

# Notice of Meeting

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## Governance and Ethics Committee

Monday 26th September, 2022 at 6.30 pm

in the Council Chamber, Council Offices,  
Market Street, Newbury

**Note:** This meeting can be streamed live here: <https://www.westberks.gov.uk/governanceethicscommitteelive>

Date of despatch of Agenda: Thursday 15 September, 2022

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Sadie Owen on 01635 519052  
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Further information and Minutes are also available on the Council's website at [www.westberks.gov.uk](http://www.westberks.gov.uk)



WestBerkshire  
C O U N C I L

**Agenda - Governance and Ethics Committee to be held on Monday, 26 September 2022**  
(continued)

**To:** Councillors Jeff Cant (Chairman), Jeremy Cottam (Vice-Chairman),  
Jeff Beck, Rick Jones, Tony Linden, David Marsh, Geoff Mayes,  
Andy Moore, Biyi Oloko, Bill Graham and David Southgate

**Substitutes:** Councillors Adrian Abbs, Owen Jeffery, Steve Masters, Graham Pask,  
Claire Rowles and Anne Budd

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## Agenda

	<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 25 July 2022.	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
5 <b>Internal Audit Update Report (GE4227)</b> Purpose: to update the Committee on the outcome of Internal Audit work carried out during quarter one of 2022/23.	11 - 22
6 <b>Updates to the Constitution (C4260)</b> Purpose: to update Governance and Ethics Committee regarding the work undertaken by the Constitution Review Task Group ("the Task Group") to date, and to propose the approval of the proposed Constitutional updates detailed in this report.  <b>Please note appendices are to follow.</b>	23 - 30

Sarah Clarke  
Service Director: Strategy and Governance

**Agenda - Governance and Ethics Committee to be held on Monday, 26 September 2022**  
*(continued)*

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

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# Agenda Item 1

Governance and Ethics Committee – 26 September 2022

## **Item 1 – Apologies for absence**

Verbal Item

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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, 25 JULY 2022**

**Councillors Present:** Jeff Cant (Chairman), Jeff Beck, Rick Jones, Tony Linden, Geoff Mayes, Andy Moore and Biyi Oloko

**Also Present:** Shannon Coleman-Slaughter (Chief Financial Accountant), Julie Gillhespey (Audit Manager), Joseph Holmes (Executive Director - Resources), Bill Graham (Parish Council Representative), David Southgate (Parish Council Representative) and Sadie Owen (Principal Democratic Services Officer)

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

#### **10 Minutes**

The Minutes of the meeting held on 27 June 2022 were approved as a true and correct record and signed by the Chairman.

#### **11 Declarations of Interest**

There were no declarations of interest.

#### **12 Forward Plan**

The Committee considered the Governance and Ethics Committee Forward Plan (Agenda Item 4).

Councillor Andy Moore noted that there was no detail on the forward plan relating to the work of the Constitution Review Task Group.

Joseph Holmes acknowledged the omission and reported that there would be reports coming to the Committee in September and November.

**RESOLVED that:** the Governance and Ethics Committee note the Forward Plan.

#### **13 Internal Audit Annual Assurance Report 2020/21 (GE4226)**

Julie Gillhespey, Audit Manager, introduced the report (Agenda item 4), and explained that the PSIAS required her to make a formal report annually to those charged with governance in the Council. The report included her opinion on the Council's governance, risk management and internal control framework, which remained robust.

Councillor Tony Linden queried whether there would be a follow-up audit to the unsatisfactory finding relating to the audit of Deprivation of Liberty Safeguards. Julie Gillhespey explained that this was not felt to be necessary as detailed in paragraphs 5.17-5.19 of the report, and that the unsatisfactory finding related to forthcoming legislation updates and a system update. Further, Councillor Jeffrey Cant added that he had received assurances from Julie Gillhespey that no adults were at any increased risk as a result of the findings.

In response to a query raised by Councillor Linden, Julie Gillhespey reported that a follow-up audit had been undertaken of the i-college with a finding of Satisfactory.

## GOVERNANCE AND ETHICS COMMITTEE - 25 JULY 2022 - MINUTES

Councillor Jeff Beck congratulated the audit team on their performance indicator of 86% which was up from 81% the previous year.

