

Notice of Meeting

Governance and Audit Committee

Monday, 1st September, 2014 at 5.00 pm
in Committee Room 1 Council Offices
Market Street Newbury

Date of despatch of Agenda: Thursday, 21 August 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)

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Further information and Minutes are also available on the Council's website at

www.westberks.gov.uk



Agenda - Governance and Audit Committee to be held on Monday, 1 September 2014
(continued)

To: Councillors Peter Argyle, Brian Bedwell, Paul Bryant, Sheila Ellison, Tony Linden, Geoff Mayes, Julian Swift-Hook (Vice-Chairman) and Quentin Webb (Chairman)

Substitutes: Councillors Richard Crumly, Gwen Mason, Tim Metcalfe and Tony Vickers

Agenda

Part I	Page No.
1. Apologies To receive apologies for inability to attend the meeting (if any).	
2. Minutes To approve as a correct record the Minutes of the meeting of this Committee held on 28 April 2014 and 15 May 2014.	1 - 6
3. Declarations of Interest 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' Code of Conduct .	
4. KPMG Opinion (ISA 260)	To Follow
5. West Berkshire Council Financial Statements 2013/14	To Follow
6. Annual Internal Audit Report 2013/14 (GA2863)	7 - 22
7. Annual Governance Statement 2013-14 (GA2868)	23 - 34
8. Annual Governance Statement-Statement in Support by the Section 151 Officer (GA2869)	35 - 40
9. Annual Governance Statement-Statement in Support by the Monitoring Officer (GA2870)	41 - 46
10. Amendment to the Constitution-Part 7 Speaking Rights at Planning Meetings (C2859)	47 - 50
11. Anti Social Behaviour, Crime and Policing Act 2014 (C2886)	51 - 60

Andy Day
Head of Strategic Support

Agenda - Governance and Audit Committee to be held on Monday, 1 September 2014
(continued)

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



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

GOVERNANCE AND AUDIT COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 28 APRIL 2014

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

Also Present: Andy Day (Head of Strategic Support) and Ian Priestley (Chief Internal Auditor),

Councillor(s) Absent: Councillor Sheila Ellison

PART I

25. Minutes

The Minutes of the meeting held on 10 February 2014 were approved as a true and correct record and signed by the Chairman.

26. Declarations of Interest

There were no declarations of interest received.

27. Internal Audit Plan 2014-17 (GA2842)

The Committee considered a report (Agenda Item 4) which outlined the programme of work for Internal Audit for the next three years. Ian Priestley in introducing the item explained that the plan was developed taking risk into account.

The Committee noted that the main areas of focus would be the 'Key Financial Systems' and anti fraud work. The plan was designed to provide the Council with assurance on the state of the Council's internal control framework and also to highlight and remedy any weaknesses identified in the Council's service delivery systems.

RESOLVED that the report be noted.

28. Request for the Revision of the Constitution (C2758)

The Committee considered a report (Agenda Item 5) which requested an amendment to the Council's Rules of Procedure and Petitions Protocol. The Constitution currently allowed a debate at Full Council following receipt of a petition of 5,000 or more signatures. This report recommended that this should be reduced to 1,500 signatures which would be in line with many other local authorities.

This issue had come to light following a petition in respect of reductions to the opening hours at Pangbourne Library. The petitioners had been advised that because the library users came from more than two wards, the petition would need to have over 5,000 signatures in order to trigger a debate at Full Council. Because the numbers on the electoral roll in the wards concerned were relatively small this was unachievable. Had the petition limit been 1,500 signatures as proposed then this would have been more achievable.

It was felt that this amendment would enable the people of West Berkshire to bring to Full Council matters which were important to them and to hear Members debate these issues

GOVERNANCE AND AUDIT COMMITTEE - 28 APRIL 2014 - MINUTES

in a public meeting and would also encourage the engagement of the local population with politics.

The Committee supported this proposal but considered that debates triggered by petitions should not apply to the annual Budget meeting. It was acknowledged that the time of this meeting had already been moved forward by 30 minutes to ensure that the business was conducted effectively and adding a potential further 30 minutes debating time to this meeting would be unhelpful.

RESOLVED that:

- 1. Full Council be recommended to approve changes to the Council Rules of Procedure and Petitions Protocol to reduce the number of signatures from 5,000 to 1,500 in order to trigger a debate at full Council; and**
- 2. The Head of Legal be authorised to make appropriate amendments to the Council's Rules of Procedure and Petitions Protocol to reflect the change highlighted above.**

29. Changes to the Constitution - Part 13 Codes and Protocols (C2776)

The Committee considered a report (Agenda Item 6) which set out proposed amendments to sections of Part 13 (Codes and Protocols) and in particular 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.

Appendix I (Councillor Call for Action Protocol),

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

1. The correction of the job title of the Scrutiny and Partnerships Manager and the Overview and Scrutiny Management Committee,
2. The correction of some typographical errors and an amendment to reflect the procedure in terms of making recommendations to other committees or boards.

Appendix J (Protocol for Council Representation on Outside Bodies)

1. The document had been aligned to the recently agreed Gifts and Hospitality Protocol for Members.
2. The sections pertaining to Members Interests had been updated to take cognisance of the new local Code of Conduct for Members.

RESOLVED that:

- 1. the amendments as set out in the report be recommended to Full Council for approval;**
- 2. That, subject to being agreed by Full Council, the proposed amendments come into effect on the 16 May 2014.**

(The meeting commenced at 5.00 pm and closed at 5.25 pm)

GOVERNANCE AND AUDIT COMMITTEE - 28 APRIL 2014 - MINUTES

CHAIRMAN

Date of Signature

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DRAFT

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

GOVERNANCE AND AUDIT COMMITTEE

MINUTES OF THE MEETING HELD ON THURSDAY, 15 MAY 2014

Councillors Present: Peter Argyle, Brian Bedwell, Paul Bryant, Sheila Ellison, Tony Linden, Geoff Mayes, Julian Swift-Hook and Quentin Webb

Apologies for inability to attend the meeting: None

PART I

1. Election of Chairman

RESOLVED that Councillor Quentin Webb be elected Chairman of the Governance and Audit Committee for the 2014/15 Municipal Year.

2. Apologies for Absence

There were no apologies for absence received.

3. Appointment of Vice-Chairman

RESOLVED that Councillor Julian Swift-Hook be elected Vice-Chairman of the Governance and Audit Committee for the 2014/15 Municipal Year.

(The meeting commenced at 8.26 pm and closed at 8.27 pm)

CHAIRMAN

Date of Signature

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Agenda Item 6.

Title of Report:	Annual Internal Audit Report 2013/14
Report to be considered by:	Governance and Audit Committee
Date of Meeting:	01 September 2014
Forward Plan Ref:	GA2863

Purpose of Report: To provide the Committee with an opinion from the Chief Internal Auditor on the Council's internal control framework, and to support the approval of the Annual Governance Statement

Recommended Action: Note the report

Reason for decision to be taken:

Other options considered: none

Key background documentation: Internal Audit Reports

The proposals will also 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 priorities and principles by:

Providing assurance over the systems and procedures used to deliver the above objectives

Portfolio Member Details	
Name & Telephone No.:	Councillor Alan Law - Tel (01491) 873614
E-mail Address:	alaw@westberks.gov.uk
Date Portfolio Member agreed report:	E-mailed to Councillor Alan Law on 22 nd May 2014

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

Implications

Policy: None

Financial: None

Personnel: None

Legal/Procurement: None
Property: None
Risk Management: None
Corporate Board's Recommendation: Corporate Board noted 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: <ul style="list-style-type: none"> • Is it likely to affect people with particular protected characteristics differently? <input type="checkbox"/> • Is it a major policy, significantly affecting how functions are delivered? <input type="checkbox"/> • Will the policy have a significant impact on how other organisations operate in terms of equality? <input type="checkbox"/> • Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics? <input type="checkbox"/> • Does the policy relate to an area with known inequalities? <input type="checkbox"/> 		<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia		<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

1. Introduction

- 1.1 This report sets out the Annual Report on the work of Internal Audit as required by the Public Sector Internal Audit Standards (PSIAS) for Internal Audit in Local Government.

