

# Notice of Meeting

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## **Governance and Ethics Committee**

**Monday, 17th January, 2022 at 6.30 pm**

in the 2<sup>nd</sup> Floor Meeting Area, Council Offices,  
Market Street, Newbury

This meeting can be streamed live here:

<https://westberks.gov.uk/governanceethicscommitteelive>

Date of despatch of Agenda: Friday, 7 January 2022

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Stephen Chard on 01635 519642

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

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**WestBerkshire**  
C O U N C I L

**Agenda - Governance and Ethics Committee to be held on Monday, 17 January 2022**  
(continued)

**To:** Councillors Jeff Beck, Jeremy Cottam (Vice-Chairman), Graham, Rick Jones, Tony Linden, Thomas Marino (Chairman), David Marsh, Geoff Mayes, Andy Moore, Claire Rowles and David Southgate

**Substitutes:** Councillors Adrian Abbs, Anne Budd, John Downe, Owen Jeffery, Steve Masters, Graham Pask and Garth Simpson

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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).	1 - 2
2	<b>Minutes</b> To approve as a correct record the Minutes of the meeting of this Committee held on 15 November 2021.	3 - 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 registrable interests in items on the agenda, in accordance with the Members' <a href="#">Code of Conduct</a> .	7 - 8
4	<b>Forward Plan</b> Purpose: To consider the Forward Plan for the next 12 months.	9 - 10

## Governance Matters

5	<b>Internal Audit Update Report</b> To update the Committee on the outcome of Internal Audit work carried out during quarter two of 2021/22.	11 - 22
6	<b>External Audit Plan and Fee Financial Year 2020/21</b> The report informs members of the proposed 2020/2021 external audit fee and proposed external audit plan for 2020/2021.	23 - 50
7	<b>Financial Year 2021/22 Mid-Year Treasury Report</b>	51 - 68

## Agenda - Governance and Ethics Committee to be held on Monday, 17 January 2022

(continued)

The Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice (the CIPFA Code) which requires the Council to approve treasury management semi-annual and annual reports. The report provides an overview of the treasury management activity for financial year 2021/22 as at 30th September 2021.

- 8 **Member request for information** 69 - 80  
The report considers a request by a Member of Council for access to information under a procedure detailed in the Council's Constitution at paragraph 13.3.7.
- 9 **Exclusion of Press and Public**  
***RECOMMENDATION: That members of the press and public be excluded from the meeting during consideration of the following items as it is likely that there would be disclosure of exempt information of the description contained in the paragraphs of Schedule 12A of the Local Government Act 1972 specified in brackets in the heading of each item.***

## Part II

- 10 **Member request for information** 81 - 118  
Part II Appendices
- 11 **Strategic Risk Register Update Q2 2021/22** 119 - 164  
To provide an update on the Strategic Risk Register as at Q2 of 2021/22 and to highlight the corporate risks that need to be considered by Corporate Board and Operations Board and to outline the actions that are being taken to mitigate those risks.

Sarah Clarke  
Service Director: Strategy and Governance

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C O U N C I L

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Governance and Ethics Committee – 17 January 2022

## **Item 1 – Apologies for absence**

Verbal Item

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## DRAFT

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

### GOVERNANCE AND ETHICS COMMITTEE

#### MINUTES OF THE MEETING HELD ON MONDAY, 15 NOVEMBER 2021

**Councillors Present:** Jeff Beck, Jeremy Cottam (Vice-Chairman), Rick Jones, Tony Linden, Thomas Marino (Chairman), Steve Masters (Substitute) (In place of David Marsh), Geoff Mayes, Andy Moore and Claire Rowles

**Also Present:** Sarah Clarke (Service Director (Strategy and Governance)), Shannon Coleman-Slaughter (Chief Financial Accountant) and Joseph Holmes (Executive Director - Resources),

**Councillors Present Remotely:** Graham Bridgman (Portfolio Holder: Deputy Leader and Executive Member for Health and Wellbeing), Howard Woollaston (Executive Portfolio: Internal Governance, Leisure and Culture)

**Also Present Remotely:** Anne Budd, Bill Graham, David Southgate (Parish Council rep)

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

#### PART I

##### 17 Minutes

Cllr Tony Linden clarified that in relation to item 12 (paragraph 3), he had requested the date of the creation of the district council rather than unitary council.

Cllr Jeff Beck noted that the minutes had failed to record his apologies.

In response to a query, the Monitoring Officer assured members that resolution was being sought in relation to minutes distinguishing those members physically present at the meeting as opposed to via Zoom.

Subject to the above comments, the minutes of the meeting held on 1 July were confirmed by the committee as a correct record and signed by the Chairman.

##### 18 Declarations of Interest

There were no declarations of interest.

##### 19 Forward Plan

The Monitoring Officer clarified that Item 5 related to instances where a member may refer a denied access to information request to the committee for consideration if it was felt that the information had been unreasonably withheld.

**RESOLVED:** the Committee noted the Governance and Ethics Committee Forward Plan.

##### 20 External Audit Appointment Process for Financial Years 2023/24 - 2027/28 (C4147)

The report was introduced by the Chief Financial Accountant.

## **GOVERNANCE AND ETHICS COMMITTEE - 15 NOVEMBER 2021 - MINUTES**

In response to a query the Executive Director (Resources) clarified that there were currently five audit firms on the Public Sector Audit Appointments' (PSAA) list but that more widespread engagement was being encouraged.

It was reported that the process had reduced external audit fees to date but was felt unlikely to impact any further.

In response to concern raised in relation to breaching competition rules the Executive Director (Resources) clarified that the council was legally authorised to undertake its own procurement process for an external auditor, but was obliged to appoint one of the nominated firms on the PSAA list.

The committee generally welcomed the proposal and felt that it would improve the council's negotiating powers and allow for greater control over the accounts.

**RESOLVED:** the Committee

- Noted the report; and
- Recommended that the Public Sector Audit Appointments' (PSAA) invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for five financial years from 1 April 2023 be approved and accepted by Council at its meeting on 2<sup>nd</sup> December.

### **21 Updates to the Constitution (C4104)**

The Monitoring Officer introduced the report and acknowledged the significant work undertaken by the Constitution Review Task Group ('Task Group') to produce the report recommendations.

The Chair of the Task Group added that substantial consideration had gone into the proposals within the report. It was clarified that whilst some of the proposals would result in immediate permanent constitutional amendments, some had been put forward purely to impact the 2022 budget meeting and would likely form part of the general update and review of the constitution currently being undertaken.

In response to a proposal to re-order the budget agenda to allow more time to debate the revenue, the Executive Director (Resources) clarified that there was no flexibility within the agenda. Amendments made to the capital budget were likely to directly impact the revenue budget and consequently revenue would always need to be debated and agreed as a final item.

In response to a suggestion that the table at 5.25 regarding political party time allocations may prove difficult to manage in practice, the Monitoring Officer explained that it was proposed that the time allocations would be allocated to each party in order, en bloc. Consequently it would be for each leader and group to manage that time accordingly.

In response to a suggestion to allow members to vote on individual amendments rather than the en bloc voting which had taken place at the 2021 budget meeting, the Monitoring Officer explained that budget meetings were subject to legislative requirements in relation to the manner of voting, necessitating the need for named votes. Consequently to allow a vote for each amendment had the potential to become unnecessarily time consuming.

In response to requests for a return to 'in person' meetings, both the Monitoring Officer and Chair of the Task Group explained that since the onset of the Covid pandemic, health and safety had been at the forefront for determining meeting arrangements. It was further commented that hiring an alternative venue to accommodate all members would have both cost and streaming implications.



**GOVERNANCE AND ETHICS COMMITTEE - 15 NOVEMBER 2021 - MINUTES**

Members made the following comments and observations:

- The proposal of a separate budget meeting was broadly welcomed;
- It was agreed that the proposal outlined in Appendix C was too rigid, and the consensus view was to prefer the option outlined in Appendix D;
- It was suggested that any budget meeting should allow for physical attendance, debate and exercise of voting rights by all members, rather than indicative voting; and
- It was agreed that it was the responsibility of group leaders and members to ensure a full and reasonable budget debate within the timescale available.

The Monitoring Officer assured members that in relation to physical attendance at meetings, all options were being investigated to ensure an approved, lawful budget meeting for 2022.

**ACTION: The Monitoring Officer agreed to produce an indicative timetable report relating to the work of the Task Group for inclusion in the 17<sup>th</sup> January agenda.**

**RESOLVED:**the Committee recommended that Council:

- approve recommendations (a)-(h) within the report; and
- with reference to recommendation (d) approve the rules of procedure for the 2022 Budget Meeting of Council detailed at Appendix D.

**22 Action Plan Update Report – Review of the effectiveness of the Governance and Ethics Committee (GE4116)**

The Committee noted the action plan update report.

*(The meeting commenced at 6.30 pm and closed at 7.45 pm)*

**CHAIRMAN** .....

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

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Governance and Ethics Committee – 17 January 2022

## **Item 3 – Declarations of Interest**

Verbal Item

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## Governance and Ethics Committee Forward Plan 17 January 2022 – July 2022

17 January 2022						
1.	GE3891	Annual Audit Letter	To present the Annual Audit Letter.	Joseph Holmes	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit
2.	GE4023	Strategic Risk Register Update Q2 2021/22	To provide an update on the Strategic Risk Register as at Q2 of 2021/22.	Catalin Bogos	Councillor Howard Woollaston Internal Governance	Audit
3.	GE4092	Internal Audit Interim Report 2021/22 Q2	To update the Committee on the outcome of Internal Audit work	Julie Gillhespey	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit
4.	GE4123	Treasury Management - Mid Year Report		Shannon Coleman-Slaughter	Councillor Ross Mackinnon Finance and Economic Development	Finance
5.	GE4163	Member request for access to information		Sarah Clarke	Councillor Howard Woollaston Internal Governance, Leisure and Culture	
25 April 2022						
6.	GE4093	Internal Audit Interim Report 2021/22 Q3	To update the Committee on the outcome of Internal Audit work	Julie Gillhespey	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit

7.	GE4094	Internal Audit Plan 2022/23	To outline the proposed audit work programme for the next three years	Julie Gillhespey	Councillor Howard Woollaston Internal Governance, Leisure and Culture	Audit
8.	C4152	Governance and Ethics Annual Report	To summarise the activity of the Committee over the 2021-22 Financial Year	Joseph Holmes	Councillor Howard Woollaston Internal Governance, Leisure and Culture	
<b>July 2022 Date TBC</b>						
9.	GE4024	Strategic Risk Register Update Q4 2021/22	To provide an update on the Strategic Risk Register as at Q4 of 2021/22.	Catalin Bogos	Councillor Howard Woollaston Internal Governance	Audit

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## Internal Audit Update Report

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<b>Committee considering report:</b>	Governance and Ethics Committee
<b>Date of Committee:</b>	17 <sup>th</sup> January 2022
<b>Portfolio Member:</b>	Councillor Howard Woollaston
<b>Date Head of Service agreed report:</b> <i>(for Corporate Board)</i>	17 <sup>th</sup> November 2021
<b>Date Portfolio Member agreed report:</b>	
<b>Report Author:</b>	Julie Gillhespey (Audit Manager)
<b>Forward Plan Ref:</b>	GE4092

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### 1 Purpose of the Report

- 1.1 To update the Committee on the outcome of Internal Audit work carried out during quarter two of 2021/22.
- 1.2 The Public Sector Internal Audit Standards (PSIAS), as adapted by CIPFA's "Local Government Application Note", require the Audit Manager to provide periodic updates to senior officers and members on performance against the Audit Plan. As stated in the Council's approved Internal Audit Charter, quarterly updates are required to be presented to the Committee.
- 1.3 The periodic reports aim to provide a progress update against the work in the Audit Plan together with highlighting any emerging significant issues/risks that are of concern.

### 2 Recommendation(s)

To note the content of the report.

### 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	None
<b>Human Resource:</b>	None
<b>Legal:</b>	None

<b>Risk Management:</b>	Internal Audit work helps to improve risk management processes by identifying weaknesses in systems and procedures and making recommendations to provide mitigation. The aim of which is to help ensure that services and functions across the Council achieve their goals and targets, and the organisation as a whole meets its plans and objectives.			
<b>Property:</b>	None			
<b>Policy:</b>	None			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
<b>Environmental Impact:</b>		X		
<b>Health Impact:</b>		X		
<b>ICT Impact:</b>		X		



<b>Digital Services Impact:</b>		X		
<b>Council Strategy Priorities:</b>		X		
<b>Core Business:</b>		X		
<b>Data Impact:</b>		X		
<b>Consultation and Engagement:</b>	None			

## 4 Executive Summary

- 4.1 To update the Committee on the outcome of Internal Audit work completed during quarter two of 2021/22.
- 4.2 The Public Sector Internal Audit Standards (PSIAS), as adapted by CIPFA's "Local Government Application Note", require the Audit Manager to provide periodic updates to senior officers and members on performance against the Audit Plan. As stated in the Council's approved Internal Audit Charter quarterly updates are required to be presented to Committee.
- 4.3 The periodic reports aim to provide a progress update against the work in the Audit Plan together with highlighting any emerging significant issues/risks that are of concern.
- 4.4 For the work completed during the quarter there were no audits given a less than satisfactory opinion. A summary of the audit opinions given is set out in the main body of the report.
- 4.5 There are no significant issues of concern identified through audit work during the period that need to be highlighted to senior officers/members.