Councillor Beck requested a further update to the audit of Deprivation of Liberty Safeguards finding.

Julie Gillhespey commented that she would need to go back to the service, but would be able to provide a progress report at the next Governance and Ethics Committee meeting.

Councillor Moore queried the statement at section 5.4 of the report that stated that intelligence was gained from other sources of assurance, both internal and external.

Julie Gillhespey commented that there were no formal routes for receiving the information, rather it was information that became available during the year.

It was explained that in relation to the recruitment of a Senior Auditor there had been no interest when the post was initially advertised and consequently it would be re-advertised later in the year when the market had hopefully improved.

Councillor Rick Jones echoed Councillor Beck's comments in relation to performance and queried whether there was perceived to be an ongoing impact from Covid to audit work going forward.

Julie Gillhespey commented that the impact was receding a little due to the cessation of business grants, but that central government was now requesting business sign off in relation to certain grants, which was proving labour intensive for the team.

**RESOLVED that:** Governance and Ethics Committee note the report.

### 14 **2021/22 Draft Financial Statements Highlight Report (GE4236)**

Shannon Coleman-Slaughter, Chief Financial Accountant, introduced the report (Agenda Item 6), informing Members of the key highlights from the draft 2021/22 financial statements and progress by the Council's external auditors Grant Thornton in respect of the 2020/21 external audit.

It was explained that 2020-2021 there was a negative balance sheet which was partly caused by the pension liability. The pension liability had since reduced based on assumptions from Royal Berkshire Pension Fund (the Pension Fund), and consequently this had resulted in a positive balance sheet again. It was noted that this was a provisional result given that Deloitte's were yet to complete their audit of the Pension Fund.

Councillor Cant requested that Joseph Holmes express the Committee's considerable concern at the delay taken by Deloitte's in auditing the Pension Fund, and asked that the Section 151 Officer of the Pension Fund provide assurances that there would be no major movement in the pension liability arising from their delay.

Councillor Linden commented that an audit partner had recently been reprimanded and fined over a past audit, and queried whether this was likely to impact the Council.

Joseph Holmes did not anticipate the impact on West Berkshire Council to be too significant, particularly given the fact that Grant Thornton were the council's auditors.

Councillor Biyi Oloko queried what had caused such a delay for Deloitte's. Joseph Holmes agreed to report back with an update to Governance and Ethics Committee at its next meeting following a discussion with the pension fund.

**RESOLVED that:** Governance and Ethics Committee note the report.

### 15 **Financial Year 2021/22 Annual Treasury Outturn Report (EX4237)**

Shannon Coleman-Slaughter introduced the report (Agenda Item 7), which provided an overview of the treasury management activity for financial year 2021/22 as at 31st March



## GOVERNANCE AND ETHICS COMMITTEE - 25 JULY 2022 - MINUTES

2022. It was highlighted that the long term borrowing had reduced due to the Council utilising short term funding as a consequence of low interest rates.

Councillor Moore queried whether overall borrowing would be any different had the Public Works Loan Board restrictions been in place earlier.

Shannon Coleman-Slaughter clarified that where borrowing had taken place to fund commercial property purely to obtain a yield would not have been allowed, however such investment was allowed at the time that it was made and consequently gave rise to a commercial property portfolio. The guidance restricted any further borrowing to invest in commercial property, but that already purchased could be retained.

It was clarified that the properties listed at Appendix B were either commercial properties which had been invested in by the Council in recent years, or properties retained as investments.

**RESOLVED that:** Governance and Ethics Committee note the report.

### 16 **Going Concern Assessment as at 31 March 2022**

Shannon Coleman-Slaughter introduced the report (Agenda Item 8), which summarised management's assessment of the Council's ability to function as a going concern; this determination supporting the preparation of the Statement of Accounts for 2021/22.

It was noted that there were no going concern issues raised at present.

Councillor Moore referred to the statement made at 4.2 (f) which recorded that the Council's private finance initiative (PFI), liability had reduced to £11.5 million, and queried what the liability related to.