2. Proposals

- 2.1 This report is intended to provide evidence to support the Council's Annual Governance Statement by setting out the results of the work Internal Audit has done over the last year.
- 2.2 This report builds on the interim report made to Governance and Audit earlier in the year, but does not repeat the detail of that report.
- 2.3 The report highlights the fact that no fundamental weaknesses were identified during the year and that where weaknesses were identified then management action has been taken to remedy them.

3. Equalities Impact Assessment Outcomes

- 3.1 This item is not relevant to equality.

4. Conclusion

- 4.1 The Council's internal control framework remains robust.

Executive Report

1. Introduction

- 1.1 The Public Sector Internal Audit Standards, as applied by CIPFA requires the Chief Internal Auditor to make a formal report annually to the Council. The report should:
- (1) include an opinion on the overall adequacy and effectiveness of the Council's internal control framework.
 - (2) include a summary of the work that supports the opinion.
 - (3) disclose and explain any qualifications to that opinion.
 - (4) disclose any impairments or restrictions in scope.
 - (5) a statement of conformance with the Public Sector Internal Audit Standards.
 - (6) the results of the quality assurance and improvement programme for Internal Audit.
 - (7) compare the work actually undertaken with the work that was planned and summarise the performance of the Internal Audit function against its performance measures.
- 1.2 In addition to the formal annual report, the Chief Internal Auditor provides an interim report for the Council covering the first 6 months of the year. The aim of the interim report is to address emerging issues in respect of the whole range of areas to be covered in the formal annual report. An interim report was made to the Governance and Audit Committee at the March meeting of the Committee.
- 1.3 This annual report meets the requirements of the PSIAS.

2. Opinion on the "Internal Control Framework"

- 2.1 No fundamental weaknesses were identified in Council's internal control framework through the work carried out by Internal Audit. Where audit work identified weaknesses then management action has been taken to resolve issues identified.
- 2.2 Overall the internal control framework remains robust and an unqualified opinion is therefore appropriate.
- 2.3 A summary of the work completed in the second half of the year is included in Appendices A and B. These, taken together with the details reported in the interim report, outline the extent of work undertaken that underpins the opinion given in paragraph 2.2.
- 2.4 The scope of the work of internal audit is unrestricted and the work has been carried out in conformance with the PSIAS. An initial review of the work of Internal Audit, measured against the PSIAS indicates that there are no areas for improvement.

- 2.5 The performance of the audit team against the agreed plan was very good. There has been no turnover in the team and the level of experience is, overall, very high now. There are 2 key performance indicators for internal audit as set out in the table below.

KPI	Target	Actual for 13-14
% of audit plan completed	80%	88%
% of Fundamental systems audited	100%	100%

3. Audit issues identified in the course of the year

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

Type	Very weak	Weak	Satisfactory	Well Controlled	Very Well Controlled
Key Financial System				1	
Other systems		2	3	3	

- 3.2 The following paragraphs highlight the issues raised in respect of the weak opinion audits noted above.

3.3 Finance - Procurement Cards

- (1) Internal Audit found that comprehensive guidance has been put in place. The main areas of weakness identified related to the fact that services/teams issued with cards are not always following the required processes. There are no central processes for checking/identifying any cases where services are not adhering to the required processes. Note the review only covered a sample of three teams. However, to put these comments into context, at the time of the review there was a small number of cards in use, and the level of expenditure being incurred was low.
- (2) The Head of Finance comments - the Finance Manger for Capital, Assets, VAT and Treasury is in the process of revising the procedure notes for card users and accountancy staff to clarify the types of expenditure for which cards may be used to and the processes for authorisation of expenditure. Responsibilities for checking that cards are used appropriately will also be reviewed and revised. The Finance Manager will also write to all relevant Heads of Service, Service

Managers, other card holders and administrators to draw their attention to the weaknesses highlighted by the audit and reminding them of the importance of adhering strictly to the procurement card procedures. In the future, where there is evidence that procedures are not being adhered to, the Head of Finance will consider cancelling the procurement card account for the service in question.

3.4 Care Commissioning, Housing and Safeguarding - Appointee / Deputyship Administration.

- (1) We found that the Deputyship Team has set up a Handbook which gives an overview of what is involved in the administration of Deputyship and Appointee arrangements as a guide to both staff and member of the public. However, this guidance needs to be further expanded to provide comprehensive detail for all of the procedures required to be followed when administering these arrangements. We found that the majority of key controls were in place, although there were a number of areas where they could be strengthened. The one exception to this related to the procedures for safeguarding client personal possessions/property. From our review we could not always identify if/when items had been removed from a client's property, or reconcile the content of the Deputyship Team's safe with the records of personal possessions that should have been in the safe. We found one client who had jewellery in excess of £24.5k being held in the safe. We found that the Team had not established a protocol as to when it would be deemed prudent to have clients' possessions valued and how very valuable items should be securely stored.
- (2) The Head of Care Commissioning, Housing and Safeguarding comments - Eleven of the sixteen actions identified have now been completed of the remaining five one of these is with Adult Social Care to progress, the rest are all in progress and due to be completed within the first quarter of 14/15.

3.5 The following summarises the results of follow up audit work. A follow up review is carried out, usually six months after the audit has been finalised. The purpose of this review is to assess the extent to which agreed recommendations have been implemented by management. Follow up audits measure the progress with implementing agreed recommendations and are scored as either "satisfactory" or "unsatisfactory".

3.6 This table demonstrates that the Council has responded effectively where weaknesses were identified. In all cases the follow up audit found satisfactory progress had been made with implementing agreed action plans. Overall this represents very good performance.

Type	Unsatisfactory	Satisfactory
Key Financial System		1
Other systems		5

3.7 What the above demonstrates is that the Council has responded quickly and effectively to the items of concern identified. This provides further evidence of the robust nature of the system of internal control within the Council.

Appendices

Appendix A - Work in progress

Appendix B - Completed in the second half of 13-14

Consultees

Local Stakeholders: *

Officers Consulted: *

Trade Union: *

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1) CURRENT AUDITS

Directorate/Service	Audit Title	Current Position of Work	Audit Plan Year
Corporate	National fraud Initiative	Ongoing	2012/13
Corporate	Corporate Fraud Review	Being Reviewed	2013/14
Resources			
Finance	Commercial Rents	Draft Issued	2012/13
Customer Services	Payroll	Draft issued	2012/13
Customer Services	Car Loans and Car Leasing	Draft Issued	2012/13
Customer Services	Accounts Receivable	Being Reviewed	2013/14
Customer Services	Accounts Payable	Being Reviewed	2013/14
Customer Services	Payroll	Testing	2013/14
Customer Services	Council Tax	Draft issued	2013/14
Customer Services	NNDR	Draft issued	2013/14
Customer Services	Housing Benefits	Testing	2013/14
Strategic Support	Service Planning/ and Performance Management	Testing	2013/14
Strategic Support	Equality Impact Assessments	Draft Issued	2013/14
Finance	MTFS	Testing	2013/14
Finance	Treasury Management	Being Reviewed	2013/14
Finance	General Ledger	Being Reviewed	2013/14
ICT	Printer Rationalisation (Post implementation Review)	Being Reviewed	2013/14

