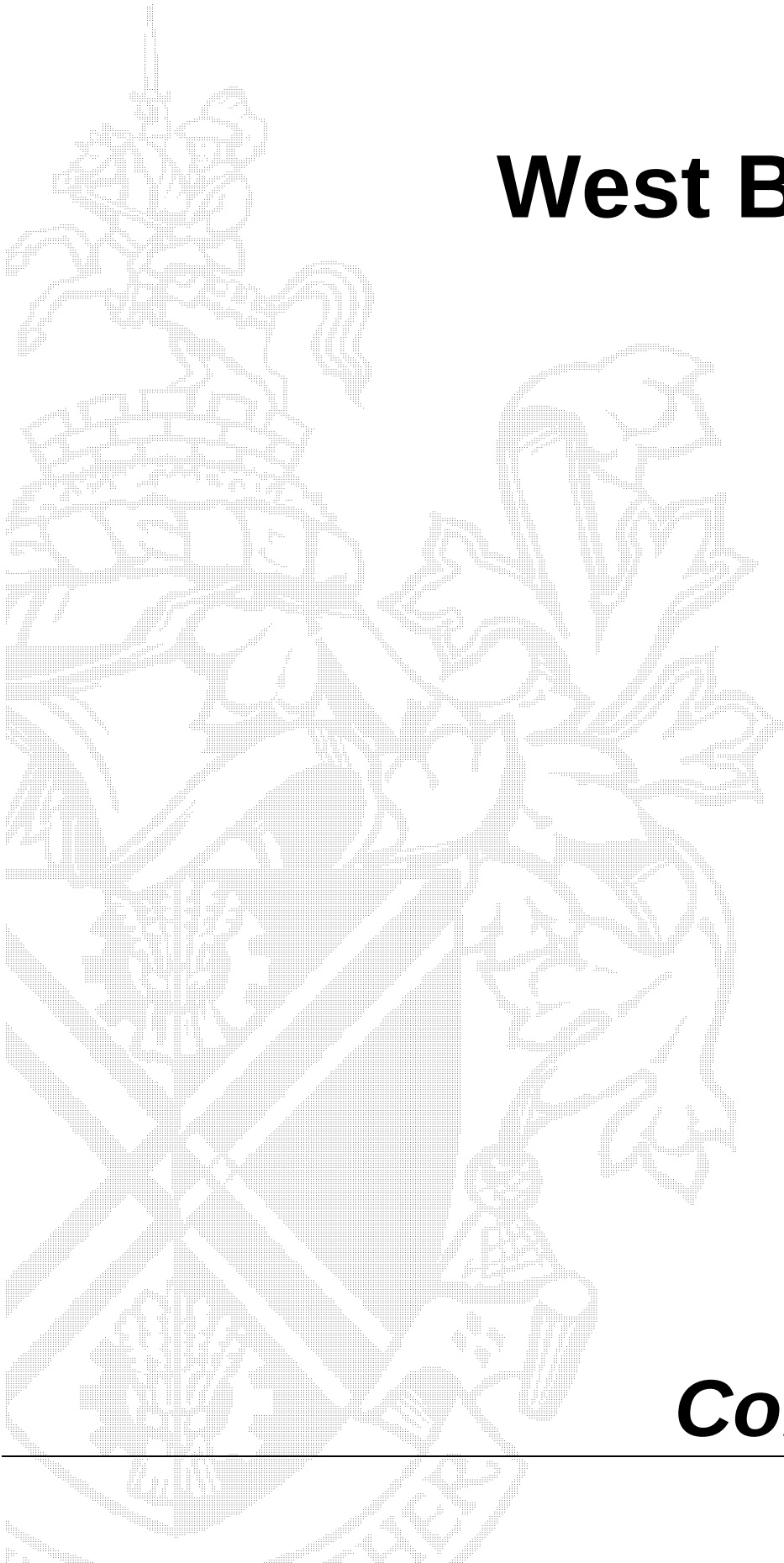




West Berkshire Council

Constitution



WestBerkshire
C O U N C I L

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Constitution Glossary

Access To Information Rules

The legislative framework giving public access to information held by the Council (see also Confidential and Exempt information).

Administration

The political group on the Council with the most seats and able to form a majority.

Advisory Groups

Informal meetings which may involve non-councillors and may, or may not, be open to the public. No decisions can be taken by such groups ([see also Task Groups](#)).

Agenda

These set out the business to be considered at formal meetings of the Council, Executive, Scrutiny Commission, Appeals Panels and Committees. They are public documents and are available for inspection before each meeting at the Council's main offices and on the Council's website.