## 5 Supporting Information

### Introduction/Background

- 5.1 A list of audit work completed is set out in Appendix A. The following table summarises the results of the audit work where an opinion was given.

Audit Type	Very weak	Weak	Satisfactory	Well Controlled	Very Well Controlled
Key Financial Systems			1		
Other Systems					
Schools			3	5	

- 5.2 For this reporting period there were no completed audits which were given a less than satisfactory opinion.
- 5.3 Details of the audit work in progress and the stage reached is set out at Appendix B. Progress made against the Anti-Fraud Work Plan is set out at Appendix C.
- 5.4 As mentioned in the report for quarter one, the number of school visits for this year was higher than usual in order to catch up with those that were planned for last year which were either cancelled or postponed because of Covid. The emphasis of the team in the second quarter was again to catch up on the school audits, this is reflected in the completed work for the period which mainly consists of schools. We have now undertaken all of the planned school visits for this year.
- 5.5 The Audit Manager has mentioned in previous update reports that she would provide the Committee with updates regarding any COVID related audit work which would impact on the Audit Plan. As at the end of September the team has spent 75 days on Covid related grant assurance work, this work will continue for the remainder of the year, although we are now spending less time on business grants assurance work, which has been the main bulk of our Covid grant assurance work.

## Proposals

Members note the outcome of audit work.

## 6 Other options considered

Not applicable, the report is for information only.

## 7 Conclusion

There were no audits given a less than satisfactory opinion in this reporting period. The Audit Team continues to undertake Covid grant assurance work which impacts on the level of planned work that can be achieved, although the impact has reduced over the second quarter.

## 8 Appendices

- 8.1 Appendix A – Completed Audit Work
- 8.2 Appendix B – Current Audit Work
- 8.3 Appendix C – Anti-Fraud Work Plan Update.

### Corporate Board's recommendation

\*(add text)

### Background Papers:

\*(add text)

### Subject to Call-In:

Yes:  No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

**Wards affected:** \*(add text)

### Officer details:

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 Tel No: 01635 519455  
 E-mail: julie.gillhespey@westberks.gov.uk

### Document Control

Document Ref:		Date Created:	12/11/2021
Version:	01	Date Modified:	
Author:	Julie Gillhespey (Audit Manager)		
Owning Service	Strategy and Governance		

### Change History

Version	Date	Description	Change ID
1			

## Internal Audit Update Report

Version	Date	Description	Change ID
2			

**1) COMPLETED AUDITS**

Directorate/Dept/Service	Audit Title	Overall Opinion
<b>Corporate</b>		
<b>Resources</b>		
Finance and Property	Treasury Management	Satisfactory
<b>People</b>		
Education	Kintbury St Mary's School	Satisfactory
Education	Burghfield St Mary's School	Well Controlled
Education	The Willows School	Well Controlled
Education	Pangbourne School	Well Controlled
Education	Enborne School	Satisfactory
Education	Chieveley School	Well Controlled
Education	Purley School	Satisfactory
Education	Streatley School	Well Controlled
<b>Place</b>		

**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 FOLLOW UPS**

<u>Directorate/Service</u>	<u>Audit Title</u>	<u>Overall Opinion - Report</u>	<u>Opinion - Implementation progress</u>
None			

**3) COMPLETED ADVISORY REVIEWS/OTHER WORK**

Directorate/Dept/	Review Title

<b>Service</b>	
None	

**1) CURRENT AUDITS**

<b>Corporate/Directorate/Service</b>	<b>Audit Title</b>	<b>Current Position of Work</b>	<b>Audit Plan Year</b>
Corporate	National Fraud Initiative	Data matches being reviewed	2021/22
<b>Resources</b>			
Finance and Property	Fixed Asset Register	Draft Report Issued	2021/22
Finance and Property	Accounts Payable	Testing	2021/22
Commissioning	Contract Letting (other than care packages)	Background	2021/22
Strategy and Governance	Disclosure and Barring Service	Draft Report Issued	2021/22
Strategy and Governance	Service Planning/Performance Management	Ready to be Reviewed	2021/22
ICT	Security of Systems	Background	2021/22
Finance and Property	Building Maintenance	Testing	2020/21
Strategy & Governance	Members Expenses	Draft report Issued	2020/21
<b>People</b>			
Education	Basildon School	Draft Report Issued	2021/22
Education	Hampstead Norreys and the Ilsleys Schools Federation	Visit undertaken	2021/22
Education	Hungerford School	Draft Report Issued	2021/22
Education	Shaw Cum Donnington School	Draft Report Issued	2021/22
Education	St Joseph's School	Draft Report Issued	2021/22
Adult Social Care	Shared Lives Placements	Testing	2020/21
Adult Social Care	Purchase of Care – Home Care	Background	2021/22

<b>Corporate/Directorate/Service</b>	<b>Audit Title</b>	<b>Current Position of Work</b>	<b>Audit Plan Year</b>
Children and Families	Turnaround Families Grant Claim work	Ongoing	2021/22
Children and Families	Foster Carer Payments	Testing	2020/21
Adult Social Care	Carers Assessments/Payments	Draft Report Issued	2020/21
<b>Place</b>			
Environment	Waste Management Contract	Draft Report Issued	2020/21
Environment	Parking	Background	2021/22
Development and Planning	Purchase and Utilisation of Council Properties	Draft Report Issued	2019/20

**2) CURRENT ADVISORY REVIEWS/OTHER WORK**

<b>Audit/Review Title</b>	<b>Current position of work</b>
General Grants sign off work	Majority completed
Covid Grants – payments assurance work	Ongoing
COVID Business Grants – payment assurance work	Ongoing

**3) CURRENT FOLLOW-UPS**

<b>Directorate/Service</b>	<b>Audit title</b>
<b>Resources</b>	
Corporate/Strategy and Governance	Digitalisation Agenda
<b>People</b>	
Education Service	Early Years Grant
Education Service	Curridge School
Adult Social Care	Deprivation of Liberty Safeguards



**Anti-Fraud Work Plan****(Drawn together from entries in the Audit Plan for 2021/22)**

<b><u>Audit Name</u></b>	<b><u>Work Focus</u></b>	<b><u>Update Position 30/09/2021</u></b>
NFI Investigation Work	Review of data matches to assess whether fraudulent.	Ongoing
Covid Grant Assurance Work (Non-business)	Review of appropriateness/accuracy of grant payments made to third parties/use of grants the Council has received.	Completed Compliance and Enforcement Grant Assurance.  Testing of Test and Trace Support Grant and Infection Control Grant.
Covid Business Grants Assurance	Review of payments to assess whether inaccurate or fraudulent.	Ongoing
Contract letting - Other than Care Packages	Check for compliance with Contract Rules of Procedure/legislation. Check for risk of contracts being awarded inappropriately/potential for conflict of interest/personal gain.	Background
Personal Budgets (Direct Payments/Use of payment cards) (Education Service)	Personal Budgets may be used inappropriately/fraudulent documentation could be provided for expenditure incurred.	
Street Works/Traffic Regulation Orders/Section 38 Charges	Income collection – to ensure that the relevant charges are requested/received.	
Parking	Income collection – income is maximised/reduced risk of theft.	Background
*Council Tax Reduction Scheme	Reductions granted are valid, regularly reviewed, and investigated where applicable.	Testing

\*A piece of work which has been commissioned from an external fraud work provider.

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# External Audit Plan and Fee Financial Year 2020/21

<b>Committee considering report:</b>	Governance and Ethics Committee
<b>Date of Committee:</b>	17 <sup>th</sup> January 2022
<b>Portfolio Member:</b>	Councillor Ross Mackinnon
<b>Date Portfolio Member agreed report:</b>	1 <sup>st</sup> November 2021
<b>Report Author:</b>	Shannon Coleman-Slaughter
<b>Forward Plan Ref:</b>	-

## 1 Purpose of the Report

This report is to inform members of the proposed 2020/2021 external audit fee and proposed external audit plan for 2020/2021.

## 2 Recommendation(s)

For members to comment on and note the report.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	Whereby a Council is deemed to have not produced financial statements in accordance with relevant accounting requirements, this can result in additional testing by external auditors and increased external audit fees.  The proposed external audit fee for 2020/21 is £131,523.
<b>Human Resource:</b>	Not applicable
<b>Legal:</b>	The scope of the external audit is set in accordance with the CIPFA Code and International Standards on Auditing (ISAs) (UK). The Council's appointed external auditors are responsible for forming and expressing an opinion on the Authority's financial statements that have been prepared by management with the oversight of those charged with

	governance (the Governance and Ethics Committee); and Value for Money arrangements in place for securing economy, efficiency and effectiveness in your use of resources.			
<b>Risk Management:</b>	Where external auditors deem that the Council's annual financial statements are not prepared in accordance with the CIPFA/LASAAC code of practice on local authority accounting and the Local Audit and Accountability Act 2014, and do not provide a true and fair view of the Council's financial position and performance, this may result in a qualified audit opinion.			
<b>Property:</b>	Not applicable			
<b>Policy:</b>	Not applicable			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
<b>Environmental Impact:</b>		X		
<b>Health Impact:</b>		X		

<b>ICT Impact:</b>		X		
<b>Digital Services Impact:</b>		X		
<b>Council Strategy Priorities:</b>		X		
<b>Core Business:</b>		X		
<b>Data Impact:</b>		X		
<b>Consultation and Engagement:</b>	Joseph Holmes, Executive Director, s151 Officer.			

## 4 Executive Summary

- 4.1 Grant Thornton the Council’s appointed external auditor has proposed that their audit will be conducted between October and January with their Audit Findings report expected soon after. A detailed audit plan prepared by Grant Thornton is included in Appendix A.
- 4.2 The proposed audit fee (which is subject to approval by Public Sector Audit Appointments (PSAA)), for 2020/21 is set at £131,523, compared to a fee of £109,273 in 2019/20. Appendix A also sets out Grant Thornton’s scope for the audit and basis of the audit fee.

## 5 Supporting Information

### Introduction

- 5.1 Grant Thornton, the Council’s appointed external auditor has set out the scope of the 2020/21 audit in accordance with the Code of Audit Practice (the Code) issued by the National Audit Office (NAO) and International Standards on Auditing (ISAs) (UK), with a view to forming and expressing an opinion on the:
- (a) Authority’s financial statements that have been prepared by management with the oversight of those charged with governance (the Governance and Ethics Committee); and
  - (b) Value for Money arrangements in place at the Authority for securing economy, efficiency and effectiveness in the Authority’s use of resources.
- 5.2 For the audit of the 2020/21 financial statements, the total proposed fee is set at £131,523.

## Proposals

- 5.3 The proposed scale fee for 2020/21 is set at £74,423 which is the same level as 2019/20. Since that time, there have been a number of developments, particularly in relation to the revised Code and ISAs which are relevant for the 2020/21 audit.
- 5.4 The Code introduces a revised approach to Value for Money (VFM) work. Auditors now have to make far more sophisticated judgements on performance, as well as issue key recommendations if any significant weaknesses in arrangements are identified during the audit. The proposed increase in fee to meet this requirement is £26,000 and is in line with increases they are proposing at all their local audits.
- 5.5 Additionally, the Financial Reporting Council (FRC) has set an expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing, as noted in the number of revised ISAs issued by the FRC applicable to 2020/21 financial statements. The proposed fee to meet this additional requirement is £17,000.
- 5.6 These two additional fees along with ongoing increases to scale fee first identified in 2019/20 relating to materiality changes, enhanced Property, Plant and Equipment, and Pension audit procedures resulting in a total audit fee of £131,523 and more detail can be found in Appendix A.

## 6 Other options considered

No other options have been considered.

## 7 Conclusion

In response to findings from the 2019/20 external audit and with increased scrutiny requirements set out by the Code and FRC, external audit have proposed an increased fee of £131,523 for the 2020/21 audit.