Communities			
Children's Services	Payment to Carers	Draft issued	2012/13
Education Services	School Census Processes	Draft Issued	2012/13
Children's Services	Assessment of needs/Purchase of Care – Respite	Testing	2013/14
Adult Social Care	Personal Budgets Direct Payments	Draft Issued	2013/14
Children's Services	Supervision Checks	Testing	2013/14
Children's Services	Turnaround Families Programme – testing of grant claims	Draft Issued	2013/14
Environment			
Highways and Transport	Traffic Management	Draft Issued	2013/14
Culture and environmental Protection	Trading Standards – Joint Arrangements	Being Reviewed	2013/14
Culture and environmental Protection	Berkshire Archive Service	Testing	2013/14

2) CURRENT ADVISORY REVIEWS/OTHER WORK

Directorate/Service	Audit Title	Current position of work
ICT	Audit Manager carrying out the Assurance Role for the Superfast Broadband Project	Ongoing

3) CURRENT FOLLOW-UPS

Directorate/Service	Audit title
Resources	
Strategic Support	Complaints Policy and Procedures
Customer Services	NNDR
Customer Services	Accounts Receivable
Customer Services	Accounts Payable
Finance	Treasury Management
Communities	
Care Commissioning, Housing and Safeguarding	Homelessness
Adult Social Care	Occupational Therapy Pooled Budget
Education Service	School Meals Contract
Environment	
Highways and Transport	Car Parks
Planning and Countryside	Development Control
Culture and Environmental Protection	Licensing
Culture and Environmental Protection	Libraries Income

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1) **COMPLETED AUDITS**

Directorate/Service	Audit Title	Date Audit finalised	Overall Opinion
Corporate			
Corporate	Capital Programme /Project Management Methodology	28/11/2013	Satisfactory
Finance/Planning	Community Infrastructure Levy	20/12/2013	Advisory
Various services	Income Spot Checks	3 visits – various dates	N/A
Corporate	Mileage Claims	8/04/2014	N/A – Compliance check
Resources			
Finance	Procurement Cards	26/02/2014	Weak
Finance	V.A.T	12/03/2014	Well Controlled
Customer Services	Accounts Payable	27/11/2013	Well Controlled
I.C.T and Corporate Services	I.T. Helpdesk	07/02/2013	Well Controlled
Communities			
Care Commissioning, Housing and Safeguarding	Appointeeship/Deputyship Administration	04/02/2014	Weak
Adult Social Care	Phoenix Centre	01/04/2014	Satisfactory
Environment			
Culture and Environmental Protection	Clean and Greener Agenda	20/12/2013	Well Controlled
Highways and Transport	Structural Maintenance and Engineering	29/10/2013	Satisfactory

NOTE

The overall opinion is derived from the number/significance of recommendations together with using professional judgement. The Auditor's judgement takes into account the depth of coverage of the review (which could result in more issues being identified) together with the size/complexity of the system being reviewed.

2) COMPLETED ADVISORY REVIEWS

Directorate/Service	Review Title	Date Review completed

3) **COMPLETED FOLLOW-UPS**

<u>Directorate/ Service</u>	<u>Audit Title</u>	<u>Date follow up finalised</u>	<u>Overall Opinion of Report</u>	<u>Opinion – Implementation progress</u>
Resources				
Strategic Support	Civil Contingencies	13/11/2013	Well Controlled	Satisfactory
I.C.T.	I.T. Disaster Recovery	10/01/2014	Advisory	2 nd stage follow-up required when Disaster Recovery Project is completed
I.C.T.	I.T. Security	10/01/2014	Well Controlled	Satisfactory
Customer Services	Accounts Payable	27/11/2013	Well Controlled	Satisfactory
Communities				
Children's Services	York House	10/02/2014	Satisfactory	Satisfactory
Environment				
Highways and Transport	Highways Term Contract	06/11/2013	Well Controlled	Satisfactory

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Agenda Item 7.

Title of Report:	Annual Governance Statement for 2013-14
Report to be considered by:	Governance and Audit Committee
Date of Meeting:	1 September 2014
Forward Plan Ref:	GA2868

Purpose of Report: To present the Annual Governance Statement for review.

Recommended Action: Approve the Statement

Reason for decision to be taken: Forms part of the Council's performance framework

Other options considered: None

Key background documentation: Council Risk Registers

The proposals will help achieve the following Council Strategy principle:

CSP8 - Doing what's important well

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

Portfolio Member Details	
Name & Telephone No.:	Councillor Roger Croft - Tel (01635) 868638
E-mail Address:	rcroft@westberks.gov.uk
Date Portfolio Member agreed report:	Report e-mailed to Councillor Croft on 6 August 2014.
Contact Officer Details	
Name:	Ian Priestley
Job Title:	Chief Internal Auditor
Tel. No.:	01635 519253
E-mail Address:	ipriestley@westberks.gov.uk

Implications

Policy: none
Financial: none
Personnel: none
Legal/Procurement: none
Property: none
Risk Management: none
Corporate Board's Recommendation: Report to proceed to Management Board for consideration.

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"/>		
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia	<input type="checkbox"/>			
Not relevant to equality	<input checked="" type="checkbox"/>			

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	
Report is to note only	<input type="checkbox"/>	

Executive Summary

1. Introduction

- 1.1 The report sets out the Annual Governance Statement (AGS) for the Council for 2013-14.
- 1.2 This report outlines issues that Corporate Board should consider for inclusion in the 2013-14 AGS as requiring action to resolve. Depending on the view of Corporate Board these issues may be included in the AGS.

2. Proposals

- 2.1 No issues of concern, in terms of the Council's governance arrangements, were noted in 13-14.

3. Equalities Impact Assessment Outcomes

- 3.1 This item is not relevant to equality.

4. Conclusion

- 4.1 The Council has effective governance arrangements that are kept under constant review.

Executive Report

1. Introduction

- 1.1 This report outlines the purpose of the Annual Governance Statement (AGS) and explains how the necessary assurance to support the AGS has been obtained. This should enable the Committee to make an informed judgement as to the effectiveness of the process that the Council has followed in conducting the annual review of the system of internal control within the Council.

2. Purpose of the AGS

- 2.1 The AGS is designed to provide stakeholders of the Council with assurance that the Council has operated within the law and that the Council has met the requirements of the Accounts and Audit Regulations:

“The Council shall conduct a review at least once in a year of the effectiveness of its system of internal control”.

- 2.2 A copy of the AGS for 2013-14 is attached to this report, for review, at Appendix A.
- 2.3 The approach taken by the Council to carrying out the review of the system of internal control was set out in the report to Corporate Board in December 05. This report identified the sources of assurance that underpin the review. These are:
- (1) Head of Service Assurance Statements and service risk registers
 - (2) The Chief Internal Auditors annual report
 - (3) The Monitoring Officer’s annual report
 - (4) The s151 Officer’s annual report
- 2.4 This evidence provides the assurance that enables the Leader and Chief Executive to sign the AGS with confidence. However, in respect of 2.3 (1) above, only seven of the Heads of Service Assurance Statements have been completed, leaving seven outstanding, see appendix B.
- 2.5 The Annual Governance Statement was prepared by the Finance and Governance Group and reviewed by Corporate Board.

3. Update on areas identified in the 12-13 AGS as requiring action in 13-14

- 3.1 The Annual Governance Statement for 2012-13 outlined one area where action was required. This was:
- (1) Legal challenge to Council decisions regarding changing service delivery - may compromise the Council's ability to deliver service reductions.
- 3.2 The Head of Strategic Support reviewed the processes around carrying out equalities impact assessments in relation to proposed changes in service provision. He has confirmed that the Council's procedures for carrying out Equalities Impact Assessments are robust.