Shannon Coleman-Slaughter reported that it was the waste PFI and dealt with the recycling centres. It was noted that it was an annual liability which reduced over time leading to no liability at the end of the contract.

Joseph Holmes noted that there were a few draft numbers within the report and the draft financial statements which may change slightly when the draft statements were published at the end of the week.

**RESOLVED that:** Governance and Ethics Committee note the Section 151 Officer's assessment, and propose the report is provided as a working paper to the external auditor confirming that the going concern assessment has been completed and that the conclusion maintains the assertion that the Council is a going concern as at the Balance Sheet date of 31 March 2022.

### 17 **Community Governance Review relating to Parish of Greenham - draft proposals (GE4256)**

Councillor Cant noted that Council had resolved on 10<sup>th</sup> May 2022 to delegate authority to the Committee to consider and approve the draft recommendation relating to the Governance Review of the Greenham Parish Council following initial consultation.

If approved by the Committee the draft recommendations would need to be consulted upon for a second 6 weeks period. Due to the summer period it was noted that there were no Governance and Ethics Committee meetings scheduled in August, and to schedule a further meeting in August would present various challenges.

Rescheduling to September would mean that the Council could not comply with Local Government Boundary Commission for England deadline of 1<sup>st</sup> October. Following consultation the recommendation would be referred to Local Government Boundary Commission for England. It was noted that the Boundary Commission deadline was 1<sup>st</sup>

## GOVERNANCE AND ETHICS COMMITTEE - 25 JULY 2022 - MINUTES

October 2022 and consequently it was considered urgent for the paper to be considered at the meeting.

Anita Stanbury introduced the report (Agenda Item 9), and commented that it represented draft proposals stemming from an initial consultation, and recommendations for further consultation.

Councillor Linden queried if a decision was made that evening whether it would be in time to bring about the changes for the 2023 local elections.

Anita Stanbury confirmed that was the intention. It was clarified that were substantive changes required following the forthcoming consultation then it would be unlikely that changes would be made in time for the local elections.

Councillor Moore queried whether allocation of seats would be proportionate to population.

Anita Stanbury reported that there were currently approximately just over four thousand residents in the Greenham Parish, with only six located in the Sandleford ward.

It was noted that the Sandleford ward currently had an allocation of five parish council seats. It was suggested that were a 'Racecourse ward' to be created the Sandleford allocation of five parish council seats would be moved to the new ward to represent approximately fifteen hundred residents.

Ten parish council seats would then be allocated to the proposed 'Common ward' with a resident population of approximately three thousand.

In response to a query from Councillor David Southgate, Anita Stanbury noted that seat allocation was determined by the Local Government Boundary Commission for England and could not be amended by West Berkshire Council.

**RESOLVED that:** the Governance and Ethics Committee approve the following draft recommendations arising out of the initial public consultation to proceed to second public consultation:

- Split Common ward (GB1) into two wards, with the current Racecourse development (GB2) area, becoming a separate "Racecourse ward".
- Reincorporate Sandleford ward (GB3) back into Common ward (GB1). This can be re-split into two separate wards, at such time as there are sufficient electors to warrant such a separation.
- Allocate the 5 parish council seats currently allocated to Sandleford ward, to the proposed new Racecourse ward (GB2).

Following second public consultation period and provided that there are no requests for substantive amendments to the above proposals then these proposal shall be sent to the Local Government Boundary Commission for England (LGBCE) for their review and formal consent. On receipt of formal consent from the LGBCE, the approval for a reorganisation order for the governance arrangements for Greenham parish shall be requested for consideration by Council.