Amendment

Motion to insert or alter or omit words in the resolution under discussion. A direct negative is not an amendment.

Annual Meeting

The annual meeting of the Council which elects the Leader of the Council and appoints Chairs and Councillors to memberships of Committees. The meeting takes place in May each year.

Appeals Panel

A Panel constituted to determine an appeal against a relevant decision of the Council.

Council Bodies / Council Body

The Council, Executive and any Body constituted by them to exercise powers delegated to them.

Budget

The budget agreed by Council for the upcoming financial year at the Budget Meeting as delegated to Budget Holders to manage in accordance with the powers given to them.

Budget Holder

An Officer with responsibility for managing, monitoring, authorising and reporting on spend within specified council budgets.

Budget Meeting of Council

The Ordinary Meeting of the Council taking place in February/March each year which considers the Budget.

Call-In

"Call-In" is a statutory right for Members of the Council to call in a decision of Executive or an individual Executive Member or Executive Commissions.

Confidential Information

Information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order. ([see also Exempt Information](#)).

Constitution

Every principal Council must produce a document known as the Constitution which sets out how the Council will conduct its business.

Corporate Complaints Procedure

Formal process to investigate and resolve complaints.

Council

A legal entity created by law to administer certain functions within a local area. Within this constitution it means West Berkshire Council.

Councillors

A Councillor represents his or her Ward on the Council and acts as an advocate and decision maker for local issues. [You can find who your Councillor is here](#).

Chairman of Council

Elected annually by councillors at the Annual Meeting and presides over meetings of Council.

Decisions

Decision of a decision of relevant Council Body or Officer.

Declaration of Interest

Councillors must declare interests under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 The Register of Members' Interests is maintained by the Monitoring Officer. Interests must be declared 28 days from becoming a member and 28 days from becoming aware of the interest Declarations of interest should be made at all meetings where relevant to the business on the agenda.

Deputation

A group of people appointed to take part in a formal process on behalf of a larger group or to represent the views of that group.

District

The administrative area of West Berkshire.

Exempt Information

Information that the Council may not be required to publish because it falls within specific categories defined in Schedule 12A of the Local Government Act 1972.

Extraordinary Meeting

A Council Meeting called by resolution of the Council, the Head of Paid Service or by requisition of any five Councillors which takes place in addition to an Ordinary Meeting or the Annual Meeting.

Executive

The Executive is a group of Councillors, including the Leader, who work with Council staff to run the Council and take most decisions, except those about major policy issues or setting the annual budget (which only the Full Council Meeting can do), or decisions on regulatory matters such as whether to give planning permissions or licenses which only Committees established for those purposes can take. The Leader of the Council appoints the Executive and chairs its meetings. Executive Members remain in office until the next election unless they resign, are suspended, are no longer a member of the Council or

are removed from office by the Leader. The Executive is made of up to nine Councillors and the Leader. The Councillors in the Executive can only make decisions within the scope of the overall Budget and Policy Framework set by the Council and the Constitution.

Executive Decisions

A decision within the remit of the Executive under the Local Government Act 2000 See also [Key Decisions](#) and [Urgent Key Decisions](#).

Executive Decision-maker

The Executive, Individual Executive Member, a Committee of the Executive, or an officer taking a decision that is an Executive Decision.

Executive Members

The Councillors in the Executive each have responsibility for areas of the Council's work allocated to them by the Leader. Each area of responsibility is known as an Executive Member portfolio and each portfolio is given a title.

First Annual Meeting of Council

The first meeting of Council in the municipal year.

Forward Plan

The plan of future key decisions. The Forward Plan must be published 28 clear working days before the decision is made, unless an urgent decision is required.

Group Leaders (and Deputy Group Leaders)

Political groups will appoint a person to lead their group who are known as Group Leaders.

Head of Paid Service

See [Statutory Officers](#).

Independent Person (Audit)

An individual that is separate from and not influenced or controlled by those providing the information.

Independent Person (Standards)

An individual that is separate from the Monitoring Officer and not influenced or controlled by them.

Items of Business

Items on an agenda requiring a decision.

Key Decisions

A key decision is an Executive decision which is likely: to result in the local authority incurring expenditure which is, or the making of savings which are, *significant* having regard to the local authority's budget for the service or function to which the decision relates; or to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the local authority. **Note: Can list what is considered "significant" here by reference to financial thresholds Any Contract with a value in excess of £500,000 shall be deemed to be a key decision.**

Leader

Leader of the Executive appointed under the Stronger Leader and Cabinet Model as the political Head of the Council.