## 8 Appendices

Appendix A – External Audit Plan 2020/21

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### Background Papers:

None

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**Subject to Call-In:**

Yes:  No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

**Wards affected:** All

**Officer details:**

Name: Shannon Coleman-Slaughter  
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**Document Control**

Document Ref:		Date Created:	
Version:		Date Modified:	
Author:			
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**Change History**

Version	Date	Description	Change ID
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# West Berkshire Council audit plan

Year ending 31 March 2021

October 2021



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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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# Key matters

## Factors

### Financial reporting and audit – raising the bar

The Financial Reporting Council (FRC) has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge, and to undertake more robust testing as detailed in Appendix 1.

Our work in 2019/20 highlighted areas where local government financial reporting, in particular, property valuations and pensions, needs to be improved, with a corresponding increase in audit procedures. We have also identified an increase in the complexity of local government financial transactions which require greater audit scrutiny

### Impact of Covid-19 pandemic

The outbreak of the Covid-19 coronavirus pandemic has had a significant impact on the normal operations of the Council and the financial forecast of the Council, particularly in the short term.

The Council has been supporting residents and business throughout the Covid-19 pandemic whilst delivering critical services. The Council administered various grants to businesses throughout the period including the Local restrictions Support Grant, Retail, Hospitality and Leisure Grant Funding and Small Business Grants.

The Council has continued to keep their budget under review throughout the year reporting fully on the impact of the Covid-19 pandemic. The pandemic was a significant impact that was not considered as a factor at the time the budget was approved in February 2020.

## Our response

- As a firm, we are absolutely committed to audit quality and financial reporting in the local government sector. Our proposed work and fee, as set further in our Audit Plan, has been discussed with the Executive Director (Resources).
- We will consider your arrangements for managing and reporting your financial resources as part of our work in completing our Value for Money work.
- We will continue to provide you with sector updates via our Audit and Standards Committee updates.
- The Council's valuer reported a material uncertainty in regards to the valuation of properties in 2019/20 due to the Covid 19 pandemic. We identified a significant risk in regards to the valuation of land and buildings and investment properties – refer to page 6.

# Introduction and headlines

## Purpose

This document provides an overview of the planned scope and timing of the statutory audit of West Berkshire Council ('the Council') for those charged with governance.

## Respective responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the agreed in the Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of West Berkshire Council. We draw your attention to both of these documents.

## Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the:

- Council's financial statements that have been prepared by management with the oversight of those charged with governance (the Governance and Ethics committee); and
- Value for Money arrangements in place at the Council for securing economy, efficiency and effectiveness in your use of resources.

The audit of the financial statements does not relieve management or the Governance and Ethics Committee of your responsibilities. It is the responsibility of the Council to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Council is fulfilling these responsibilities.

Our audit approach is based on a thorough understanding of the Council's business and is risk based.

## Significant risks

Those risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error have been identified as:

- ISA 240- Revenue Risk (rebutted)
- Isa 240 – Expenditure Risk
- Management override of controls
- Valuation of land and buildings
- Valuation of Investment Properties
- Valuation of net pension fund liability

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings (ISA 260) Report.

## Materiality

We have determined planning materiality to be £5.15m (PY £4.3m) for the Council, which equates to 1.25% of your gross expenditure for the year. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £255k (PY £215k).

## Value for Money arrangements

Our risk assessment regarding your arrangements to secure value for money has identified no risks of significant weakness. We have identified a number of areas of focus at this time and these are detailed on page 16

## Audit logistics

Our interim visit took place in April and our final visit will take place in October to January. Our key deliverables are this Audit Plan, our Audit Findings Report and Auditor's Annual Report.

Our fee for the audit will be £131,523 (PY: £109,273) for the Council, subject to the Council delivering a good set of financial statements and working papers.

We have complied with the Financial Reporting Council's Ethical Standard (revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements..

# Significant risks identified

Significant risks are defined by ISAs (UK) as risks that, in the judgement of the auditor, require special audit consideration. In identifying risks, audit teams consider the nature of the risk, the potential magnitude of misstatement, and its likelihood. Significant risks are those risks that have a higher risk of material misstatement.

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
ISA240 revenue risk - the Council's reported revenue contains fraudulent transactions (rebutted)	Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue. This presumption can be rebutted if the auditor concludes that there is no risk of material misstatement due to fraud relating to revenue recognition.	<p>Having considered the risk factors set out in ISA240 and the nature of the revenue streams at the Council, we have determined that the risk of fraud arising from revenue recognition can be rebutted, because:</p> <ul style="list-style-type: none"> <li>• there is little incentive to manipulate revenue recognition</li> <li>• opportunities to manipulate revenue recognition are very limited</li> <li>• the culture and ethical frameworks of local authorities, including West Berkshire Council, mean that all forms of fraud are seen as unacceptable.</li> <li>• The majority of income in subsidiaries is a single source of funding from the Council in the form of a small number of management fees or loan transactions which are easily verifiable. This, along with minimal third party income, means there a limited opportunities to manipulate revenue.</li> </ul> <p>Therefore we do not consider this to be a significant risk for West Berkshire Council.</p>
The expenditure cycle includes fraudulent transactions	<p>Practice note 10: Audit of Financial Statements of Public Sector Bodies in the United Kingdom (PN10) states:</p> <p>“As most public bodies are net spending bodies, then the risk of material misstatements due to fraud related to expenditure may be greater than the risk of material misstatements due to fraud related to revenue recognition.” Public sector auditors therefore, need to consider whether they have any significant concerns about fraudulent financial reporting of expenditure which would need to be treated as a significant risk for the audit</p>	<p>We have considered both pay and non pay costs and considered there to be little opportunity for fraudulent transactions. Pay costs are determined b employee contracts and are standard monthly payments. Non pay costs are based on supplier invoice transactions and have to be paid within a set timeframe.</p> <p>As part of the audit will consider the completeness, accuracy and occurrence of expenditure transactions by:</p> <ul style="list-style-type: none"> <li>• Evaluating the design and implementation effectiveness of the accounts payable process</li> <li>• Testing a sample of transactions incurred around the year end to ensure these have been accounted for in the appropriate financial period</li> <li>• Testing a sample of accruals made at year end that have not yet been invoiced to assess whether the valuation has been calculated on an appropriate basis.</li> </ul>

# Significant risks identified

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
Management over-ride of controls	<p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities.</p> <p>We therefore identified management override of control, in particular journals, management estimates and transactions outside the course of business as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>We will:</p> <ul style="list-style-type: none"> <li>• evaluate the design effectiveness of management controls over journals;</li> <li>• analyse the journals listing and determine the criteria for selecting high risk unusual journals;</li> <li>• test unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration;</li> <li>• gain an understanding of the accounting estimates and critical judgements applied made by management and consider their reasonableness with regard to corroborative evidence; and</li> <li>• evaluate the rationale for any changes in accounting policies, estimates or significant unusual transactions.</li> </ul>
Valuation of land and buildings (Rolling Revaluation)	<p>The Council revalues its land and buildings on a rolling basis, with assets physically inspected at least once every five years, to ensure that the carrying value is not materially different from the current value or fair value (for surplus assets) at the date of the financial statements. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved and the sensitivity of this estimate to changes in key assumptions.</p> <p>Management have engaged the services of a valuer to estimate the current value as at 31 March 2021.</p> <p>We therefore identified valuation of land and buildings, particularly revaluations and impairments, as a significant risk, which was one of the most significant assessed risks of material misstatement, and a key audit matter.</p>	<p>We will:</p> <ul style="list-style-type: none"> <li>• evaluate management's processes and assumptions for the calculation of the estimate, the instructions issued to the valuation experts and the scope of their work</li> <li>• evaluate the competence, capabilities and objectivity of the valuation expert</li> <li>• discuss with the valuer the basis on which the valuations were carried out</li> <li>• challenge the information and assumptions used by the valuer to assess completeness and consistency with our understanding</li> <li>• test, on a sample basis, revaluations made during the year to ensure they have been input correctly into the Council's asset register</li> <li>• evaluate the assumptions made by management for any assets not revalued during the year and how management has satisfied themselves that these are not materially different to current value</li> </ul>

# Significant risks identified

Risk	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of Investment Properties	<p>The Council revalues its investment properties annually. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (£66.3m) and the sensitivity of this estimate to changes in key assumptions.</p> <p>We therefore identified valuation of Investment Properties, particularly revaluations and impairments, as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>We will:</p> <ul style="list-style-type: none"> <li>• evaluate management's processes and assumptions for the calculation of the estimate, the instructions issued to the valuation experts and the scope of their work</li> <li>• evaluate the competence, capabilities and objectivity of the valuation expert</li> <li>• write to the valuer to confirm the basis on which the valuations were carried out</li> <li>• challenge the information and assumptions used by the valuer to assess completeness and consistency with our understanding</li> <li>• test, on a sample basis, revaluations made during the year to ensure they have been input correctly into the Council's asset register</li> </ul>
Valuation of the pension fund net liability	<p>The Council's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements.</p> <p>The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£427m in its balance sheet) and the sensitivity of the estimate to changes in key assumptions.</p> <p>We therefore identified valuation of the Council's pension fund net liability as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>We will:</p> <ul style="list-style-type: none"> <li>• update our understanding of the processes and controls put in place by management to ensure that the Council's pension fund net liability is not materially misstated and evaluate the design of the associated controls;</li> <li>• evaluate the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work;</li> <li>• assess the competence, capabilities and objectivity of the actuary who carried out the Council's pension fund valuation;</li> <li>• assess the accuracy and completeness of the information provided by the Council to the actuary to estimate the liability;</li> <li>• test the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary;</li> <li>• undertake procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report; and</li> <li>• obtain assurances from the auditor of Somerset Pension Fund as to the controls surrounding the validity and accuracy of membership data; contributions data and benefits data sent to the actuary by the pension fund and the fund assets valuation in the pension fund financial statements.</li> </ul>

# Accounting estimates and related disclosures

The Financial Reporting Council issued an updated ISA (UK) 540 (revised): *Auditing Accounting Estimates and Related Disclosures* which includes significant enhancements in respect of the audit risk assessment process for accounting estimates. We identified a recommendation in our 2019/20 audit in relation to the Council's estimation process for valuation of investment properties.

## Introduction

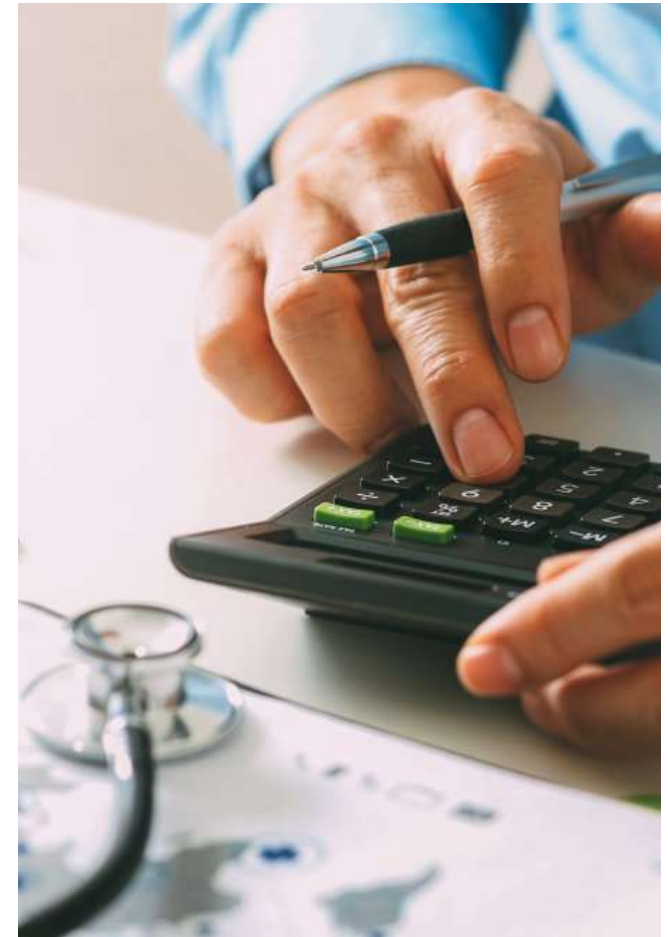
Under ISA (UK) 540 (Revised December 2018) auditors are required to understand and assess an entity's internal controls over accounting estimates, including:

- The nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates;
- How management identifies the need for and applies specialised skills or knowledge related to accounting estimates;
- How the entity's risk management process identifies and addresses risks relating to accounting estimates;
- The entity's information system as it relates to accounting estimates;
- The entity's control activities in relation to accounting estimates; and
- How management reviews the outcomes of previous accounting estimates.