*(The meeting commenced at 6.30 pm and closed at 7.15 pm)*

**CHAIRMAN** .....

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

# Agenda Item 3

Governance and Ethics Committee – 26 September 2022

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

Verbal Item

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## Governance and Ethics Committee Forward Plan 26 September 2022 – 20 March 2023

26 September 2022						
1.	GE4227	Internal Audit Update Report Quarter 1	To update the Committee on the outcome of Internal Audit work carried out during Quarter 1 of 2022/23.	Julie Gillhespey	Councillor Tom Marino, Internal Governance and Strategic Partnerships	Audit
2.	C4260	Constitution Review Report	To update on the work of the Constitution Review Task Group and review revised procedures.	Sarah Clarke	Councillor Tom Marino, Internal Governance and Strategic Partnerships	Governance
21 November 2022						
3.	GE4239	Strategic Risk Register Update Q2 2022/23	To provide an update on the Strategic Risk Register as at Q2 of 2022/23.	Catalin Bogos	Councillor Tom Marino, Internal Governance and Strategic Partnerships	Governance
4.	C4272	Constitution Review Report	To update on the work of the Constitution Review Task Group and review revised procedures.	Sarah Clarke	Councillor Tom Marino, Internal Governance and Strategic Partnerships	Governance
5.	GE4238	External Auditor's ISA 260 report	To present the External Auditor's report.	Joseph Holmes	Councillor Ross Mackinnon, Finance and Economic Development	Audit
16 January 2023						
6.	GE4228	Internal Audit Update Report Quarter 2 2022/23	To update the Committee on the outcome of Internal Audit work carried out during Quarter 2 of 2022/23.	Julie Gillhespey	Councillor Tom Marino, Internal Governance and Strategic Partnerships	Audit
20 March 2023						
7.		No reports to date				

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# Internal Audit Update Report

<b>Committee considering report:</b>	Governance and Ethics Committee
<b>Date of Committee:</b>	26 September 2022
<b>Portfolio Member:</b>	Councillor Tom Marino
<b>Date Head of Service agreed report:</b> <i>(for Corporate Board)</i>	12 July 2022
<b>Date Portfolio Member agreed report:</b>	
<b>Report Author:</b>	Julie Gillhespey (Audit Manager)
<b>Forward Plan Ref:</b>	GE4227

## 1 Purpose of the Report

- 1.1 To update the Committee on the outcome of Internal Audit work carried out during quarter one of 2022/23.
- 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

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 one of 2022/23.
- 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 Work completed during the quarter did not identify any audits with a less than satisfactory opinion or unsatisfactory progress for Follow-up audits.
- 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				2	
Other Systems			1		
Schools					

- 5.2 For this reporting period there were no completed audits given a less than satisfactory opinion. There were three follow-up audits completed all of which were given a satisfactory rating.
- 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 reported to committee previously, Internal Audit has been heavily involved in providing assurance for the payment of Covid business grants, undertaking both pre and post payment work. In June Internal Audit compiled data for a central government return which required us to state the levels of fraud/error prevented and detected, together with recovered and unrecovered payments across all of the business grant schemes operated over the last 2 years. Total value of business grants paid was £40,415,000, total value of cases where fraud/error was prevented £786,000, total value of cases where fraud/error was detected £555,000, total value of grant that should not have been paid/has not been recovered £104,000 (relating to 8 cases). This data shows the checking processes were successful in preventing/detecting a much higher level of fraudulent and erroneous payments compared with the lower value of unrecovered cases. This is a positive outcome/reflection of all of the anti-fraud work undertaken by Revenues staff and the Audit Team.

## Proposals

Members note the outcome of audit work.

## 6 Other options considered

Not applicable, the report is for information only.

## 7 Conclusion

There was no work completed for the period which had a less than satisfactory opinion.

## 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.

**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

**Officer details:**

Name: Julie Gillhespey  
 Job Title: Audit Manager  
 Tel No: 01635 519455  
 E-mail: julie.gillhespey@westberks.gov.uk

**Document Control**

<b>Document Ref:</b>		<b>Date Created:</b>	12/07/2022
<b>Version:</b>	01	<b>Date Modified:</b>	
<b>Author:</b>	Julie Gillhespey (Audit Manager)		
<b>Owning Service</b>	Strategy and Governance		

**Change History**

Version	Date	Description	Change ID
1			
2			

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**1) COMPLETED AUDITS**

Directorate/Dept/Service	Audit Title	Overall Opinion
<b>Resources</b>		
Finance and Property	Budgetary Control	Well Controlled
Finance and Property	Accounts Payable	Well Controlled
Finance and Property	Building Maintenance	Satisfactory
<b>People</b>		
<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>
<b>Resources</b>			
Strategy and Governance	Risk Management	Satisfactory	Satisfactory
<b>People</b>			
Education	i-college	Weak	Satisfactory
<b>Place</b>			
Environment	Grounds Maintenance Contract Management	Very Weak	Satisfactory