4. Areas identified in the 13-14 AGS as requiring action in 14-15

4.1 No areas of concern were noted during 13-14.

5. Role of Governance and Audit Committee re the AGS for 2013-14

5.1 A key function of the Governance and Audit Committee is to review and approve the AGS for 13-14 prior to it being signed off by the Chief Executive and Leader of the Council.

5.2 In order to be able to review the AGS the Committee needs to examine the evidence, noted in 2.3, above, that supports the AGS. This evidence will be presented in separate reports.

Appendices

Appendix A - Annual Governance Statement

Appendix B - Summary of the Heads of Service Assurance Statements

Consultees

Local Stakeholders: N/a

Officers Consulted: Corporate Board

Trade Union: N/a

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Draft Annual Governance Statement 2013-14

1 Scope of responsibility

- 1.1 West Berkshire Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. West Berkshire Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 1.2 In discharging this overall responsibility, West Berkshire Council is responsible for putting in place proper arrangements for the governance of its affairs and facilitating the effective exercise of its functions, which includes arrangements for the management of risk.
- 1.3 West Berkshire Council has approved and adopted a code of corporate governance, which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government.
- 1.4 This statement explains how West Berkshire Council has complied with the code and also meets the requirements of regulation 4 of the Accounts and Audit (England) Regulations 2011.

2 The purpose of the governance framework

- 2.1 The governance framework comprises the systems and processes, and culture and values, by which West Berkshire Council is directed and controlled and its activities through which it engages with, leads and accounts to the community. It enables West Berkshire Council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.
- 2.2 The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of West Berkshire Council's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.
- 2.3 The governance framework has been in place at West Berkshire Council for the year ended 31 March 2014 and up to the date of approval of the annual report and statement of accounts.

3 The governance framework

- 3.1 The key elements of the systems and processes that comprise West Berkshire Council's governance arrangements are set out below and include arrangements for:
 - Identifying and communicating West Berkshire Council's Strategy that sets out its purpose and intended outcomes for citizens and service users;
 - Reviewing West Berkshire Council's Strategy and its implications for West Berkshire Council's governance arrangements;
 - Measuring the quality of services for users, ensuring they are delivered in accordance with West Berkshire Council's objectives and ensuring that they represent the best use of resources;
 - Defining and documenting the roles and responsibilities of the executive, non-executive, scrutiny and officer functions, with clear delegation arrangements and protocols for effective communication;

- Developing, communicating and embedding codes of conduct, defining the standards of behaviour for members and staff;
- Reviewing and updating the Constitution including Contracts Rules of Procedure and Financial Rules of Procedure, the scheme of delegation, which clearly define how decisions are taken and the processes and controls required to manage risks;
- Ensuring the authority's financial management arrangements conform with the governance requirements of the CIPFA Statement on "The Role of the Chief Financial Officer in Local Government (2010)";
- The Governance and Audit Committee which performs the core functions of an audit committee, as identified in CIPFA's "Audit Committees – Practical Guidance for Local Authorities";
- The Finance and Governance Group which helps to ensure compliance with relevant laws and regulations, internal policies and procedures, and that expenditure is lawful;
- Conducting a regular review of the effectiveness of Internal Audit;
- Whistle-blowing and for receiving and investigating complaints from the public;
- Identifying the development needs of Members and senior officers in relation to their strategic roles, supported by appropriate training;
- Establishing clear channels of communication with all sections of the community and other stakeholders, ensuring accountability and encouraging open consultation.

4 Review of effectiveness

- 4.1 West Berkshire Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of all managers within West Berkshire Council who have responsibility for the development and maintenance of the governance environment.
- 4.2 The following process has been applied in maintaining and reviewing the effectiveness of the governance framework, and includes:
- The work of the Finance and Governance Group;
 - The work of the Risk Strategy Group and the Risk Management framework;
 - The annual assurance statements produced by all Heads of Service;
 - The work of the Governance and Audit Committee;
 - The work of the Standards Committee;
 - The work of Internal Audit;
 - The work of the Overview and Scrutiny Management Commission.
- 4.3 We have been advised of the implications of the result of the review of the effectiveness of the governance framework by the Governance and Audit committee and a plan to address weaknesses and ensure continuous improvement of the system is in place.

5 Significant governance issues identified in the AGS for 2012/13

5.1 The following is an outline of the significant governance issues that have been identified in preparing the 2012/13 AGS.

- Judicial Review remains a risk

5.2 The following measures were implemented during 2013/14:

- The Head of Strategic Support reviewed the revised arrangements for conducting equalities impact assessments in relation to proposed changes in service delivery, to ensure they are effective.

6 Significant Governance Issues identified in 2013/14

6.1 No significant governance issues were identified during 2013/14.

Signed:

Nick Carter – Chief Executive

Gordon Lundie – Leader of the Council

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Appendix B - Summary of returns of Heads of Service Assurance Statements

Resources

Service	Assurance Statement received	Risk Register Received
Public Health and Wellbeing	No	No
Legal Services	Yes	Yes
Finance	Yes	Yes
Strategic Support	Yes	Yes
ICT and Corporate Support	No	No
Human Resources	Yes	Yes
Customer Services	No	No

Environment

Service	Assurance Statement received	Risk Register Received
Highways and Transport	No	No
Planning and Countryside	No	No
Culture and Environmental Protection	No	No

Communities

Service	Assurance Statement received	Risk Register Received
Education	Yes	Yes
Children's Services	No	No
Adults Social Care	Yes	Yes
Care Commissioning, Housing and Safeguarding	Yes	Yes

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Title of Report:	Annual Governance Statement - Statement in Support by the Section 151 Officer
Report to be considered by:	Governance and Audit Committee
Date of Meeting:	1 September 2014
Forward Plan Ref:	GA2869

Purpose of Report: To provide evidence and independent verification of governance matters which may impact on the Annual Governance Statement from the viewpoint of the Section 151 Officer.

Recommended Action: To note the report.

Reason for decision to be taken: In accordance with CIPFA Guidance and current policy of the Council.

Other options considered: None

Key background documentation: Action plans relating to risk.

The proposals will help achieve the following Council Strategy principle:

CSP8 - Doing what's important well

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

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

Portfolio Member Details	
Name & Telephone No.:	Councillor Alan Law - Tel (01491) 873614
E-mail Address:	alaw@westberks.gov.uk
Date Portfolio Member agreed report:	Full Annual Governance Statement report e-mailed to Councillor Roger Croft on 6 August 2014.
Contact Officer Details	
Name:	Andy Walker
Job Title:	Head of Finance / Section 151 Officer
Tel. No.:	01635 519433
E-mail Address:	awalker@westberks.gov.uk

Implications

- Policy:** Established as part of CIPFA guidance and reporting arrangements adopted by Council in connection with the Annual Governance Statement.
- Financial:** No financial implication associated with this report.
- Personnel:** N/A
- Legal/Procurement:** In accordance with the provisions of the Local Government Acts 1972 and 2000 and the Local Government and Housing Act 1985 together with any amendments thereto. In addition the Local Government & Public Involvement in Health Act 2007 is applicable.
- Property:**
- Risk Management:** Insofar as is possible any risks have been assessed in accordance with the Risk Strategy.
- Corporate Board's Recommendation:** Report to proceed to Management Board for consideration.

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"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia			<input type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 As part of the Annual Governance Statement, CIPFA guidance recommends that the Section 151 Officer provides "a key source of assurance that the Council's systems and procedures of internal control which are in operation are effective, efficient and being complied with". The Chief Financial Officer/ s151 Officer is to ensure that all parts of the Council act in accordance with the budgetary and policy requirements in connection with the setting of the budget and financial administration standards within the Council.