As part of this process auditors also need to obtain an understanding of the role of those charged with governance, which is particularly important where the estimates have high estimation uncertainty, or require significant judgement.

Specifically do Governance and Ethics Committee members:

- Understand the characteristics of the methods and models used to make the accounting estimates and the risks related to them;
- Oversee management's process for making accounting estimates, including the use of models, and the monitoring activities undertaken by management; and
- Evaluate how management made the accounting estimates?





# Accounting estimates and related disclosures

## Additional information that will be required

To ensure our compliance with this revised auditing standard, we will be requesting further information from management and those charged with governance during our audit for the year ended 31 March 2021.

Based on our knowledge of the Council we have identified the following material accounting estimates for which this is likely to apply:

- Valuations of land and buildings, council dwellings and investment properties
- Depreciation
- Year end provisions and accruals, specifically for Non Domestic Rate Appeals
- Credit loss and impairment allowances
- Valuation of defined benefit net pension fund liabilities
- Fair value estimates

## The Council's Information systems

In respect of the Council's information systems we are required to consider how management identifies the methods, assumptions and source data used for each material accounting estimate and the need for any changes to these. This includes how management selects, or designs, the methods, assumptions and data to be used and applies the methods used in the valuations.

When the models used include increased complexity or subjectivity, as is the case for many valuation models, auditors need to understand and assess the controls in place over the models and the data included therein. Where adequate controls are not in place we may need to report this as a significant control deficiency and this could affect the amount of detailed substantive testing required during the audit.

If management has changed the method for making an accounting estimate we will need to fully understand management's rationale for this change. Any unexpected changes are likely to raise the audit risk profile of this accounting estimate and may result in the need for additional audit procedures.

We are aware that the Council uses management experts in deriving some of its more complex estimates, e.g. asset valuations and pensions liabilities. However, it is important to note that the use of management experts does not diminish the responsibilities of management and those charged with governance to ensure that:

- All accounting estimates and related disclosures included in the financial statements have been prepared in accordance with the requirements of the financial reporting framework, and are materially accurate;
- There are adequate controls in place at the Council (and where applicable its service provider or management expert) over the models, assumptions and source data used in the preparation of accounting estimates.



### Estimation uncertainty

Under ISA (UK) 540 we are required to consider the following:

- How management understands the degree of estimation uncertainty related to each accounting estimate; and
- How management address this estimation uncertainty when selecting their point estimate.

For example, how management identified and considered alternative, methods, assumptions or source data that would be equally valid under the financial reporting framework, and why these alternatives were rejected in favour of the point estimate used.

The revised standard includes increased emphasis on the importance of the financial statement disclosures. Under ISA (UK) 540 (Revised December 2018), auditors are required to assess whether both the accounting estimates themselves and the related disclosures are reasonable.

Where there is a material uncertainty, that is where there is a significant risk of a material change to the estimated carrying value of an asset or liability within the next year, there needs to be additional disclosures. Note that not all material estimates will have a material uncertainty and it is also possible that an estimate that is not material could have a risk of material uncertainty.

Where there is material estimation uncertainty, we would expect the financial statement disclosures to detail:

- What the assumptions and uncertainties are;
- How sensitive the assets and liabilities are to those assumptions, and why;
- The expected resolution of the uncertainty and the range of reasonably possible outcomes for the next financial year; and
- An explanation of any changes made to past assumptions if the uncertainty is unresolved.

### Planning enquiries

As part of our planning risk assessment procedures we have made enquiries of management to obtain an understanding of managerial processes and the Council's oversight in a number of key areas including fraud, related parties and Accounting Estimates. Management have responded to this enquiry and these will need to be approved by members.

### Further information

Further details on the requirements of ISA (UK) 540 (Revised December 2018) can be found in the auditing standard on the Financial Reporting Council's website:

[https://www.frc.org.uk/getattachment/0fa69c03-49ec-49ae-a8c9-cc7a2b65382a/ISA-\(UK\)-540\\_Revised-December-2018\\_final.pdf](https://www.frc.org.uk/getattachment/0fa69c03-49ec-49ae-a8c9-cc7a2b65382a/ISA-(UK)-540_Revised-December-2018_final.pdf)

# Other matters

## Other work

In addition to our responsibilities under the Code of Practice, we have a number of other audit responsibilities, as follows:

- We read your Narrative Report and Annual Governance Statement and any other information published alongside your financial statements to check that they are consistent with the financial statements on which we give an opinion and our knowledge of the Council.
- We carry out work to satisfy ourselves that disclosures made in your Annual Governance Statement are in line with requirements set by CIPFA.
- We carry out work on your consolidation schedules for the Whole of Government Accounts process in accordance with NAO group audit instructions.
- We consider our other duties under legislation and the Code, as and when required, including:
  - giving electors the opportunity to raise questions about your 2020/21 financial statements, consider and decide upon any objections received in relation to the 2020/21 financial statements;
  - issuing a report in the public interest or written recommendations to the Council under section 24 of the Local Audit and Accountability Act 2014 (the Act).
  - application to the court for a declaration that an item of account is contrary to law under section 28 or a judicial review under section 31 of the Act
  - issuing an advisory notice under section 29 of the Act
- We certify completion of our audit.

## Other material balances and transactions

Under International Standards on Auditing, "irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance and disclosure". All other material balances and transaction streams will therefore be audited. However, the procedures will not be as extensive as the procedures adopted for the risks identified in this report.

## Going concern

As auditors, we are required to obtain sufficient appropriate audit evidence regarding, and conclude on:

- whether a material uncertainty related to going concern exists; and
- the appropriateness of management's use of the going concern basis of accounting in the preparation of the financial statements.

The Public Audit Forum has been designated by the Financial Reporting Council as a "SORP-making body" for the purposes of maintaining and updating Practice Note 10: Audit of financial statements and regularity of public sector bodies in the United Kingdom (PN 10). It is intended that auditors of public sector bodies read PN 10 in conjunction with (ISAs) (UK).

PN 10 has recently been updated to take account of revisions to ISAs (UK), including ISA (UK) 570 on going concern. The revisions to PN 10 in respect of going concern are important and mark a significant departure from how this concept has been audited in the public sector in the past. In particular, PN 10 allows auditors to apply a 'continued provision of service approach' to auditing going concern, where appropriate. Applying such an approach should enable us to increase our focus on wider financial resilience (as part of our VfM work) and ensure that our work on going concern is proportionate for public sector bodies. We will review the Council's arrangements for securing financial sustainability as part of our Value for Money work and provide a commentary on this in our Auditor's Annual Report (see page 15).

# Materiality

## The concept of materiality

Materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law. Misstatements, including omissions, are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

## Materiality for planning purposes

We have determined financial statement materiality based on a proportion of the gross expenditure of the Council for the financial year. In the prior year we used the same benchmark. Materiality at the planning stage of our audit is £5.15m (PY £4.3m) for the Council, which equates to 1.25% of your forecast gross expenditure for the year.

We reconsider planning materiality if, during the course of our audit engagement, we become aware of facts and circumstances that would have caused us to make a different determination of planning materiality.

## Matters we will report to the Governance and Ethics Committee

Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Governance and Ethics Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work. Under ISA 260 (UK) 'Communication with those charged with governance', we are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. ISA 260 (UK) defines 'clearly trivial' as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria. In the context of the Council, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £255k (PY £215k).

If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Governance and Ethics Committee to assist it in fulfilling its governance responsibilities.

## gross operating costs

£412.516m Council  
(PY: £360.241M)



- Gross operating costs
- Materiality

## Materiality

£5.15m  
Council financial  
statements  
materiality  
(PY: £4.3m)



£255k  
Misstatements  
reported to the  
Governance and  
Ethics Committee  
(PY: £215k)

# Value for Money arrangements

## Revised approach to Value for Money work for 2020/21

On 1 April 2020, the National Audit Office introduced a new Code of Audit Practice which comes into effect from audit year 2020/21. The Code introduced a revised approach to the audit of Value for Money. (VFM)

There are three main changes arising from the NAO's new approach:

- A new set of key criteria, covering financial sustainability, governance and improvements in economy, efficiency and effectiveness
- More extensive reporting, with a requirement on the auditor to produce a commentary on arrangements across all of the key criteria, rather than the current 'reporting by exception' approach
- The replacement of the binary qualified / unqualified approach to VFM conclusions, with far more sophisticated judgements on performance, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

The Code require auditors to consider whether the body has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. When reporting on these arrangements, the Code requires auditors to structure their commentary on arrangements under three specified reporting criteria. These are as set out below:



### Improving economy, efficiency and effectiveness

Arrangements for improving the way the body delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.



### Financial Sustainability

Arrangements for ensuring the body can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years)



### Governance

Arrangements for ensuring that the body makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the body makes decisions based on appropriate information



# Risks of significant VFM weaknesses

As part of our planning work, we considered whether there were any risks of significant weakness in the body's arrangements for securing economy, efficiency and effectiveness in its use of resources that we needed to perform further procedures on. At this stage we have not identified any risks, however we have identified a number of areas of focus, which are detailed below. We may need to make recommendations following the completion of our work. The potential different types of recommendations we could make are set out in the second table below

## Key Areas of Focus

Those areas requiring audit consideration and procedures to address the likelihood that proper arrangements are not in place at the body to deliver value for money.

- Governance - to ensure emergency decisions could be taken at short notice, the Council gave delegated authority to the Leader and Chief Executive during 2020/21. There is a risk that the use of these delegated powers was not appropriately monitored and reviewed in a timely way. We will review the delegated powers to understand their limits and the processes in place to monitor and review the appropriateness of their continued use.
- Financial sustainability - the Council's continued management of the medium term financial position including ensuring that reserves remain sufficiently robust to manage any short term impacts from unexpected costs or reduction in funding. We will review the Council's financial management processes including the budget process and reporting to those charged with governance to ensure that these are based on relevant assumptions and provide sufficient oversight and challenge.
- Improving economy, efficiency and effectiveness - continued review of demand led services to ensure any actions and assumptions outlined in the budget setting process are being addressed and that any additional expenditure is appropriately scrutinised by management and members. We will review how management and members use financial and performance information to identify areas for improvements and how it assesses performance against identified improvement targets.

## Potential types of recommendations

A range of different recommendations could be made following the completion of work on risks of significant weakness, as follows:



### Statutory recommendation

Written recommendations to the body under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the body to discuss and respond publicly to the report.



### Key recommendation

The Code of Audit Practice requires that where auditors identify significant weaknesses in arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the body. We have defined these recommendations as 'key recommendations'.



### Improvement recommendation

These recommendations, if implemented should improve the arrangements in place at the body, but are not made as a result of identifying significant weaknesses in the body's arrangements

# Audit logistics and team



## Iain Murray, Key Audit Partner

Iain leads our relationship with you and is a key contact for the Chief Executive, Executive Director (Resources) and the Governance and Ethics Committee. Iain takes overall responsibility for the delivery of a high-quality audit, meeting the highest professional standards and adding value to the Council



## David Johnson, Audit Manager

David's role involves overseeing the day-to-day planning and execution of the audit, ensuring the audit requirements are fully complied with and producing reports for the Governance and Ethics Committee. He will respond to ad-hoc queries whenever raised and meet regularly with the Executive Director (Resources) and members of the finance team.

## Chrissa Viente, Audit Incharge

Chrissa's role will be to act as the day-to-day contact for the Finance staff. She will take responsibility for ensuring there is effective communication and understanding of audit requirements.

## Audited body responsibilities

Where audited bodies do not deliver to the timetable agreed, we need to ensure that this does not impact on audit quality or absorb a disproportionate amount of time, thereby disadvantaging other audits. Where the elapsed time to complete an audit exceeds that agreed due to a client not meeting its obligations we will not be able to maintain a team on site. Similarly, where additional resources are needed to complete the audit due to a client not meeting their obligations we are not able to guarantee the delivery of the audit to the agreed timescales. In addition, delayed audits will incur additional audit fees.

## Our requirements

To minimise the risk of a delayed audit, you need to ensure that you:

- produce draft financial statements of good quality by the agreed timetable you have agreed with us, including all notes, the Narrative Report and the Annual Governance Statement
- ensure that good quality working papers are available at the start of the audit, in accordance with the working paper requirements schedule that we have shared with you
- ensure that the agreed data reports are available to us at the start of the audit and are reconciled to the values in the accounts, in order to facilitate our selection of samples for testing
- ensure that all appropriate staff are available on site throughout (or as otherwise agreed) the planned period of the audit
- respond promptly and adequately to audit queries.

# Audit fees

PSAA awarded a contract of audit for West Berkshire Council to begin with effect from 2018/19. The fee agreed in the contract was £74,423. Since that time, there have been a number of developments, particularly in relation to the revised Code and ISA's which are relevant for the 2020/21 audit.