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

Directorate/Dept/Service	Review Title

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**1) CURRENT AUDITS**

<b>Corporate/Directorate/ Service</b>	<b>Audit Title</b>	<b>Current Position of Work</b>	<b>Audit Plan Year</b>
<b>Corporate</b>			
Development & Regulation	Business Continuity	Ready for Review	2021/22
<b>Resources</b>			
Finance and Property	Capital Programme	Background	2022/23
Finance and Property	CIPFA's Financial Management Code – Compliance Review	Background	2022/23
Finance and Property	Accounts Receivable	Testing	2022/23
Strategy and Governance	Electoral Services – Financial Processes	Ready for Review	2021/22
Strategy and Governance	Project Management Oversight	Draft Report Issued	2021/22
I.T.	Security of Systems	Draft Report Issued	2021/22
<b>People</b>			
Adult Social Care	Hungerford Resource Centre	Being Reviewed	2022/23
Adult Social Care	Appointeeship/Deputyship Arrangements	Background	2022/23
Education	The Downs School	Ready for Review	2022/23
Adult Social Care	Personal Budgets/Direct Payments	Testing	2021/22
Children and Families	Adoption Service Provision	Testing	2021/22
Children and Families	Foster Carer Payments	Testing	2020/21
Education	Special Educational Needs and Disabilities (SEND) Assessments	Testing	2021/22

<b>Corporate/Directorate/ Service</b>	<b>Audit Title</b>	<b>Current Position of Work</b>	<b>Audit Plan Year</b>
<b>Place</b>			
Environment	Environment Strategy/Delivery Plan	Background	2022/23
Development and Regulation	Common Housing Register	Draft Report Issued	2021/22
Environment	Street Works/Traffic Regulation Orders/Section 38 Charges	Background	2021/22
Environment	Parking	Report being Drafted	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	Work commenced on some Highways Grants and the Supporting Families Programme.
Covid Grants – payments assurance work	Ongoing
Covid Business Grants – payment assurance work	Ongoing
HR Disciplinary Investigation	Ongoing

**3) CURRENT FOLLOW-UPS**

<b>Directorate/Service</b>	<b>Audit title</b>
<b>Resources</b>	
<b>People</b>	
Adult Social Care	Carers Payments
<b>Place</b>	



**Anti-Fraud Work Plan****(Drawn together from entries in the Audit Plan for 2022/23)**

<b><u>Audit Name</u></b>	<b><u>Work Focus</u></b>	<b><u>Update Position (End of June 2022)</u></b>
NFI Investigation Work	Review of data matches to assess whether fraudulent.	New exercise to commence in October.
Covid Grant Assurance Work (Non-business)	Review of appropriateness/accuracy of grant payments made to third parties/use of grants the Council has received.	Ongoing.
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.	Not commenced.
Personal Budgets (Direct Payments/Use of payment cards) (Education Service)	Personal Budgets may be used inappropriately/fraudulent documentation could be provided for expenditure incurred.	Not commenced.
Council Tax Hardship Fund	Check that grants have been awarded accurately/appropriately.	Not commenced.
Appointeeship/Deputyship Arrangements	Check that client financial records are kept up to date/are accurate. Check that expenditure incurred is appropriate and has full supporting documentation. Check that any physical assets are adequately safeguarded.	Background.

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## Updates to the Constitution

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<b>Committee considering report:</b>	Council
<b>Date of Committee:</b>	6 October 2022
<b>Portfolio Member:</b>	Councillor Tom Marino
<b>Date Portfolio Member agreed report:</b>	15 October 2022
<b>Report Author:</b>	Sarah Clarke
<b>Forward Plan Ref:</b>	C4260

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### 1 Purpose of the Report

- 1.1 The purpose of this report is to update Council regarding the work undertaken by the Constitution Review Task Group (“the Task Group”) to date, and to propose the approval of the proposed Constitutional updates detailed in this report. The completion of the Constitution review is an important part of the overall good governance of the Council and has been highlighted as an area to complete in the Annual Governance Statement.
- 1.2 The report will also advise of the further work that will be undertaken in anticipation of further revisions that are due to be brought forward to Council in December.