2. Proposals

- 2.1 The definitive Statement on the Role of the Finance Director in Local Government is set out in a CIPFA publication of 2003. This identifies 5 key roles:

- Maintaining strong financial management underpinned by effective financial controls;
- Contributing to corporate management and leadership;
- Supporting and advising democratically elected representatives;
- Supporting and advising officers in their operational roles; and
- Leading and managing an effective and responsive financial service.

- 2.2 The s151 Officer is required to report to all the local authority's Members, in consultation with the Head of Paid Service and the Monitoring Officer if there is, or there is likely to be, unlawful expenditure or an unbalanced budget. Such a report known as a Section 114 report derives from the Local Government Finance Act 1998 as updated by the 2000 Act and Members of the Council are required to have regard to the s151 Officer's advice. Not to do so would be a breach of the Code of Conduct for Members. Specified and explicit provision is now included in the Revised Code of Conduct adopted by the Council in July.

3. Conclusion

- 3.1 Overall it is the s151 Officer's assessment that all parts of the Council acts in accordance with the budgetary and policy requirements in connection with the setting of the budget and meets financial administration standards as set out in legislation. There have been no formal reports required by the s151 Officer to Council under the relevant legislation. The report is to be noted.

Executive Report

1. Background

- 1.1 As part of the Annual Governance Statement, CIPFA guidance recommends that the Section 151 Officer provides "a key source of assurance that the Council's systems and procedures of internal control which are in operation are effective, efficient and being complied with". The Chief Financial Officer/ s151 Officer is to ensure that all parts of the Council act in accordance with the budgetary and policy requirements in connection with the setting of the budget and financial administration standards within the Council.

2. Role of the Section 151 Officer

- 2.1 The definitive Statement on the Role of the Finance Director in Local Government is set out in a CIPFA publication of 2003. This identifies 5 key roles:

- Maintaining strong financial management underpinned by effective financial controls;
- Contributing to corporate management and leadership;
- Supporting and advising democratically elected representatives;
- Supporting and advising officers in their operational roles; and
- Leading and managing an effective and responsive financial service.

- 2.2 The s151 Officer is required to report to all the local authority's Members, in consultation with the Head of Paid Service and the Monitoring Officer if there is, or there is likely to be, unlawful expenditure or an unbalanced budget. Such a report known as a Section 114 report derives from the Local Government Finance Act 1998 as updated by the 2000 Act and Members of the Council are required to have regard to the s151 Officer's advice. Not to do so would be a breach of the Code of Conduct for Members. Specified and explicit provision is now included in the Revised Code of Conduct adopted by the Council. Any breaches will be dealt with locally.

- 2.3 Each year the s151 Officer reports as part of the budget decision making process his opinion on the adequacy of reserves and robustness of the budget estimates.

- 2.4 The s151 Officer is consulted about a wide range of discretions under the Council's constitution, in particular exceptions to standing orders and contract rules of procedures. The s151 Officer maintains a record of all such exemptions given and discretions sought and granted. From a legal perspective the Monitoring Officer is also involved in certain decisions and records such involvement.

- 2.5 Throughout the year budget monitoring ensures that any budget overspends or income shortfalls are identified and corrective measures can be put in place to ensure that the overall council revenue budget keeps within the policy and budgetary framework agreed at the annual budget setting process. In 2013/14 the outturn has delivered an underspend of just under half a million pounds against the budget. This result only represented a 0.5% variance to the Council Budget for 2013/14 and which is considered reasonable.

- 2.6 All Executive or other decision making body reports have clearly set out financial recommendations. It is the responsibility of the s151 Officer to ensure that the financial implications of all such decisions are adequately considered and that recommendations are based upon prudent financial advice. The s151 Officer is a member of Corporate Board and involved in all significant resource decisions of the authority.
- 2.7 The Council has a Medium Term Financial Strategy in place. There is also a Finance and Governance Group of Officers whose membership includes both the s151 Officer and Monitoring Officer overseeing and monitoring all aspects of financial governance and escalating where necessary any issues that need Corporate Board action and support.
- 2.8 There has been no necessity to implement the Section 114 process during 2013/14 and the s151 Officer confirms the robustness of the financial and budgetary frameworks.

3. Conclusion

- 3.1 Overall it is the s151 Officer's assessment that all parts of the Council acts in accordance with the budgetary and policy requirements in connection with the setting of the budget and meets financial administration standards as set out in legislation. There have been no formal reports required by the s151 Officer to Council under the relevant legislation.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: N/A

Officers Consulted: Ian Priestley, David Holling and Corporate Board.

Trade Union: N/A

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Title of Report:	Annual Governance Statement - Statement in Support by the Monitoring Officer
Report to be considered by:	Governance and Audit Committee
Date of Meeting:	1 September 2014
Forward Plan Ref:	GA2870

Purpose of Report: **To provide evidence and independent verification of governance matters which may impact on the Annual Governance Statement from the viewpoint of the Monitoring Officer.**

Recommended Action: **To note the report.**

Reason for decision to be taken: In accordance with CIPFA Guidance and current policy of the Council.

Other options considered: None

Key background documentation:

- Reports to Standards Committee relating to alleged breaches of the Code of Conduct during 2013/2014
- Action plans relating to risk
- Updates to the constitution
- Other reports on potential impacts of legislation

The proposals will help achieve the following Council Strategy principle:
 CSP8 - Doing what's important well
 The proposals contained in this report will help to achieve the above Council Strategy principle by:
 Reviewing and providing assurance on the effectiveness of the Council's governance and other arrangements which may impact on the Annual Governance Statement.

Governance and Audit Committee Chairman	
Name & Telephone No.:	Councillor Quentin Webb – Tel (01635) 202646
E-mail Address:	qwebb@westberks.gov.uk
Date Portfolio Member agreed report:	Full Annual Governance Statement report e-mailed to Councillor Roger Croft on 6 August 2014

Contact Officer Details	
Name:	David Holling
Job Title:	Head of Legal Services/Monitoring Officer
Tel. No.:	01635 519422
E-mail Address:	dholling@westberks.gov.uk

Implications

Policy:	Established as part of CIPFA guidance and reporting arrangements adopted by Council in connection with the Annual Governance Statement.
Financial:	No financial implication associated with this report.
Personnel:	N/A
Legal/Procurement:	In accordance with the provisions of the Local Government Acts 1972 and 2000 and the Local Government and Housing Act 1985 together with the Local Government & Public Involvement in Health Act 2007 and Localism Act 2011.
Property:	N/A
Risk Management:	Insofar as is possible any risks have been assessed in accordance with the Risk Strategy.
Corporate Board's Recommendation:	Report to proceed to Management Board for consideration.

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"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia			<input type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>
Report is to note only		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 As part of the Annual Governance statement, CIPFA guidance recommends that the S151 and Monitoring Officers give assurance that the Council's systems and procedures for which they have responsibility regarding internal controls are effective and being complied with. The Monitoring Officer looks at the legality of actions by bodies within the Council as part of duties under Section 5 of the Local Government and Housing Act 1989 (the 1989 Act).

2. Proposals

- 2.1 Throughout the year the Governance and Audit Committee is referred to amendments to the Council's constitution and its rules of procedure where amendment is necessary. Subject to its view, matters are then referred to Council for adoption. This ensures that administrative processes remain effective, efficient and pertinent.
- 2.2 Ethics and matters of probity are dealt with by Standards Committee. The development of a complaints regime as regards complaints about District and Parish Members has been reviewed and updated following the Localism Act 2011. Members have been updated on changes to Standards arrangements and the processes for dealing with complaints.
- 2.3 Reviews of risk registers have been carried out by the Monitoring Officer and S151 Officer in their roles as members of the Council's Corporate Board. In addition, liabilities likely to impact upon the Council's operations from a legal perspective where appropriate have been identified.