As referred to on page 16, the 2020/21 Code introduces a revised approach to our VFM work. This requires auditors to produce a commentary on arrangements across all of the key criteria, rather than the current 'reporting by exception' approach. Auditors now have to make far more sophisticated judgements on performance, as well as issue key recommendations if any significant weaknesses in arrangements are identified during the audit. We will be working with the NAO and other audit firms to discuss and share learning in respect of common issues arising across the sector.

The new approach will be more challenging for audited bodies, involving discussions at a wider and more strategic level. Both the reporting, and the planning and risk assessment which underpins it, will require more audit time, delivered through a richer skill mix than in previous years. Our estimate is that for your audit, this will result in an increased fee of £26,000. This is in line with increases we are proposing at all our local audits.

Additionally, across all sectors and firms, the FRC has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing, as noted in the number of revised ISA's issued by the FRC that are applicable to audits of financial statements commencing on or after 15 December 2019, as detailed in Appendix 1..

As a firm, we are absolutely committed to meeting the expectations of the FRC with regard to audit quality and public sector financial reporting. We have engaged an audit expert to improve the level of assurance we require for property valuations estimates, which has been included in our proposed audit fee. Our proposed work and fee for 2020/21, as set out below, is detailed overleaf and has been discussed with the Executive Director for Resources and is subject to PSAA agreement.

	Actual Fee 2018/19	Actual Fee 2019/20	Proposed fee 2020/21
West Berkshire Council Audit	£119,773	£109,273	£131,523
Total audit fees (excluding VAT)	£119,773	£109,273	*£131,523

\* Any changes to the 2020/21 scale fee will need to be approved by PSAA

## Assumptions

In setting the above fees, we have assumed that the Council will:

- prepare a good quality set of accounts, supported by comprehensive and well presented working papers which are ready at the start of the audit
- provide appropriate analysis, support and evidence to support all critical judgements and significant judgements made during the course of preparing the financial statements
- provide early notice of proposed complex or unusual transactions which could have a material impact on the financial statements.

## Relevant professional standards

In preparing our fee estimate, we have had regard to all relevant professional standards, including paragraphs 4.1 and 4.2 of the FRC's [Ethical Standard \(revised 2019\)](#) which stipulate that the Engagement Lead (Key Audit Partner) must set a fee sufficient to enable the resourcing of the audit with partners and staff with appropriate time and skill to deliver an audit to the required professional and Ethical standards.



# Audit fees – detailed analysis

Scale fee published by PSAA	£74,423
<i>Ongoing increases to scale fee first identified in 2019/20</i>	
Reduction in materiality level as a result of issues and misstatements identified in prior years leading to increased sample sizes for transactional testing	£3,000
Enhanced audit procedures for Property, Plant and Equipment	£9,350
Enhanced audit procedures for Pensions	£1,750
<i>New issues for 2020/21</i>	
Additional work on Value for Money (VfM) under new NAO Code	£26,000
Increased audit requirements of revised ISAs	£17,000
<b>Total audit fees (excluding VAT)</b>	<b>£131,523</b>

# Independence and non-audit services

## Auditor independence

Ethical Standards and ISA (UK) 260 require us to give you timely disclosure of all significant facts and matters that may bear upon the integrity, objectivity and independence of the firm or covered persons relating to our independence. We encourage you to contact us to discuss these or any other independence issues with us. We will also discuss with you if we make additional significant judgements surrounding independence matters.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard (Revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

We confirm that we have implemented policies and procedures to meet the requirements of the Ethical Standard. For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Council.

## Other services

The following other services provided by Grant Thornton were identified

The amounts detailed are fees agreed to-date for audit related and non-audit services to be undertaken by Grant Thornton UK LLP in the current financial year. These services are consistent with the Council's policy on the allotment of non-audit work to your auditors. Any changes and full details of all fees charged for audit related and non-audit related services by Grant Thornton UK LLP and by Grant Thornton International Limited network member Firms will be included in our Audit Findings report at the conclusion of the audit.

None of the services provided are subject to contingent fees.

Service	Fees £	Threats	Safeguards
Audit related			
Certification of Teacher's Pension return	5,000	Self-Interest (because this is a recurring fee)	The level of this recurring fee taken on its own is not considered a significant threat to independence as the fee for this work is £4,200 in comparison to the total fee for the audit and in particular relative to Grant Thornton UK LLP's turnover overall. Further, it is a fixed fee and there is no contingent element to it. These factors all mitigate the perceived self-interest threat to an acceptable level.









# Appendix 1: Revised Auditor Standards and application guidance

## FRC revisions to Auditor Standards and associated application guidance




The following Auditing Standards and associated application guidance that were applicable to 19/20 audits, have been revised or updated by the FRC, with additional requirements for auditors for implementation in 2020/21 audits and beyond.

	Date of revision	Application to 2020/21 Audits
ISQC (UK) 1 – Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and other Assurance and Related Service Engagements	November 2019	
ISA (UK) 200 – Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing (UK)	January 2020	
ISA (UK) 220 – Quality Control for an Audit of Financial Statements	November 2019	
ISA (UK) 230 – Audit Documentation	January 2020	
ISA (UK) 240 – The Auditor’s Responsibilities Relating to Fraud in an Audit of Financial Statements	January 2020	
ISA (UK) 250 Section A – Consideration of Laws and Regulations in an Audit of Financial Statements	November 2019	
ISA (UK) 250 Section B – The Auditor’s Statutory Right and Duty to Report to Regulators of Public Interest Entities and Regulators of Other Entities in the Financial Sector	November 2019	

# Appendix 1: Revised Auditor Standards and application guidance continued

	Date of revision	Application to 2020/21 Audits
ISA (UK) 260 – Communication With Those Charged With Governance	January 2020	
ISA (UK) 315 – Identifying and Assessing the Risks of Material Misstatement Through Understanding of the Entity and Its Environment	July 2020	
ISA (UK) 500 – Audit Evidence	January 2020	
ISA (UK) 540 – Auditing Accounting Estimates and Related Disclosures	December 2018	
ISA (UK) 570 – Going Concern	September 2019	
ISA (UK) 580 – Written Representations	January 2020	
ISA (UK) 600 – Special considerations – Audits of Group Financial Statements (Including the Work of Component Auditors)	November 2019	
ISA (UK) 620 – Using the Work of an Auditor’s Expert	November 2019	
ISA (UK) 700 – Forming an Opinion and Reporting on Financial Statements	January 2020	

# Appendix 1: Revised Auditor Standards and application guidance continued

	Date of revision	Application to 2020/21 Audits
ISA (UK) 701 – Communicating Key Audit Matters in the Independent Auditor’s Report	January 2020	
ISA (UK) 720 – The Auditor’s Responsibilities Relating to Other Information	November 2019	
Practice Note 10: Audit of Financial Statements of Public Sector Bodies in the United Kingdom	December 2020	



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# Financial Year 2021/22 Mid-Year Treasury Report

<b>Committee considering report:</b>	Governance and Ethics Committee
<b>Date of Committee:</b>	17 <sup>th</sup> January 2022
<b>Portfolio Member:</b>	Councillor Ross Mackinnon
<b>Date Head of Service agreed report:</b> <i>(for Corporate Board)</i>	24.11.2021
<b>Date Portfolio Member agreed/sent report:</b>	3.12.2021
<b>Report Author:</b>	Shannon Coleman-Slaughter
<b>Forward Plan Ref:</b>	

## 1 Purpose of the Report

The Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice (the CIPFA Code) which requires the Council to approve treasury management semi-annual and annual reports. This report provides an overview of the treasury management activity for financial year 2021/22 as at 30th September 2021.

## 2 Recommendation(s)

This report is to note only. The Section 151 Officer is satisfied that treasury management practices in year have operated in accordance with the approved performance management criteria.

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	The Treasury function is responsible for the daily cash flow management of the Council. Income from investments contributes to the Council's annual budget. Bank Rate, has been held at 0.1%, therefore interest earned from short-dated money market investments is lower than in prior financial years. The loss in investment income is currently being offset through cheaper borrowing costs, facilitated through the strategy of undertaking short-term borrowing to fund the approved capital programme, opposed to long term debt

	financing usually procured from the Public Works and Loan Board.			
<b>Human Resource:</b>	Not applicable			
<b>Legal:</b>	Not applicable			
<b>Risk Management:</b>	The Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice (the CIPFA Code) which requires the Council to approve an annual treasury management strategy. All investments are undertaken with a view to minimising the risk of financial loss. The Investment and Borrowing Strategy approved by the Council sets parameters to ensure this. Key treasury indicators are adopted as part of the annual strategy and compliance with these indicators is detailed in sections 7.3 and 7.4 of this report.			
<b>Property:</b>	Not applicable			
<b>Policy:</b>	Not applicable			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		



<b>Environmental Impact:</b>		X		
<b>Health Impact:</b>		X		
<b>ICT Impact:</b>		X		
<b>Digital Services Impact:</b>		X		
<b>Council Strategy Priorities:</b>	X			The treasury function supports the delivery of the Council Strategy through the financing of the Council's approved Capital Programme and monitoring of Council cash flows.
<b>Core Business:</b>		X		
<b>Data Impact:</b>		X		
<b>Consultation and Engagement:</b>	Joseph Holmes – Director of Resources Cllr Ross Mackinnon – Portfolio Holder for Finance Treasury Management Group			

## 4 Executive Summary

- 4.1 The Council's Investment and Borrowing Strategy for 2021/22 was approved at a meeting on 2nd March 2021. The Council has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates.
- 4.2 On 31st March 2021, the Council had a Capital Financing Requirement (CFR) of £273.2 million (i.e. the underlying need to borrow for capital purposes is measured by the CFR, while usable reserves and working capital are the underlying resources available for investment). The Council's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans should the Council's long-term plans change being a secondary objective. In keeping with this objective, with short-term interest rates remaining much lower than long-term rates and temporary investments earning Bank Rate or lower, it has been considered to be more cost effective in the near term to use borrowed rolling temporary / short-term loans. At 30th September 2021 the Council held £194.6 million of loans, as part of its strategy for funding previous and current years' capital programmes. The Council's borrowing position is summarised in the table below.

Borrowing Position as at 30th September 2021	31.3.21	Net Movement	30.9.21
	Balance		Balance
	£m	£m	£m
Public Works Loan Board	-£196.5	£2.7	-£193.7
Community Bond	-£1.0	£0.1	-£0.9
<b>Total borrowing</b>	<b>-£197.5</b>	<b>£2.8</b>	<b>-£194.6</b>

- 4.3 The Council holds invested funds, representing income received in advance of expenditure plus balances and reserves held. During the year to 30th September 2021, the Council's investment balances have ranged between £39.8m and £72.6 million due to timing differences between income and expenditure. The investment position as at 30<sup>th</sup> September 2021 compared to 31<sup>st</sup> March 2021 is shown in the table below.

Investment Summary	31.3.21	Net	30.9.21
	Balance	Movement	Balance
	£m	£m	£m
Banks & Building Societies (Unsecured)	£12.9	-£0.5	£12.4
Government (Incl. Local Authorities)	£14.0	£21.0	£35.0
Money Market Funds	£8.2	-£3.2	£5.0
<b>Total investments</b>	<b>£35.1</b>	<b>£17.3</b>	<b>£52.4</b>

- 4.4 In respect of the economic outlook moving forward the corporate world is still adjusting to the economic shock of the coronavirus pandemic, as a result investment income is set against a very different economic backdrop. Bank Rate, has been held at 0.1%, therefore interest earned from short-dated money market investments is lower than in prior financial years. The loss in investment income is currently being offset through cheaper borrowing costs, facilitated through the strategy of undertaking short-term borrowing to fund the approved capital programme, opposed to long term debt financing usually procured from the Public Works and Loan Board.
- 4.5 In respect of non-treasury investment assets, at the 31st March 2021 the Council held £65.7m of investments in directly owned property categorised as follows:
- Directly owned property (commercial property) £54.2 million, details in appendix C. This is property that the Council has borrowed specifically to fund the purchase.
  - Directly owned property (investment property) £11.5 million, details included in appendix D. This is property that the Council holds as an investment property but the purchase has not been funded by borrowing. In most cases the property has been inherited from Berkshire County Council or Newbury District Council upon the formation of West Berkshire District Council in 1998.
- 4.6 Due to the nature of direct investment in property there is additional risk that the value of the investment may change. In respect of commercial property, this risk is carried alongside the risk of voids and no rental income being recovered adversely impacting on achievable rates of return. These risks are managed through allocation of General Fund Reserve to Earmarked Reserves as part of annual budget setting processes.

