A director may be found guilty of fraudulent trading (a criminal offence) if they allow the company to trade with an intent to defraud creditors.

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12.8 If you become a Company Director there are some useful guidance documents to assist you on the websites of the Institute of Directors and Companies House as follows: [www.iod.com](http://www.iod.com)  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

12.9 There may be occasions where conflicts of interest arise between the Council and the Company. Some examples are:

- contracts between the two;
- negotiations on agreements, such as terms of leases;
- applications for Council permission, e.g. planning consent.

12.10 This may mean that the primary responsibility to the Company could conflict with the Council's interest.



12.11 In these circumstances, Members are advised to declare a **DPI** at any Council meetings or discussions and should withdraw from the decision making process. (see Appendix A1)

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### **13. Charitable Trustees**

13.1 To be a Charity an organisation must operate for one of the four charitable purposes, namely:

- the relief of poverty and human suffering;
- the advancement of education;
- the advancement of religion; and
- another purpose for the benefit of the community.

13.2 It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

13.3 Trustees duties include:

- the need to act in accordance with the constitution of the Charity;
- not making a private profit from their position;
- acting honestly and in good faith in the best interests of the Charity;
- ensuring that information relating to the charity and trustees is registered with the Charity Commissioners and annual accounts, reports and returns are completed and sent;
- Ensuring that the body acts in accordance with the overriding duty to the beneficiaries of the Trust;
- ensuring compliance with all relevant legislation (e.g. in relation to tax and land matters); and
- Council representatives are advised to clarify the insurance arrangements and assess the possibilities of any implications on themselves as individuals.

13.4 There is now a statutory duty of care under the Trustee Act 2000 which applies when a Trustee is:

- exercising a general power of investment or any specific power of investment arising from the Trust;
- making investments in line with the Standard Investment Criteria under section 4 of the Act or taking independent advice on investments under section 5;
- exercising the power to acquire land or deal in land;
- appointing agents, custodians or nominees or in reviewing their obligations;

- compounding liabilities under section 15 of the Trustee Act 1925;
  - Insuring Trust property; and
  - Dealing with reversionary interests, valuations or audits.
- 13.5 The standards of care expected of Trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual. Additional information relating to the responsibilities for charitable directors and trustees is available on the Charity commission's website <http://www.charity-commission.gov.uk>.

## **14. Partnerships**

- 14.1 The Council representatives on partnerships have three main roles:
- to promote the Council's objectives in participating in the partnership;
  - to ensure that the Partnership delivers its own objectives;
  - to safeguard the Council's interests within the partnership, particularly where the Council is a funding partner or the accountable body for External Funding
- 14.2 Council representatives on partnerships are advised to:
- be clear on the Council's own objectives in participating in the partnership;
  - read the Constitution of the Partnership and be aware of its objectives and powers;
  - attend Partnership meetings regularly, read the agendas in advance and seek briefing from Officers where necessary;
  - ensure that the Partnership has proper procedures for reporting progress and financial information; and
  - take an interest in the appointment of key staff.

## **15. Unincorporated Organisations**

- 15.1 Groups which are not charitable trusts or limited companies are 'unincorporated associations' and have no separate legal identity from their members. The rules governing the Members' duties and liability will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for Management Committees to be responsible for the everyday running of the organisation. An unincorporated organisation may be charitable and therefore register as a charity.
- 15.2 Management Committee Members must act within the Constitution of that Outside Body and must take reasonable care when exercising their powers.

- 15.3 If Members become involved in the administration of an unincorporated body, they need to be aware that, as the body has no separate corporate status, any liabilities will fall upon the members personally. This means that if something goes wrong and the organisation is sued, the members/owners personal assets are at risk – they cannot stand behind a company or other body which gives them some protection.
- 15.4 If Members take on personal responsibilities for the organisation, such as buying equipment or renting premises, they are personally liable for the entire cost, and can only recover those costs from the organisation to the extent that it actually has the money to reimburse them, or from the other members of the organisation to the extent that the membership agreement gives them the right to be reimbursed by each of them.
- 15.5 Members need to be very careful about the risk of personal liability and the extent to which this has been covered by insurance arrangements (either arranged by the organisation itself or by the Council or by indemnities).

## **16. Indemnity for Members**

- 16.1 The Council may only indemnify Members in certain circumstances as prescribed by the Local Authorities (Indemnity for Members and Officers) Order 2004.
- 16.2 The Council will provide an indemnity in relation to any action or failure to act by any Member which:
- is authorised by the Council;
  - forms part of, or arises from, any powers conferred, or duties placed, upon that Member at the request, or with the approval of the authority including acting as the Council's representative on an Outside Body;
  - arises in respect of the cost of defending any claim for an allegation of defamation by a Member acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious or injurious falsehood);
  - is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for Members but, if the Member is found to have breached the Code of Conduct, and where an appeal is unsuccessful, then that Member shall reimburse the authority or the insurer for their costs incurred in relation to those proceedings;
- 16.3 The indemnity includes an act or omission subsequently found to be beyond the powers of the Member in question, but only to the extent that the Member reasonably and genuinely believed that the act or omission was within their powers at the time they acted.

16.4 The indemnity does not apply to the defence of any criminal proceedings brought against a Member unless specifically approved by the Council and then only on a similar basis to that relating to proceedings for breaches of the Code of Conduct.

16.5 It is possible in some circumstances for the Council to indemnify (i.e. stand behind the Councillor and pick up any personal legal liabilities/costs/damages which the Councillor incurs as a result of his/her appointment to an Outside Body). The Council currently has Officials Indemnity insurance cover in place which covers Members on Outside Bodies but it may be necessary to consider issues on a case by case basis. Please speak to the Monitoring Officer if you have any cause for concern that an Outside Body with whom you are involved is getting into difficulty or you have any indication that you might be getting involved in potential personal liability.

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