3. Equalities Impact Assessment Outcomes

- 3.1 There is no decision to be made which impacts on Equality matters.

4. Conclusion

- 4.1 The Monitoring Officer's view of the Council's governance arrangements are that they are robust and effective. There has been no necessity to report formally to Council under Section 5 of the 1989 Act. Ethical matters are managed by the Standards Committee. The report is to be noted.

Executive Report

1. Introduction

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

2. The Role of the Monitoring Officer

- 2.1 Section 5 of the Local Government and Housing Act 1989 requires the Monitoring Officer to prepare a formal report to full Council where it appears that the Council, a committee or an Officer has acted or is likely to act illegally, or in a manner such as to constitute maladministration or injustice. The Monitoring Officer's role in essence is to ensure the legality of local governance arrangements based upon statutory requirements and guidance from Government and other outside bodies. As mentioned above, this role complements that of the Section 151 Officer and the Head of Paid Service (the Chief Executive) whose roles are also established by statute. The Monitoring Officer is part of the Council's Corporate Board and attends meetings of the Finance and Governance Group which looks at use of resources and has taken on the role of reviewing the constitution in a systematic way. If changes are necessary due to legislative impacts or administrative arrangements these are reported to Corporate Board, the Governance and Audit Committee and ultimately Council for member adoption. The process is open and transparent.
- 2.2 The formal report process under Section 5 is one which should be approached with extreme caution and should not be undertaken lightly. If such action is proposed it is generally the view that outside advice from Counsel should be sought by the Monitoring Officer. During 2013/14 there have been no reports or investigations necessary which fall within the requirements of Section 5 of the 1989 Act.
- 2.3 The Monitoring Officer's advice has been sought in connection with a number of day-to-day administrative matters and in particular advice in connection with the Code of Conduct for Members and Officers. Training has been provided for Members and Officers on the Council's Code of Conduct and Officer Code. In addition support regarding the Code has been provided for Town and Parish Councils and on occasion for individual parishes following recommendations from Standards Committee if considered appropriate.

3. Robustness of corporate governance arrangements

- 3.1 As Members will be aware, the Governance and Audit Committee considers reports throughout the year regarding certain amendments which have been required in connection with changes to the Constitution.
- 3.2 During 2010/11 following an audit of the Constitution and its processes the Finance and Governance Group of Officers which includes the Monitoring Officer, S151 Officer, Chief Internal Auditor and Head of Strategic Support began a systematic review of each part of the Constitution. This process has resulted in a number of changes to various parts some brought about due to legislative changes and others as a result of administrative arrangements within the Council. This process continued into 2013/14 and has taken into account The Localism Act 2011 which introduced changes at various levels within the Council.
- 3.3 This systematic review of the Constitution ensures that the Council's administrative arrangements remain effective and efficient bearing in mind changes imposed by government and other bodies as well as improving transparency and openness. This process was recognised as good best practice during the recent LGA Peer Review.

4. Ethics & Probity

- 4.1 As in previous years, ethics and probity matters were considered by the Council's Standards Committee. Advice for Members of West Berkshire Council and Parish and Town Councils on the Code has been given in order that the Council fulfils its role as "Responsible Authority" under the Local Government Act 2000 and the Localism Act 2011.
- 4.2 Whilst there were complaints and references to the Standards Committee throughout 2013/14 few required full investigation and have reduced which may be due to better behaviour or as a result of the lack of sanctions available under the standards regime. Complaints have been considered at local level and will continue to be governed under the revised Standards regime introduced by the Council under the 2011 Act.
- 4.3 The number of complaints has remained relatively static. The Council's website provides a complaints form and provides a detailed process to deal with breaches of the Codes of Conduct adopted at District and Parish level.

5. Implementation of Action Plans from Strategic Risk Register

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

6. Potential Liabilities

- 6.1 Whilst there have been cases considered by various courts during the year, none of these were of significance to warrant particular risks being identified. There have been major cases in the Crown Court and judicial reviews of certain decisions.

These cases will be closely monitored by Legal staff and where appropriate referred to the relevant Risk Register. Overall there has been an increase in the number of instructions received by Legal Services from services throughout the Council.

- 6.2 There are outstanding cases where contingent liabilities have been identified by officers and risks recognised and moderated at Service and Council level by various actions.

7. Conclusion

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

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: N/a

Officers Consulted: Andy Day; Ian Priestley; Andy Walker; Corporate Board

Trade Union: N/a

Agenda Item 10.

Title of Report:	Amendment to the Constitution - Part 7 Speaking Rights at Planning Meetings
Report to be considered by:	Council
Date of Meeting:	18 September 2014
Forward Plan Ref:	C2859

Purpose of Report: To propose an amendment to speaking rights for Ward Members that are Members of a Planning Committee at Planning Committee meetings.

Recommended Action: To amend the Regulatory and Other Committees Rules of Procedure (Paragraph 7.13.4) which deal with the procedure for dealing with and the time allowed in respect of speaking rights at Planning Committee meetings.

Reason for decision to be taken: To respond to a request of the Planning Policy Task Group and the Portfolio Holder for Planning.

Other options considered: Not to change the speaking rights for Ward Members on Planning Committees

Key background documentation: None

The proposals will help achieve the following Council Strategy principle:

CSP8 - Doing what's important well

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

ensuring that the constitution is up to date and accords with the relevant legislation

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	Report e-mailed to Councillor Cole on 7 August 2014

Contact Officer Details	
Name:	David Holling
Job Title:	Head of Legal Services
Tel. No.:	01635 519422
E-mail Address:	dholling@westberks.gov.uk

Implications

Policy:	Will require Part 7 of the Constitution to be amended
Financial:	None – will be undertaken within existing resources
Personnel:	None
Legal/Procurement:	Will require changes to the Constitution in accordance with relevant Local Government Acts
Property:	None
Risk Management:	Will reduce possible risk by ensuring that speaking rights for Ward Members who are Members of a Planning Committee and those who are not.
Corporate Board's Recommendation:	Report to proceed to Management Board for consideration.

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"/>	
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia			<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 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

1. Introduction

- 1.1 At a recent Planning Policy Task Group meeting Members requested that consideration be given to amending Part 7 of the Constitution, Regulatory and Other Committees Rules of Procedure (Paragraph 7.13.4) that deals with the time allowed in respect of speaking rights at Planning Committee meetings. The Portfolio Holder for Planning also requested that current situation be reviewed.
- 1.2 Currently Ward Members who are not Members of the Planning Committee are permitted five minutes to speak, which is the same as all other speakers. However, Ward Members who are members of a Planning Committee do not have any such time constraint.

2. Proposals

- 2.1 It is therefore proposed that Ward Members, who are Planning Committee Members, have the same five minute allocation to speak on any application within their ward, which is before the Committee for determination. This amendment would however not impact on their ability to take part in the debate on the application and make further comment during the ensuing debate. However a Ward Member's substantive address shall be made in accordance with the list of speakers set out below.
- 2.2 Where there were two or more Ward Members they too would be required to share the five minute speaking time unless one of the Ward Members wished to speak in support of the application and one Ward Member wished to object to it. Where the latter was the case each of the Ward Members would have five minutes to speak.
- 2.3 It is therefore proposed that paragraph 7.13.4 be amended as follows:

Time Allowed

The total time allowed for speeches in respect of each of the following groups of speakers shall not exceed five minutes or such longer period as the Chairman may allow with the consent of the Committee:

- Parish/Town Council representative(s);
- Adjoining Parish/Town Council representative(s);
- Objectors;
- Supporters;
- Applicant or agent;
- Adjoining Ward Member(s);
- Ward Member(s) ~~(if not on the Committee).~~

Where more than one individual representing the parties accorded speaking rights wishes to speak, the Chairman may they consider it convenient and conducive to the despatch of the business of the meeting, require that a spokesperson be appointed to represent the views of the objectors or supporters as the case may be.