These earmarked funds are released against the General Fund at year end to compensate for any voids and reductions in income achieved. For financial year 2021/22 it is forecast as part of the revenue budget monitoring position at Quarter Two that £305k will be released from reserves to offset pressure against Commercial Property budgets.

## 5 Supporting Information

### Introduction

- 5.1 The Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice (the CIPFA Code) which requires the Council to approve treasury management semi-annual and annual reports. This report provides an overview of the treasury management activity for financial year 2021/22 as at 30<sup>th</sup> September 2021.
- 5.2 The Council's treasury management strategy for 2021/22 was approved at a meeting on 2nd March 2020. The Council has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk remains central to the Council's Investment and Borrowing Strategy.

### Background

- 5.3 **Economic background:** The economic recovery from coronavirus pandemic continued to dominate the first half of the financial year. The Bank of England (BoE) held Bank Rate at 0.1% throughout the period and maintained its Quantitative Easing programme at £895 billion, unchanged since the November 2020 meeting. In its September 2021 policy announcement, the BoE noted it now expected the UK economy to grow at a slower pace than was predicted in August, as the pace of the global recovery had shown signs of slowing and there were concerns inflationary pressures may be more persistent. Within the announcement, Bank expectations for GDP growth for the third (calendar) quarter were revised down to 2.1% (from 2.9%), in part reflecting tighter supply conditions. The path of CPI inflation is now expected to rise slightly above 4% in the last three months of 2021, due to higher energy prices and core goods inflation. A full appraisal of the economic position from the Council's external treasury advisors Arlingclose is contained in appendix A.
- 5.4 **Local Context:** On 31<sup>st</sup> March 2021, the Council had net borrowing of £162.5m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in the table below which is based on the Council's 2020/21 draft financial statements.

Capital Financing Requirement	31.3.2021 Actual £m
General Fund CFR	£273.2
Less: Other debt liabilities*: Waste PFI	-£12.2
<b>Loans CFR</b>	<b>£261.0</b>
External borrowing	-£197.5
<b>Internal borrowing</b>	<b>£63.5</b>
Less: Usable reserves	-£99.6
Less: Working capital	£1.1
<b>Net investments</b>	<b>-£35.0</b>

\* finance leases, PFI liabilities and transferred debt that form part of the Council's total debt

5.5 Lower official interest rates have lowered the cost of short-term, temporary loans and investment returns from cash assets that can be used in lieu of borrowing. The Council has pursued its strategy of keeping borrowing and investments below their underlying levels, sometimes known as internal borrowing, in order to reduce risk. The treasury management position on 30th September 2021 and the change over the six months is shown in the table below.

5.6 **Borrowing Update:** Local authorities can borrow from the Public Works and Loan Board (PWLB) provided they can confirm they are not planning to purchase 'investment assets primarily for yield' in the current or next two financial years, with confirmation of the purpose of capital expenditure from the Section 151 Officer. Councils that are purchasing or intending to purchase investment assets primarily for yield will not be able to access the PWLB except to refinance existing loans or externalise internal borrowing. Acceptable use of PWLB borrowing includes servicing expenditure on operational assets, housing, regeneration, preventative action, and treasury management e.g. refinancing of existing debt. Further changes to the CIPFA Prudential Code expected in December 2021 are likely to prohibit borrowing for the primary purpose of commercial return even where the source of borrowing is not the PWLB. The Council is not planning to purchase any investment assets primarily for yield within the next three years and so is able fully access the PWLB. Details of PWLB revised guidance is included in appendix B.

#### **Borrowing Position as at 30<sup>th</sup> September 2021:**

5.7 The Council's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans should the Council's long-term plans change being a secondary objective. In keeping with these objectives no new borrowing was undertaken. This strategy enabled the Council to reduce net borrowing costs (despite foregone investment income) and reduce overall treasury risk. At 30th September 2021 the Council held £194.6m of loans, a decrease of £2.8m from 31st March 2021 due to annuity payments made in the period. Outstanding loans on 30th September are summarised in Table 3 below.

Borrowing Position as at 30th September 2021	31.3.21	Net Movement	30.9.21	30.9.21	30.9.21
	Balance		Balance	Weighted Average	Weighted Average
	£m		£m	Rate	Maturity
				%	(years)
Public Works Loan Board	-£196.5	£2.7	-£193.7	3.35	31
Community Bond	-£1.0	£0.1	-£0.9	1.2	4
<b>Total borrowing</b>	<b>-£197.5</b>	<b>£2.8</b>	<b>-£194.6</b>	<b>3.34</b>	<b>30.9</b>

5.8 **Other Debt Activity:** Although not classified as borrowing, the Council also has a Private Finance Initiative (PFI) in respect of the Padworth Waste Recycling Facility. This debt, which is included in the total borrowing shown on the Council's balance sheet, stood at £11.9 million at end of September 2020. (Repayments of this debt are included in the monthly waste contract charges, which are paid from the revenue budget for waste management).

**Treasury Management Activity 1<sup>st</sup> April 2021 – 30<sup>th</sup> September 2021:**

5.9 The Council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held. During the year to date, the Council's investment balances ranged between £39.8m and £72.6 million due to timing differences between income and expenditure, as detailed in the table below.

Investment Summary	31.3.21	Net	30.9.21	30.9.21	30.9.21
	Balance	Movement	Balance	Income Return	Weighted Average Maturity
	£m	£m	£m	%	days
Banks & Building Societies (Unsecured)	£12.9	-£0.5	£12.4	0.02	1
Government (Incl. Local Authorities)	£14.0	£21.0	£35.0	0.03	118
Money Market Funds	£8.2	-£3.2	£5.0	0.02	1
<b>Total investments</b>	<b>£35.1</b>	<b>£17.3</b>	<b>£52.4</b>	<b>0.03</b>	<b>79</b>

5.10 Both the CIPFA Code and government guidance require the Council to invest its funds prudently, and to have regard to the security and liquidity of its treasury investments before seeking the optimum rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.

**Non Treasury Investments:**

5.11 The definition of investments in CIPFA's revised Treasury Management Code now covers all the financial assets of the Council as well as other non-financial assets which the Council holds primarily for financial return. This is replicated in the Investment Guidance issued by the Department for Levelling Up, Housing and Communities, in which the definition of investments is further broadened to also include all such assets held partially for financial return. At the 31st March 2021 the Council held £65.7m of such investments in directly owned property categorised as follows:

- (a) Directly owned property (commercial property) £54.2 million, details in appendix C. This is property that the Council has borrowed specifically to fund the purchase.
- (b) Directly owned property (investment property) £11.5 million, details included in appendix D. This is property that the Council holds as an investment property but the purchase has not been funded by borrowing. In most cases the property has been inherited from Berkshire County Council or Newbury District Council upon the formation of West Berkshire District Council in 1998.

5.12 The estimated rate of return on these investments for 2021/22 is summarised in the table below. The rate of return is based on the latest valuation of the properties at the 31st March 2021. The estimated net income for 2021/22 is based on budget monitoring as at the 30th September 2021. The rate of return does not include the change in value of the properties during the period.

Directly Owned Property (Commercial Property)	£'000
Valuation at 31 <sup>st</sup> March 2021	54,185
Estimated 21/22 net income	-2,744
<b>Rate of return, excluding MRP and interest</b>	<b>5.06%</b>
MRP costs 21/22	649
Interest costs 21/22	1,529
Estimated 21/22 outturn estimate, net of MRP and interest	-566
<b>Rate of return, after MRP and interest</b>	<b>1.04%</b>

Directly Owned Property (Investment Property)	£'000
Valuation at 31 <sup>st</sup> March 2021	11,505
Estimated 21/22 net income	-499
<b>Rate of return, excluding MRP and interest</b>	<b>4.34%</b>

Directly Owned Property (Commercial & Investment Combined)	£'000
Valuation at 31 <sup>st</sup> March 2021	65,690
Estimated 21/22 net income	-3,243
<b>Rate of return, excluding MRP and interest</b>	<b>4.94%</b>
MRP costs 21/22	649
Interest costs 21/22	1,529
Estimated 21/22 outturn estimate, net of MRP and interest	-1,065
<b>Rate of return, after MRP and interest</b>	<b>1.62%</b>

5.13 The rate of return shown in table above does not include the change in value of the properties during the period. Due to the nature of direct investment in property there is additional risk (upside and downside) that the value of the investment may change. In respect of commercial property, this risk is carried alongside the risk of voids and no rental income being recovered adversely impacting on achievable rates of return. These risks are managed through allocation of General Fund Reserve to Earmarked Reserves as part of annual budget setting processes. These earmarked funds are released against the General Fund at year end to compensate for any voids and reductions in income achieved. For financial year 2021/22 it is forecast as part of the revenue budget monitoring position at Quarter Two that £305k will be released from reserves to offset pressure against Commercial Property budgets.

## Proposals

There are no proposals within this report.

## 6 Other options considered

Not applicable

## 7 Conclusion

- 7.1 The economic recovery from coronavirus pandemic continued to dominate the first half of the financial year. The Bank of England (BoE) held Bank Rate at 0.1% throughout the period. Anticipated shortfalls in investment income are currently being offset through cheaper than budgeted borrowing costs, through the strategy of undertaking short-term borrowing.
- 7.2 The Council measures the financial performance of its treasury management activities both in terms of its impact on the revenue budget and its relationship to benchmark interest rates, as shown in the table below:

Total Council Debt	Actual Interest Cost 01/04/21-30/09/21	Forecast Interest Cost 01/04/21-31/03/21	Budgeted Interest Cost 01/04/21-31/03/21	Performance Against Budget: Over Achievement /(Under Achievement)	Actual Interest Rate @ 30/09/21
	£'000	£'000	£'000	£'000	%
Public Works Loan Board	-805	-6,527	-6,708	181	3.35
Community Bond	-6	-11	0	-11	1.2
Total borrowing	-811	-6,358	-6,708	170	3.34
PFI Debt	-125	-748	-748	0	6.1
<b>Total debt</b>	<b>-935</b>	<b>-7,286</b>	<b>-7,456</b>	<b>170</b>	<b>3.49</b>

Total Council Investments	Actual Interest Received 01/04/21-30/09/21	Forecast Interest Income 01/04/21-31/03/21	Budgeted Interest Income 01/04/21-31/03/21	Performance Against Budget: Over Achievement /(Under Achievement)	Actual Interest Rate YTD	Benchmark Interest Rate	Over/ (Under) Achievement
	£'000	£'000	£'000	£'000	%	%	Basis Points (BPS)
Short-Term Investments	7	11	113	-102	0.03	n/a	n/a
Cash and Cash Equivalents	2	3	5	-2	0.02	n/a	n/a
<b>Total Treasury Investments</b>	<b>9</b>	<b>15</b>	<b>118</b>	<b>-103</b>	<b>0.03</b>	<b>0.09</b>	<b>-6</b>
Pre-paid pension contributions	62	123	0	123	5.1	n/a	n/a
<b>Total Treasury Investments (inc. Pre-paid pension contributions)</b>	<b>70</b>	<b>138</b>	<b>118</b>	<b>20</b>	<b>0.22</b>	<b>n/a</b>	<b>n/a</b>

- 7.3 Compliance: The S151 Officer is required to report on compliance against the adopted CIPFA Code of Practice and the Council's approved Investment and Borrowing Strategy. The Council's performance against adopted benchmarks is as follows:
- (a) Compliance with the authorised limit and operational boundary for external debt.

Authorised Limit & Operational Boundary for Debt	Maximum Invested during Reporting Period	Balances as at 30.9.2021	2021/22 Approved Operational Boundary	2021/22 Approved Authorised Limit	Complied?
	£m	£m	£m	£m	
Borrowing	£197.5	£194.6	£282.0	£292.0	Yes
PFI and Finance Leases	£12.2	£11.9	£12.0	£12.0	No
<b>Total debt</b>	<b>£209.7</b>	<b>£206.5</b>	<b>£294.0</b>	<b>£304.0</b>	<b>Yes</b>

The operational boundary is a management tool for in-year monitoring. Main debt levels (both long and short term debt) have remained within the approved boundaries. The boundary for the PFI and finance leases was breached at the start of the financial year, however, the boundary being breached on occasion due to variations in cash flow, leases ending and commencing, this is therefore not counted as a compliance failure. Total Council debt has remained within the approved boundaries during the reporting period.