### 2 Recommendations

- 2.1 It is Recommended that Council:
  - (a) approves the Meeting Rules including the Meeting Rules Table, the Questions Appendix, and the Petitions Appendix, which are attached at Appendix A to this Report;
  - (b) approves the Council Rules, which are attached at Appendix B to this Report;
  - (c) approves the Executive Rules, which are attached at Appendix C to this Report;
  - (d) approves the Council Bodies Rules, which are attached at Appendix D to this Report;
  - (e) approves the following Bodies Rules, which are attached at Appendix E to this Report:
    - Governance Appendix
    - Health and Wellbeing Appendix
    - Health Scrutiny Appendix
    - Licensing Appendix

## Updates to the Constitution

- Licensing Sub-Committee Appendix
  - Personnel Appendix
  - Planning Appendix
  - Scrutiny Appendix
- (f) notes that the above Rules will replace current Parts of the Constitution, namely:
- Part 4 – Council Rules of Procedure
  - Part 5 – Executive Rules of Procedure
  - Part 6 – Overview and Scrutiny Rules of Procedure
  - Part 7 – Regulatory and Other Committees
  - Part 12 – Personnel Rules of Procedure
  - Part 13 - Codes and Protocols – Appendix A - West Berkshire Code of Conduct for Planning
  - Part 13 – Codes and Protocols - Appendix B - Protocol for Decision-Making by Individual Executive Members
  - Part 13 - Codes and Protocols - Appendix B1– Individual Decision making Process
  - Part 13 - Codes and Protocols – Appendix C - Procedure Rules for Dealing with representations
  - Part 13 - Codes and Protocols - Appendix G - West Berkshire Code of Conduct for Licensing
  - Part 13 - Codes and Protocols – Appendix I - Councillor Call for Action Protocol
- (g) agrees that the changes to the Constitution detailed in this report, take effect from 1<sup>st</sup> January 2023;
- (h) delegates to the Monitoring Officer in consultation with the Chairman of the Constitution Review Task Group the power to make minor additional corrections to the parts of the Constitution to ensure consistency in terminology and presentation..

## 3 Implications and Impact Assessment

Implication	Commentary
<b>Financial:</b>	None directly although the report details the procedures to be followed at full Council when setting the budget. The report also details the process for decision making by Executive, which may consider reports that have significant financial implications.
<b>Human Resource:</b>	None
<b>Legal:</b>	This report proposes changes to the Council’s Constitution, and will ensure a clear and transparent decision making framework.

<b>Risk Management:</b>	There is a risk that any decision of Council could be challenged. Having clear rules governing the manner in which meetings will be conducted, should reduce the risk of challenges being successful.			
<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			The recommendations in this report will enable some participation in Meetings remotely via technology, which will reduce the need for individuals to travel in person to meetings.
<b>Health Impact:</b>		X		
<b>ICT Impact:</b>		X		

<b>Digital Services Impact:</b>	X			The recommendations in this report recognise the ability to engage effectively with residents via social media and digital technology.
<b>Council Strategy Priorities:</b>		X		
<b>Core Business:</b>	X			It is considered that the recommendations in this report will support the effective administration of Council business and contribute to the good governance of the Council.
<b>Data Impact:</b>		X		
<b>Consultation and Engagement:</b>	<p>These proposals have been discussed with:                      The Constitution Review Task Group                      Finance &amp; Governance Group                      Joseph Holmes – Executive Director (Resources)                      Shiraz Sheikh – Service Lead, Legal and Democratic                      Stephen Chard – Democratic Services Manager</p> <p>Two Member Workshops were also held, to which Members of the CRTG, and all Chairmen and Vice-Chairmen of existing Committees, Commissions, and the Executive were invited to attend.</p>			