Where there is more than one adjoining Parish/Town Council speaking but requiring a fundamentally different outcome of either refusal or approval, the speakers will be allowed five minutes each; where the outcome required is fundamentally the same, the five Minutes will be shared by the speakers.

Where there is more than one Ward Member speaking but requiring a fundamentally different outcome of either refusal or approval, the speakers will be allowed five minutes each; where the outcome required is fundamentally the same, the five Minutes will be shared by the speakers.

Ward Members on Planning Committees may take part in the debate or vote on an application where they are permitted to do so.

3. Equalities Impact Assessment Outcomes

3.1 This item is not relevant to equality.

4. Conclusion

4.1 This amendment if approved would provide greater equanimity to Ward Members addressing Planning Committees.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: N/a

Officers Consulted: Andy Day, Sarah Clarke, Corporate Board.

Trade Union: N/a

Title of Report:	Anti Social Behaviour, Crime and Policing Act 2014
Report to be considered by:	Council
Date of Meeting:	18 September 2014
Forward Plan Ref:	C2886

Purpose of Report:

To appraise Members of the Anti Social Behaviour, Crime and Policing Act 2014 in relation to changes required to be made to the Council's Scheme of Delegation.

Recommended Action:

That the Council's Scheme of Delegation be amended as follows:

- (i) That the Head of Culture and Environmental Protection, in consultation with the Head of Legal Services, be given delegated authority to serve Community Protection Notices in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.
- (ii) That the Council also delegate the serving of Community Protection Notices to Registered Social Landlords in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.
- (iii) That the Council also delegate the serving of Community Protection Notices and Fixed Penalty Notices in the event of a breach to Police Community Support Officers in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.
- (iv) That the Head of Legal Services, in consultation with the Head of Care Commissioning, Safeguarding and Housing, be given delegation authority to seek a Civil Injunction in accordance with Part 1 of the Anti Social Behaviour, Crime and Policing Act 2014.
- (v) That the Head of Strategic Support, in consultation with the Head of Legal Services, be given delegated authority to make a PSPO in accordance with Chapter 2 of the Anti-Social Behaviour, Crime and

Policing Act 2014.

- (vi) That the Council's partners (Neighbourhood Wardens, Street Rangers etc) be approached to ascertain whether they intend to use the PSPO powers.
- (vii) That the Head of Legal Services or his nominee, in consultation with the Head of Strategic Support, be granted delegated authority to issue an Closure Notice and apply for a Closure Order in accordance with Chapter 3 of the Anti-Social Behaviour, Crime and Policing Act 2014.

Reason for decision to be taken: To ensure that the Council's Scheme of Delegation reflects the requirements of the Anti Social Behaviour, Crime and Policing Act 2014.

Other options considered: N/A

Key background documentation: Anti Social Behaviour, Crime and Policing Act 2014

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

CSP2 – Promoting a vibrant district

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

CSP8 - Doing what's important well

The proposals contained in this report will help to achieve the above Council Strategy priority and principle by:
ensuring that the Council's Constitution is up to date and that the Council's overall governance is robust.

Portfolio Member Details

Name & Telephone No.:	Councillor Graham Pask - Tel (01635) 864023
E-mail Address:	gpask@westberks.gov.uk
Date Portfolio Member agreed report:	Report e-mailed to Councillor Pask (07/08/14)

Contact Officer Details

Name:	Alex O'Connor
Job Title:	Anti Social Behaviour Co-ordinator
Tel. No.:	01635 264608
E-mail Address:	ao'Connor@westberks.gov.uk

Implications

Policy:	The requirements of the Act will require new policies and procedures to be established and particularly processes with the Council's partners to ensure that duplication does not occur
Financial:	It is clear at this stage that there will be costs associated with the implementation of the Act and going forward but it is difficult to assess the level. There is potential for increased workload in Legal and the Safer Communities Partnership
Personnel:	N/A
Legal/Procurement:	The Act requires effective delegation and processes to be in place in order to implement the wide ranging powers available. Consideration of evidential and other matters in a number of differing venues will involve careful assessment throughout the process. The Council is required to ensure that its constitution is up to date to ensure that its decision making is accountable and transparent.
Property:	N/A
Risk Management:	Ability to record evidence and procedures accurately and effectively across a variety of partner bodies will be necessary to ensure effective enforcement of the various Orders/Notices

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"/>		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
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)				
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia		<input type="checkbox"/>		
Not relevant to equality		<input checked="" type="checkbox"/>		

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: X
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		X

Executive Summary

1. Introduction

- 1.1 The Anti Social Behaviour, Crime and Policing Act received Royal Assent on 13 March 2014. The Act proposed a number of reforms to existing legislation and to put the victim at the heart of the response to anti social behaviour and provide professionals with greater flexibility to deal with any given situation.

2. Proposals

- 2.1 The reforms set out in Parts 1-6 of the Act are intended to ensure that professionals from a number of agencies dealing with a variety of anti social behaviours have effective powers that are quick, practical and easy to use to provide better protection to victims and communities whilst acting as a deterrent to perpetrators. 19 existing powers are replaced with 6 simpler and more flexible ones but their implementation will require effective and coordinated consideration by all the agencies involved.
- 2.2 In adopting the powers it will be necessary to amend the Council's Scheme of Delegation (Part 3 of the Council's Constitution) and be aware of the additional pressures that could be placed on some services.
- 2.3 In setting out the new powers, this Council will always to seek restorative solutions to issues and only use these powers as a last resort.

3. Equalities Impact Assessment Outcomes

- 3.1 This item is not relevant to equality.

4. Conclusion

- 4.1 The Anti Social Behaviour, Crime and Policing Act 2014 requires the Council to adopt several provisions which will require the Scheme of Delegation (Part 3 of the Council's Constitution) to be amended but also require close and coordinated working with partner organisations.

Executive Report

1. Introduction

- 1.1 The Anti Social Behaviour, Crime and Policing Act 2014 received Royal Assent on 13 March 2014. The Act proposed a number of reforms to existing legislation and to put the victim at the heart of the response to anti social behaviour by providing professionals and organisations with greater flexibility to deal with any given situation.
- 1.2 The reforms set out in Parts 1-6 of the Act are intended to ensure that professionals have effective powers that are quick, practical and easy to use to provide better protection to victims and communities and act as a deterrent to perpetrators. 19 existing powers are replaced with 6 simpler and more flexible ones.
- 1.3 In setting out the new powers, this Council will always to seek restorative solutions to issues and only use these powers as a last resort. This will mean that appropriate Service Units across the Council and partners working with the people and communities affected by these powers must be engaged and involved in the decision making.
- 1.4 The new powers are:

Community Protection Notice

- 1.5 A Community Protection Notice (CPN) is intended to deal with particular, ongoing problems or nuisances which negatively affect the community's quality of life by targeting those responsible. These include graffiti, rubbish and noise. A CPN does not discharge the Council from its duty to issue an Abatement Notice where the behaviour constitutes a statutory nuisance for the purposes of Part 3 of the Environmental Protection Act 1990.
- 1.6 The test to be applied in issuing a Community Protection Notice is broad and focuses on the impact anti social behaviour is having on victims and communities. A CPN can be issued by the Police, Council or registered social landlords if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation:
- (i) is having a detrimental effect on the quality of life of those in the community;
 - (ii) is persistent or continuing in nature; and
 - (iii) is unreasonable.
- 1.7 The Council will need to assess who is likely to use these powers the most in any given period and how the enforcement of them will be dealt with between the various agencies. It is suggested that a review takes place after 12 months to assess usage and determine whether or not the most effective procedures are in place.
- 1.8 Under the procedure outlined in the Guidance which accompanies the Act a written warning has to be served followed by the CPN then at a later stage a Fixed Penalty Notice (FPN) may be issued for non-compliance. In addition the CPN can be

appealed within 21 days of service. All these processes need to be recorded and evidenced and the Council and its partners will need to ensure that there is an effective monitoring arrangement in place because of the appeal process and potential for prosecution. Some form of 'gate keeping' arrangement may be required in order to avoid duplicate actions by partner organisations

1.9 Failure to comply with a CPN can result in one of the following sanctions:

- (i) Fixed Penalty Notice
- (ii) Remedial Action
- (iii) Remedial Orders
- (iv) Forfeiture Orders
- (v) Seizure

Recommendations:

- (i) That the Head of Culture and Environmental Protection, in consultation with the Head of Legal Services, be given delegated authority to serving Community Protection Notices in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.**
- (ii) That the Council also delegate the serving of Community Protection Notices to Registered Social Landlords in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.**
- (iii) That the Council also delegate the serving of Community Protection Notices and Fixed Penalty Notices in the event of a breach to Police Community Support Officers in accordance with Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014.**

Civil Injunction

1.10 The injunction is a civil power which can be applied for to deal with anti social behaviour. It replaces six orders formerly available to the Council and Police. A civil injunction can offer fast and effective protection for victims and communities and set a clear standard of behaviour for perpetrators, stopping the person's behaviour from escalating.

1.8 A number of agencies can apply for Civil Injunctions. These include:

- (i) Local Authority
- (ii) Housing provider
- (iii) The chief of police for the local area
- (iv) The chief constable of the British Transport Police
- (v) Transport for London

(vi) The Environment Agency

(vii) NHS Protect

1.11 Anyone seeking to apply for a civil Injunction must have evidence (to the civil standard of proof – on the balance of probabilities) that the respondent is engaged in or threatened to engage in those activities set out below:

(i) conduct that has caused, or is likely to cause harassment, alarm or distress to any person;

(ii) conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises; or

(iii) conduct capable of causing housing related nuisance or annoyance to any person.

Note:

(ii) only applies where the injunction is applied for by a housing provider, local authority or chief officer of police.

(iii) only applies where the injunction is applied for by a housing provider or local authority.

1.12 Unlike other proposals in the Act this process is applied through the County Court for persons over 18 and in the Youth Court for under 18's. Evidence and statements from witnesses will be required to support the application but will also vary depending upon the type of conduct which it is sought to restrict such as harassment or causing annoyance to the occupation of premises. It is clear that the latter would be of use to the Council and to social housing providers. The procedure is indicated to be swift but a good deal of preparation will be required before going before the Court as well as ensuring an urgent date can be obtained.

1.13 Where any action is to be taken against a person under 18 years old in a Youth Court then the Youth Offending Team should be part of the decision making process.

Recommendation:

That the Head of Head of Legal Services, in consultation with the Head of Care Commissioning, Safeguarding and Housing, be given delegated authority to seek a Civil Injunction in accordance with Part 1 of the Anti Social Behaviour, Crime and Policing Act 2014.

Public Spaces Protection Order

1.14 The Public Spaces Protection Order (PSPO) is designed to stop individuals or groups committing anti-social behaviour in a public space. Local Authorities alone are able to issue PSPO after consultation with the Police and Police and Crime Commissioner. An effective means of consultation will be required to ensure quick effective and recorded consultation takes place for evidential purposes at later stages in the process.

- 1.15 PSPO's can have blanket restrictions or requirements applied or can be targeted against certain behaviours by certain groups and at certain times. PSPO's can restrict access to public rights of way where that route is being used to commit anti-social behaviour. They can last for up to three years but any individual has the right to appeal to the High Court on the grounds that the Council did not have the power to make the order or included a particular prohibition which was inapplicable or could challenge whether or not effective consultation which had been carried out.
- 1.16 In seeking a PSPO the behaviour being restricted has to:
- (i) Be having, or be likely to have, a detrimental effect on the quality of life of those in the locality;
 - (ii) Be persistent or continuing in nature; and
 - (iii) Be unreasonable.
- 1.17 Breaching a PSPO is a criminal offence and for those enforcing, either Council or Police officers they may issue a fixed penalty notice of up to £100 if appropriate. A fine of up to £1,000 can also be imposed on prosecution. Again there will be a need to ensure adequate recorded evidence is available for potential future Court proceedings

Recommendation:

- (i) **That the Head of Strategic Support, in consultation with the Head of Legal Services, be given delegated authority to make a PSPO in accordance with Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014.**
- (ii) **That the Council's partners (Neighbourhood Wardens, Street Rangers etc) be approached to ascertain whether they intend to use the PSPO powers and once established the Head of Strategic Support be given delegated authority.**

Closure Power

- 1.18 The Closure Power allows the Police or Council to quickly close premises which are being used, or likely to be used to commit nuisance or disorder. A Closure Notice is issued out of Court in the first instance. Following from this the Closure Order can be applied for through the Magistrates Court.
- 1.19 Both the Council and Police can issue a Closure Notice (CN) and guidance requires that it must be approved at a senior officer level for those issuing CN's of 24 hours. Following the issue of a CN the legislation requires that a series of notifications must be undertaken once a CN has been served particularly if the intention is to seek a Closure Order (CO). The Magistrates Court is required to hear the application within 48 hours and this will require close working with the Court Service
- 1.20 In addition before serving a CN or seeking a CO the Council and police must ensure that they consult widely including the victim, community representatives other organisations and users of the premises under investigation. Record keeping and evidential matters will be a key consideration and an agreed procedure will need to be established with partner bodies.

- 1.21 A notice can close a premise for up to 49 hours out of court but cannot stop the owner or those who live there accessing the premises. An order can close premises up to 6 months and can restrict all access. Both the Notice and the Order can cover any land or any other place, whether enclosed or not including residential, business and licensed premises.
- 1.22 Breaching a Closure Order will be a criminal offence. Breaching a Notice can carry a custodial sentence of up to 3 months and breaching an Order 6 months in prison. Both carry an unlimited fine for residential and non-residential premises.
- 1.23 Prior to seeking a Closure Order, it will be important that appropriate service units in the Council (eg Children's Services and Housing - where this relates to residential premises) are consulted.

Recommendation:

- (i) **That the Head of Legal Services or his nominee, in consultation with the Head of Strategic Support, be granted delegated authority to issue a Closure Notice and apply for a Closure Order in accordance with Chapter 3 of the Anti-Social Behaviour, Crime and Policing Act 2014.**

1.24 Conclusion

The provisions of the 2014 Act will give the Council and its partner organisations a more effective means of tackling anti social behaviour in certain areas where it is prevalent. However there will be a need for an effectively coordinated monitoring process to be established with partner bodies and the requirement for a single point of contact within the Council. It will be essential that all officers involved in these new process are effectively trained and that the additional workload is monitored in the first year of operation.

Appendices

There are no Appendices to this report.

Consultees

Local Stakeholders: N/a

Officers Consulted: Andy Day, David Holling and Corporate Board

Trade Union: N/a

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