(b) Compliance with approved Investment Counter Party Limits

Investment Limits	Maximum Invested during Reporting Period	Balances as at 30.9.2021	2021/22	Complied?
			Individual Counterparty Limit	
	£m	£m	£m	
Debt Management Office (DMO)	£44.0	£14.0	Unlimited	Yes
UK Local Authorities (including Police, Fire Authorities and similar bodies)	£24.0	£21.0	£5.0	Yes - Individual Limit per counterparty has not been exceeded
UK Building Societies (ranked 1-11 by asset size)	£0.0	£0.0	£5.0	Yes
UK Building Societies (ranked 12-21 by asset size)	£0.0	£0.0	£4.0	Yes
UK Building Societies (ranked 22-25 by asset size)	£0.0	£0.0	£3.0	Yes
UK Banks and other financial institutions with Moody's short term rating P1 or equivalent	£5.0	£12.4	£5.0	Yes - Individual Limit per counterparty has not been exceeded
UK Banks and other financial institutions with Moody's short term rating P2 or equivalent	£0.0	£0.0	£4.0	Yes
UK Banks and other financial institutions with Moody's short term rating P3 or equivalent	£0.0	£0.0	£3.0	Yes
UK based money market funds rated AAAmf	£5.0	£5.0	£5.0	Yes - Individual Limit per counterparty has not been exceeded
Registered Charities, Public Sector Bodies and Council owned companies, joint ventures	£0.0	£0.0	£5.0	Yes



During the reporting period the Council has not breached the approved counter party limits. Should a limit be breached it is reported to the Council’s Treasury Management Group as part of monthly performance reporting.

7.4 The Council measures and manages its exposures to treasury management risks using the following indicators:

- (a) Interest Rate Exposures: This indicator is set to control the Council’s exposure to interest rate risk. The impact of a change in interest rates is calculated on the assumption that maturing loans and investment will be replaced at current rates. The current one-year revenue impact of a 1% rise in interests would be £455k.
- (b) Maturity Structure of Borrowing: This indicator is set to control the Council’s exposure to refinancing risk. The upper and lower limits on the maturity structure of all borrowing were:

Maturity Structure	30.9.21	Upper Limit	Lower Limit	Complied?
	Actual			
Under 12 months	0.19%	0%	50%	Yes
12 months and within 24 months	0.15%	0%	50%	Yes
24 months and within 5 years	2.31%	0%	50%	Yes
5 years and within 10 years	3.81%	0%	50%	Yes
10 years and above	93.54%	0%	50%	No

The noncompliance at ten years and above relates to investment for commercial property. The financing of the Council’s capital programme in respect of servicing existing operational assets separate to commercial property has complied with the approved maturity structure.

7.5 In conclusion the Section 151 Officer is satisfied that treasury management practices in year have operated in accordance with the approved performance management criteria.

## 8 Appendices

- 8.1 Appendix A – Arlingclose Economic Outlook
- 8.2 Appendix B – Revised PWLB Guidance
- 8.3 Appendix C - Directly Owned Property – Purchase Funded via Borrowing
- 8.4 Appendix D - Directly owned Property – Purchase not Funded by Borrowing

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### Corporate Board’s recommendation

\*(add text)

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### Background Papers:

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\*(add text)

**Subject to Call-In:**

Yes:  No: X

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

**Wards affected:** \*(add text)

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**Document Control**

Document Ref:		Date Created:	
Version:		Date Modified:	
Author:			
Owning Service			

**Change History**

Version	Date	Description	Change ID
1			
2			

## Arlingclose Economic Assessment

### Perform ace to 30<sup>th</sup> September 2021

**Economic background:** The economic recovery from coronavirus pandemic continued to dominate the first half of the financial year.

The Bank of England (BoE) held Bank Rate at 0.1% throughout the period and maintained its Quantitative Easing programme at £895 billion, unchanged since the November 2020 meeting. In its September 2021 policy announcement, the BoE noted it now expected the UK economy to grow at a slower pace than was predicted in August, as the pace of the global recovery had shown signs of slowing and there were concerns inflationary pressures may be more persistent. Within the announcement, Bank expectations for GDP growth for the third (calendar) quarter were revised down to 2.1% (from 2.9%), in part reflecting tighter supply conditions. The path of CPI inflation is now expected to rise slightly above 4% in the last three months of 2021, due to higher energy prices and core goods inflation. While the Monetary Policy Committee meeting ended with policy rates unchanged.

Government initiatives continued to support the economy over the quarter but came to an end on 30<sup>th</sup> September 2021, with businesses required to either take back the 1.6 million workers on the furlough scheme or make them redundant.

The latest labour market data showed that in the three months to July 2021 the unemployment rate fell to 4.6%. The employment rate increased, and economic activity rates decreased, suggesting an improving labour market picture. Latest data showed growth in average total pay (including bonuses) and regular pay (excluding bonuses) among employees was 8.3% and 6.3% respectively over the period. However, part of the robust growth figures is due to a base effect from a decline in average pay in the spring of last year associated with the furlough scheme.

Annual CPI inflation rose to 3.2% in August, exceeding expectations for 2.9%, with the largest upward contribution coming from restaurants and hotels. The Bank of England now expects inflation to exceed 4% by the end of the calendar year owing largely to developments in energy and goods prices. The Office of National Statistics' (ONS') preferred measure of CPIH which includes owner-occupied housing was 3.0% year/year, marginally higher than expectations for 2.7%.

**Financial markets:** Monetary and fiscal stimulus together with rising economic growth and the ongoing vaccine rollout programmes continued to support equity markets over most of the period, albeit with a bumpy ride towards the end. The Dow Jones hit another record high while the UK-focused FTSE 250 index continued making gains over pre-pandemic levels.

The more internationally focused FTSE 100 saw more modest gains over the period and remains below its pre-crisis peak.

Inflation worries continued during the period. Declines in bond yields in the first quarter of the financial year suggested bond markets were expecting any general price increases to be less severe, or more transitory, that was previously thought. However, an increase in gas prices in the UK and EU, supply shortages and a dearth of HGV and lorry drivers with companies willing to pay more to secure their services, has caused problems for a range of industries and, in some instance, lead to higher prices.

## Arlingclose’s Economic Outlook for the remainder of 2021/22 (based on the October 2021 interest rate forecast)

	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24
<b>Official Bank Rate</b>													
Upside risk	0.00	0.15	0.00	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25
<b>Arlingclose Central Case</b>	<b>0.10</b>	<b>0.10</b>	<b>0.25</b>	<b>0.25</b>	<b>0.25</b>	<b>0.50</b>	<b>0.50</b>	<b>0.50</b>	<b>0.50</b>	<b>0.50</b>	<b>0.50</b>	<b>0.50</b>	<b>0.50</b>
Downside risk	0.00	0.00	0.15	0.15	0.15	0.40	0.40	0.40	0.40	0.40	0.40	0.40	0.40

England’s desire to move from emergency levels as by fears of inflationary pressure.

Investors have priced in multiple rises in Bank Rate to 1% by 2024. While Arlingclose believes Bank Rate will rise, it is by a lesser extent than expected by markets.

The global economy continues to recover from the pandemic but has entered a more challenging phase. The resurgence of demand has led to the expected rise in inflationary pressure, but disrupted factors of supply are amplifying the effects, increasing the likelihood of lower growth rates ahead. This is particularly apparent in the UK due to the impact of Brexit.

While Q2 UK GDP expanded more quickly than initially thought, the ‘pingdemic’ and more latterly supply disruption will leave Q3 GDP broadly stagnant. The outlook also appears weaker. Household spending, the driver of the recovery to date, is under pressure from a combination of retail energy price rises, the end of government support programmes and soon, tax rises. Government spending, the other driver of recovery, will slow considerably as the economy is taken off life support.

Inflation rose to 3.2% in August. A combination of factors will drive this to over 4% in the near term. While the transitory factors affecting inflation, including the low base effect of 2020, are expected to unwind over time, the MPC has recently communicated fears that these transitory factors will feed longer-term inflation expectations that require tighter monetary policy to control. This has driven interest rate expectations substantially higher.

The supply imbalances are apparent in the labour market. While wage growth is currently elevated due to compositional and base factors, stories abound of higher wages for certain sectors, driving inflation expectations. It is uncertain whether a broad-based increased in

wages is possible given the pressures on businesses.

Government bond yields have increased sharply and central banks have communicated a lower tolerance for higher inflation than previously thought. While the economic outlook will be challenging, the signals from policymakers suggest Bank Rate will rise unless data indicates a more severe slowdown.

## Appendix B

### Revised PWLB Guidance

HM Treasury published further guidance on PWLB borrowing in August 2021 providing additional detail and clarifications predominantly around the definition of an 'investment asset primarily for yield'. The principal aspects of the new guidance are:

- Capital expenditure incurred or committed to before 26<sup>th</sup> November 2020 is allowable even for an 'investment asset primarily for yield'.
- Capital plans should be submitted by local authorities via a DELTA return. These open for the new financial year on 1<sup>st</sup> March and remain open all year. Returns must be updated if there is a change of more than 10%.
- An asset held primarily to generate yield that serves no direct policy purpose should not be categorised as service delivery.
- Further detail on how local authorities purchasing investment assets primarily for yield can access the PWLB for the purposes of refinancing existing loans or externalising internal borrowing.
- Additional detail on the sanctions which can be imposed for inappropriate use of the PWLB loan. These can include a request to cancel projects, restrictions to accessing the PLWB and requests for information on further plans.

#### Changes to PWLB Terms and Conditions from 8<sup>th</sup> September 2021

The settlement time for a PWLB loan has been extended from two working days (T+2) to five working days (T+5). In a move to protect the PWLB against negative interest rates, the minimum interest rate for PWLB loans has also been set at 0.01% and the interest charged on late repayments will be the higher of Bank of England Base Rate or 0.1%.

## Appendix C

## Directly Owned Property – Purchase Funded via Borrowing

Directly owned property (commercial property) held at 31<sup>st</sup> March 2021

Names and address of property	Property type	Valuation at 31 March 2021
		£'000
Dudley Port Petrol Filling Station, Tipton	Petrol Filling Station	3,700
79 Bath Road, Chippenham	Retail Warehouse	9,200
Lloyds Bank, 104 Terminus Road, Eastbourne	Retail	1,800
Aldi/Iceland, Cleveland Gate Retail Park, Gainsborough	Retail Warehouse	5,725
303 High Street and 2 Waterside South, Lincoln	Retail	2,850
3&4 The Sector, Newbury Business Park	Office	17,260
Sainsbury's, High Street, North Allerton	Retail	7,050
Ruddington Fields Business Park, Mere Way, Nottingham	Office	6,600
Valuations Total per Draft 2020/21 Financial Statements		<b>54,185</b>

## Appendix D

## Directly owned Property – Purchase not Funded by Borrowing

Directly owned property (investment property) held at 31st March 2021

Names and address of property	Property type	Latest valuation
		£'000
The Stone Building, The Wharf, Newbury	Café	25
Pelican Lane Creche, Pelican Lane	Children's Nursery	0
Rainbow Nursery, Priory Road, Hungerford	Children's Nursery	35
Clappers Farm/Beech Hill Farm, Grazely	Tenanted Smallholding	1,700
Bloomfield Hatch Farm, Grazely	Tenanted Smallholding	1,000
Shaw Social Club, Almond Avenue, Shaw	Community Centre	70
Swings n Smiles, Lower Way, Thatcham	Children's Day Centre	375
Units 1 to 7, Kennet Enterprise Centre, Hungerford	Industrial	500
London Road Industrial Estate, Newbury	Industrial	7,800
<b>Valuations Total per Draft 2020/21 Financial Statements</b>		<b>11,505</b>



# Member Request for Information

**Committee considering report:** Governance and Ethics Committee

**Date of Committee:**

**Portfolio Member:** Councillor Howard Woollaston

**Date Head of Service agreed report:** 25 November 2021  
(for Corporate Board)

**Date Portfolio Member agreed report:**

**Report Author:** Sarah Clarke

**Forward Plan Ref:**

## 1 Purpose of the Report

- 1.1 This report considers a request by a Member of Council for access to information, under a procedure detailed in the Council’s Constitution at paragraph 13.3.7.
- 1.2 The request is seeking disclosure of an operational document, setting out enforcement options in relation to a CIL liability.

## 2 Recommendations

- 2.1 It is recommended that Governance and Ethics Committee:
  - (a) note the legal position with regard to Members rights to access information, and the limitations of that right.
  - (b) confirm that, in the circumstances, the request for information should not be referred to Council.