## 4 Executive Summary

- 4.1 It was agreed in July 2019 that a Task Group of the Governance and Ethics Committee would be created to review the entire Constitution to ensure that it remained fit for purpose. The Task Group first met in September 2019, but work was subsequently delayed due to the pandemic.
- 4.2 This report proposes changes to the rules which govern how Council meetings will be conducted. These do not make significant alterations to the existing rules. However, they will provide clarity regarding rules, and a product that will be easier for everybody to navigate and understand.
- 4.3 It is recommended that Council retain the changes introduced in December 2021 relating to the Budget Meeting of Council be retained, as the procedure appeared to operate well during the Budget Meeting which took place in March 2022.
- 4.4 The new rules for Council meetings are structured to ensure a standard set of rules which will apply to all Council Meetings. The recommendation also proposes specific Council Rules, and Executive Rules, as Council and Executive are responsible for the

most significant decisions taken by the Council, and both these bodies are subject to specific statutory arrangements.

- 4.5 At Appendix E of the report are a set of Council Bodies Rules. These rules apply to bodies established by Council such as Committees, Commissions, and Boards (Bodies). These rules set out the composition, terms of reference and any individual rules of procedure that apply to the Body in question.
- 4.6 The Constitution will be supported by a Glossary, which will define the meaning of key words that appear throughout the various parts of the updated Constitution. This is attached at Appendix F.

## 5 Supporting Information

### Introduction & Background

- 5.1 The Council is undertaking a comprehensive review of the Constitution and this report seeks approval to adopt the first significant part of that.
- 5.2 The Constitution Review Task Group ('Task Group') is a working group consisting of the following Members: Jeff Beck, Graham Bridgman (Chairman), Jeff Brooks, James Cole, David Marsh, Andy Moore, and Howard Woollaston. Councillor Geoff Mayes is a former member of the Task Group. The significant contribution of the Task Group in the formulation of these proposals and the updating of the Constitution should be noted.
- 5.3 This work has also been supported by a number of officers in the Democratic Services Team and from Legal Services, and their contribution to this significant piece of work should also be noted.
- 5.4 Initially the intention was to deal with each existing Part of the Constitution in turn, seeking approval from Council for any required amendments before progressing to the next Part. However, it quickly became apparent that there was considerable overlap and duplication between different Parts, for example, similar or identical rules relating to meetings were contained in Parts 4, 5, 6, and 7. It was therefore determined to seek to create a common set of rules applicable to all formal meetings, with appendices dealing with any differences (eg between particular committees).
- 5.5 It should be noted that the need to undertake the wholesale review of the Constitution was driven by a desire to make the document more user friendly and accessible to all. If approved, the Constitution will be published on-line when it becomes operational, and there will be full indexing with hyperlinks where appropriate.
- 5.6 It is considered that the recommendations in this report will make the rules by which the Council must operate more easy to understand.

### Proposals

- 5.7 It is proposed that the Council adopt the Meetings Rules at Appendix A of this report. These rules provide a common set of operating rules that will apply to public meetings of the Council. This sets out core matters such as the type and order of business at various meetings of the Council. This Part also distinguishes between Motions (proposals that can be submitted by any Member of the Body for debate), and Reports

and Recommendations. It is considered that these changes will add improved clarity regarding the process to be followed in a meeting.