## 3 Implications and Impact Assessment

Implication	Commentary
Financial:	None
Human Resource:	None

**Member Request for Information**

<b>Legal:</b>	<p>The right of Members to access information is set out in legislation and common law, as reflected in the Council's Constitution.</p> <p>The legal position is fully considered in the report.</p>			
<b>Risk Management:</b>	<p>Information should not be disclosed or processed without a legal basis for doing so. To do so would give rise to a risk of challenge.</p>			
<b>Property:</b>	No			
<b>Policy:</b>	No			
	<b>Positive</b>	<b>Neutral</b>	<b>Negative</b>	<b>Commentary</b>
<b>Equalities Impact:</b>				
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
<b>Environmental Impact:</b>		X		None
<b>Health Impact:</b>		X		None
<b>ICT Impact:</b>		X		None

## Member Request for Information

<b>Digital Services Impact:</b>		X		None
<b>Council Strategy Priorities:</b>		X		
<b>Core Business:</b>		X		
<b>Data Impact:</b>		X		
<b>Consultation and Engagement:</b>	Finance and Governance Group Corporate Board			

## 4 Executive Summary

- 4.1 The legal framework detailing Members rights to access information is set out in the Local Government Act 1972, or the Local Government Act 2000 for matters relating to executive functions.
- 4.2 Further provisions are also contained in the Openness of Local Government Bodies Regulations 2014, and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 for matters relating to executive functions.
- 4.3 Part 8 of the Council's Constitution outlines the legislative framework providing rights to access information, and provides further detail outlining the process by which Members can seek access to information in paragraphs 13.3.6 and 13.3.7 in Part 13.
- 4.4 In addition to the above, Members have a common law right to access information held by the Council on a need to know basis.
- 4.5 On the 21<sup>st</sup> June 2021, Councillor Rowles requested a copy of a document that had been referred to in an email by the then Head of Development and Planning. Councillor Rowles was advised the following day that the report could not be disclosed as it contained confidential, legally privileged information.
- 4.6 The request for access to the document was considered by the Executive Director, Place, and the Council's Monitoring Officer. Both determined that the report should not be disclosed.
- 4.7 The Member wrote to the Chairman of the Governance & Ethics Committee on 28<sup>th</sup> September 2021 to request that the matter be reviewed by the Committee, who may refer the matter to Council for debate. It is submitted that there is no legal basis upon which to justify disclosure of the document in these circumstances, and it is therefore recommended that Governance and Ethics Committee do not refer the matter to Council.

## 5 Supporting Information

### Introduction

- 5.1 There is a detailed legal framework which seeks to support transparency and openness in local government.
- 5.2 The Local Government Act 1972 (sections 100A to 100L), together with the Openness of Local Government Public Bodies Regulations 2014, details the rights of individuals to access relevant documents of local authorities.
- 5.3 In summary, members of the public must be given access to:
- (a) Agendas and reports for meetings of Council or its committees
  - (b) Minutes of meetings
  - (c) Background papers.
- 5.4 Members of the public do not have the right to access information which is exempt information. The categories of exempt information are detailed in Schedule 12A of the Local Government Act 1972, and a copy of those provisions are detailed in Appendix 1.
- 5.5 In addition to the rights given to individuals to access information, Members are given additional rights to access:
- (a) *Any document which is in the possession or under the control of a principal council and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council shall, subject to [subsections (2) to (2C)] [subsections (2) to (2E)] below, be open to inspection by any member of the council.*
- 5.6 The above statutory provision giving additional rights to Members is again restricted to documents containing material that relates to business to be transacted at a meeting of the Council, committee etc. If the proper officer considers that the document includes relevant exempt material, that document does not need to be disclosed. For example, material which is legally privileged, does not need to be disclosed under this provision.
- 5.7 For matters that fall within the responsibility of the Executive, the above provisions are largely replicated by the Local Government Act 2000, and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- 5.8 In addition, in accordance with provisions in the Local Government Act 2000 and Part 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, members of overview and scrutiny committees have additional rights to access documents, where the documents relate to a matter that they are reviewing. The Executive can determine not to provide a document to overview and scrutiny, but must provide a written statement detailing the reasons for that decision.

## Member Request for Information

- 5.9 Members of local authorities have additional common law rights to access information held by the council of which they are a member. Such rights are in addition to the statutory rights given to members to access information detailed above.
- 5.10 Members need to be provided with information to enable them to perform their duties as member of the council. However, that is not an unfettered right to have a 'roving commission' through council records. Where a member wishes to access information, they need to be able to demonstrate why they have a 'need to know', and why that is necessary to enable them to perform their duties as an elected member.
- 5.11 If a member's motive for accessing the document is indirect, improper or ulterior, there is no obligation on their council to provide access to that.

## Background

- 5.12 Councillor Rowles has been communicating with the Portfolio Holder and officers in Development and Regulation, and Legal Services since early 2020 regarding a Community Infrastructure Levy (CIL) case in Lambourn.
- 5.13 A meeting was held in February 2020, to provide background details on the case to Councillor Rowles. Following that, there has been extensive correspondence, where Councillor Rowles has raised queries. Detailed responses were provided, and further queries were raised, which were also responded to.
- 5.14 In early 2021, members were again involved in the matter of CIL liability for the development in question. The then Head of Development and Planning had provided a detailed response to Councillor Rowles on the 30<sup>th</sup> April and agreed to keep Cllr Rowles updated with progress.
- 5.15 On the 21<sup>st</sup> June 2021, Councillor Rowles requested a copy of a document that had been referred to in an email by the then Head of Development and Planning. Councillor Rowles was advised the following day that the report could not be disclosed as it contained confidential, legally privileged information.
- 5.16 Councillor Rowles responded to advise that she considered that the document should be disclosed, as that was necessary to help her support XXX (who was not in her ward) and another resident in her ward. Councillor Rowles stated that the facts of both cases were similar and it was necessary to have sight of the document to enable her to assess the matter.
- 5.17 The Executive Director, Place wrote to Councillor Rowles on the 30<sup>th</sup> June, to advise that the document in question had been prepared for operational purposes, and that it contained restricted information. It was concluded that it was not appropriate to share this with Councillor Rowles.
- 5.18 Following a response from Councillor Rowles challenging the refusal to disclose the report, the Council's Monitoring Officer wrote to Councillor Rowles on the 15<sup>th</sup> July and this e-mail confirmed that:

*"officers will always work on the basis of openness, and will share information with Members whenever it is appropriate to do so. However, Members do not have an unqualified right to access data held by the Council and in order to require information*

## Member Request for Information

*to be disclosed, a Member would need to demonstrate a 'need to know'. For example, Members would not be automatically entitled to access data held by Children's and Family Services, or Adult Social Care where that relates to specific identifiable cases. Equally, Members do not have an automatic right to access data or information that relates to potential enforcement action that may be contemplated by the Council relating to its functions, where that relates to individuals or legal persons.*

*The report in question contains sensitive data and legal advice, and in the circumstances, I do not consider that you have demonstrated a need to know in this matter, which would require officers to disclose that report to you. Officers have agreed to ensure that you are updated with progress as soon as appropriate, which will be after the meeting between officers and xxx"*

5.19 Councillor Rowles responded with further detail of why she considered there to be a need to know. This stated:

*This case is very similar to my ward case of YYY; in both cases the applicant indicated that they wanted to claim a CIL exemption; both failed to provide evidence (either through completing a CIL form or providing further documentary evidence in XXX's case); in both cases the Council did not help or guide the applicant; both applicants instructed agents and in both cases the Council has not felt it "appropriate" to review each case under the legislation. How we approach XXX case as a Council is entirely relevant to YYY case and therefore directly relevant if I am to perform my duties as a ward Member.*

5.20 A response was provided to that email on the 22<sup>nd</sup> July, where it was stated:

*You have indicated that you have a need to know in this matter, to enable you to perform your duty as Ward Member. I note in this regard that the Council has engaged with you regarding this matter over a considerable period of time, responding to queries and keeping you updated as appropriate.*

*You have requested sight of a document that refers to a case which is not within your Ward, asserting that this is relevant due to similarities between that case and one within your Ward. However, having considered the report, that is not accepted. It is also clear that you are seeking to advocate on behalf of XXX and / or YYY, which puts you in conflict with the Council's position in this matter. This is a further reason why it would not be appropriate to disclose this document to you.*

*For the reasons previously given, it is not accepted that you have demonstrated a need to know in this matter, which would require disclosure of the document to you.*

5.21 Councillor Rowles responded to challenge this conclusion on the 4<sup>th</sup> August, and a further response was provided to Councillor Rowles on the 16<sup>th</sup> August. On the 28<sup>th</sup> September, Councillor Rowles requested that the matter be referred to Governance and Ethics Committee for consideration. A full copy of this e-mail exchange is attached at Appendix 2 (which is exempt information and is therefore detailed in Part II).

## Proposals

- 5.22 The document in question reviewed the different enforcement options available for the CIL liability in question. It is clear that the document would not meet the criteria in any of the statutory provisions requiring that it be disclosed. The document could therefore only be disclosed under the common law provision of a need to know.
- 5.23 It is clear from the correspondence in this matter, that Councillor Rowles has been given extensive briefings and explanations as to action that the Council has taken in the matter in question.
- 5.24 Councillor Rowles has indicated in correspondence that she disagrees with the Council's position, and has advocated for the CIL charge, that was applied to the development undertaken by XXX, to be removed.
- 5.25 The document in question contained details of the legal implications from the various enforcement options available. Such documents provide a helpful audit trail in the event of subsequent legal challenge. Similarly, detailed records will exist in children's or adult social care cases, documenting the reasons why a particular decision is taken. Records will exist at the conclusion of a criminal investigation, which will also consider enforcement options. These documents would continue to remain exempt from disclosure in legal proceedings, in the absence of a court order requiring the disclosure thereof.
- 5.26 The Council would not disclose such records containing clearly sensitive information, unless there was a clear need to know.
- 5.27 It is considered that the Council has provided sufficient information in this matter, to enable Councillor Rowles to fully perform her duty as Ward Member and to support XXX and / or YYY as appropriate.

## 6 Other options considered

- 6.1 Disclosing the document to Councillor Rowles. This is not recommended for the reasons given in the report.

## 7 Conclusion

- 7.1 There is a clear legislative framework detailing the information held by the Council that individuals, and councillors are able to access. In addition to this, councillors have common law rights to access information where they have demonstrated a need to know.
- 7.2 Councillor Rowles has been provided with detailed and comprehensive responses to all her queries in relation to the case in question. A sample of the information that has been provided to Cllr Rowles is produced in Appendix 2 of this report.
- 7.3 The document in question contains sensitive information, and there is a risk that if this document is disclosed on the basis that there is a need to know, this will set a precedent that similar documents, including those in social care matters, should also be made available to members on request.

## Member Request for Information

- 7.4 For all the reasons detailed in this report, it is recommended that Governance and Ethics Committee approve the recommendations set out in paragraph 2 of this report not to refer this request to Council for consideration.
- 7.5 The recommendation is proposed on the basis that:
- (a) There is no statutory provision that would require the document in question to be disclosed.
  - (b) Councillor Rowles has received detailed information relating to the case in question, and does not have a need to know the contents of the document in question.

## 8 Appendices

8.1 Appendix 1 – Categories of Exempt Information

8.2 Appendix 2 – Examples of Correspondence between Councillor Rowles and Officers  
RESTRICTED

This Appendix is **not for publication** by virtue of exempt information of the description contained in Paragraphs 1, 2, 3, and 6 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 8.10.4 of the Constitution also refers](#).

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### Background Papers:

None

### Subject to Call-In:

Yes:  No:

- |  |                          |
|--|--------------------------|
| 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 Committee 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"/> |

**Wards affected:** N/A

**Officer details:**

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## Member Request for Information

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### Document Control

Document Ref:		Date Created:	
Version:		Date Modified:	
Author:			
Owning Service			

### Change History

Version	Date	Description	Change ID
1			
2			

## Local Government Act 1972, Schedule 12A

### Part 1 Descriptions of Exempt Information: England

1

Information relating to any individual.

2

Information which is likely to reveal the identity of an individual.

3

Information relating to the financial or business affairs of any particular person (including the authority holding that information).

4

Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.

5

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

6

Information which reveals that the authority proposes—

(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

(b) to make an order or direction under any enactment.

7

Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.]

## **EXEMPT INFORMATION**

### **Example Correspondence between Councillor Rowles and Officers**

**Note: This document is RESTRICTED.**

This Appendix is **not for publication** by virtue of exempt information of the description contained in Paragraphs 1, 2, 3 and 6 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 8.10.4 of the Constitution also refers](#).

Paragraph 1 – information relating to an individual

Paragraph 2 – information identifying an individual

Paragraph 3 – information relating to financial/business affairs of particular person

Paragraph 6 – information relating to proposed action to be taken by the Local Authority

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By virtue of paragraph(s) 1, 2, 3, 6a, 6b of Part 1 of Schedule 12A of the Local Government Act 1972.

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By virtue of paragraph(s) 3, 5, 6a, 6b of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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of the Local Government Act 1972.

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By virtue of paragraph(s) 3, 5, 6a, 6b of Part 1 of Schedule 12A  
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