- 5.8 The Council has on occasion over the past few years, received a significant number of Motions at meetings of Council, which has created a time pressure on the substantive agenda. The new rules require that the Chairman consult with each Group Leader to assist with his consideration of the priority order of the debates that may take place in the Council Meeting.
- 5.9 The Meeting Rules are supported by a Meetings Rules Table, which is a quick reference guide for anybody wishing to check a rule of procedure related to meetings. This contains information such as the standard items of business at a meeting and the order in which business will be transacted. This also contains details of the procedural motions that can be moved without notice.
- 5.10 There are two further Appendices, one dealing with Questions and one dealing with Petitions. The Questions Appendix does not make any significant change to the current arrangements.
- 5.11 In terms of the Petitions Appendix, this was reviewed as the previous rules related to statutory provisions which were repealed by the Localism Act 2011. The proposed new rules do not change any of the existing limits on the submission of Petitions. Where a Member of the Public submits a petition, they will be informed as to how the petition will be dealt with and will be invited to make representations if their petition is to be considered at a future public Meeting of the Council.
- 5.12 The Council Rules explains the role and purpose of Council, and details procedures that are specific to Council. These proposals effectively replicate the rules that were adopted by Council in December 2021. Many of those changes focussed on the Budget Meeting, and the revised rules were implemented effectively at the Budget Meeting of Council in March 2022. It is therefore proposed that these will continue in force as set out in Appendix B.
- 5.13 The Executive Rules at Appendix C explain the role and purpose of the Executive, and details procedures that are specific to proceedings of the Executive. This effectively outlines the statutory framework that is detailed in the Local Government Act 2000, and in related regulations, that determines how the Executive must operate.
- 5.14 The Council Bodies part at Appendix D explains what Council Bodies are. These are effectively the Committees, Commissions, or Boards that are created by Council to undertake work delegated to those Bodies by Council, or directly by statute. This also details how those Bodies may create Sub-Bodies, such as task groups to undertake specific tasks, and sets out the rules regarding the operation of those Sub-Bodies.
- 5.15 Appendix E details the various Appendices that apply to different Bodies. Each one sets out the scope of the Body, the Membership, and Terms of Reference. If agreed by Council, it would be proposed to bring each Appendix to Council for review on an annual basis, with these being approved at the Annual Meeting when Council approves the establishment and Membership of the various Council Bodies. Such a process will ensure that these documents remain up to date with necessary changes.



## Updates to the Constitution

- 5.16 The Bodies dealt with at Appendix E undertake important work on behalf of the Council. The rules applicable to those bodies have not been significantly altered by the proposed changes. However, the changes have sought to ensure that the rule applicable to those Bodies are more easily found. For example, the Planning Appendix contains provisions that were previously detailed in Part 7, and the Planning Code of Conduct at Part 13. This also seeks to ensure that there is greater clarity regarding the need for Planning Committees to give reasons for decision, and to be clear about conditions that are proposed to be attached to any planning permission.
- 5.17 The Personnel Appendix has been expanded to clarify the role of Members in the appointment of senior officers (Head of Service and above), and in the dismissal of relevant statutory officers.
- 5.18 The Scrutiny Appendix largely replicates the rules that already exist, although this now contains the rules on call in which were previously replicated in the Executive Rules.
- 5.19 It is proposed that these provisions be implemented with effect from January 2023. This will enable the conclusion of the review of Parts 9, 10, and 11 of the Constitution, which contain the Budget and Policy Rules, the Financial Rules, and the Contract Rules by the Task Group. It is intended that the proposed changes to these parts of the Constitution will be brought to Council in December 2022 for consideration.
- 5.20 Delaying implementation of the updates proposed by this Report will ensure that there is no conflict between those Parts that have not yet been reviewed and those which have been updated, which are key parts of the Constitution governing the critical core business of the Council
- 5.21 Once Council has approved the changes, work will be required by the Digital Services Team to create new webpages with relevant hyperlinks. All changes to key operational elements of the Constitution will then be implemented and published together.

## 6 Other options considered

- 6.1 Not making any changes to the current Constitution. This option was rejected as the Council must keep the Constitution under review and it is suggested that changes will assist good governance as the procedures by which the Council is operating will be easier to understand, which will improve transparency and openness.

## 7 Conclusion

- 7.1 The ongoing hard work and significant contribution of the Task Group to the review of the Constitution is noted.
- 7.2 It is considered important to secure Council's approval of these core operating rules, which will enable the second phase of the Constitution updates to be brought to Council in December. It is anticipated that at the conclusion of the second phase, the updated rules will be capable of operating without risk of significant conflict in the Constitutional provisions.
- 7.3 It is therefore recommended that Council approve the proposals detailed in section 2 of this report, to be implemented from January 2023.

## 8 Appendices

- 8.1 Appendix A – Meetings Rules (To follow)
- 8.2 Appendix B – Council Rules (To follow)
- 8.3 Appendix C – Executive Rules (To follow)
- 8.4 Appendix D – Council Bodies Rules (To follow)
- 8.5 Appendix E – Individual Bodies Rules (To follow)

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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
- 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

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