Legislation

Laws passed by Government.

Licensing Sub-committee

Councillors trained in licensing matters appointed to hear licensing applications.

LGA 1972

Local Government Act 1972 as amended.

LGA 2000

Local Government Act 2000 as amended.

Local Government Elector

A person registered as a local government elector in the register of electors in the authority's area in accordance with the Representation of the People Acts.

Meetings

Formally-constituted meetings convened in accordance with the LGA 1972 with due notice, formal agenda, open to the public and with minutes taken forming the legal record of the discussion.

Minutes

Notes taken at meeting, approved at subsequent meeting as a correct record and which then form the legal record of the meeting.

Monitoring Officer

This is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. The Monitoring Officer is responsible for reporting the actual or potential breach of a legal requirement to the Council Meeting or Executive and for dealing with complaints of breaches of the code of conduct by Councillors, reporting as necessary to the Governance and Ethics Committee. The Service Director, Strategy and Governance is the designated 'Monitoring Officer'. See [Statutory Officers](#).

Motions

Formal proposal from a Councillor.

Named for Disorderly Conduct

Process by which Chairman calls out a councillor for disorderly conduct, requests them to stop and, if they do not do so, asks them to leave.

Officer

Person appointed to or holding a paid office of the authority or employed by the authority. Officers carry out the decisions made by Councillors and ensure that council policies are put in place and council services are being delivered well.

Ordinary Meeting

Council Meetings held in accordance with a programme of meetings decided by the Council.

Outside Bodies

Organisations with whom the Council works in partnership, appoints councillors to but over whom the Council has no direct control.

Overview and Scrutiny

The action of overseeing and scrutinising decisions made by the Executive undertaken by the Scrutiny Board.

Petitions

A written or electronic communication signed or sent to the Council on behalf of at least 10 signatories from at least 5 identifiable households and including a clear and concise statement indicating what action the petitioners wish the Council to take and the name, identifiable address and signature of any person supporting the petition. Petitions will be received by the Council in accordance with the Petitions Scheme ***add link?***

Point of Explanation

Restriction on what a councillor may say in a debate. In this case a point made that will assist other councillors in understanding the matter under debate.

Point of Order

Restriction on what a councillor may say in a debate. In this case a point made about the process which should be followed.

Presenter of a Report

The councillor with responsibility for presenting a report to Council.

Procedural Motions

Motions that can be moved without notice.

Proposals

Proposal to adopt a recommendation. It must be moved and seconded and can then be debated in accordance with the Rules of Procedure.

Questions

Written questions submitted by the public to Council **[in the context of the Meeting Rules]**.

Quorum

This is the required number of Councillors which need to be present at a meeting to enable the business of that meeting to be transacted.

Recommendations

May be moved on notice at a particular meeting (often contained within a report to that meeting by an officer or from another authority).

Relevant Officer

A person designated as being responsible for a particular function or range of functions. This can be the Chief Executive, S151 Finance Officer or Monitoring Officer.

Reports

Written items prepared by officers for consideration by Councillors.

Rules of Procedure (Rules of Debate)

These set out how meetings of the Council, the Executive, the Scrutiny Commission, other Committees and other bodies will be conducted.

Scrutiny Commission

Scrutiny is a role fulfilled by all Councillors who are not Members of the Executive. It is a statutory function under the Local Government Act 2000. The role of the Scrutiny Commission is to help develop policy, to carry out reviews of Council and other local services and to hold Executive and Executive Members to account for their actions and decisions.

Second the Motion

To indicate support of a Motion proposed by another councillor, which enables that Motion to be considered.

S.151 Officer

See [Statutory Officers](#).

Senior Officers (tiers of management)

Officers who are Heads of Service or above.

Statutory Officers: Chief Executive / Head of Paid Service Monitoring Officer / MO Section 151 Officer / S.151 Officer / Chief Finance Officer

A statutory appointment under Section 4 of the Local Government and Housing Act 1989. Every Council has to have a Head of Paid Service, who is ultimately responsible for the Councils' delivery of effective services and is responsible for reporting to the Council on how employees are organised and deployed. The Chief Executive has been designated as the Head of Paid Service. A statutory appointment under Section 5 of the Local Government and Housing Act 1989. The Monitoring Officer is responsible for reporting the actual or potential breach of a legal requirement to the Council or Executive and for dealing with

complaints of breaches of the code of conduct by Councillors. Any reference to Monitoring Officer shall include their duly appointed deputy. A statutory appointment required under S151 of the Local Government Act 1972. Every Council must designate an officer as responsible for the proper administration of the Council's financial affairs. Any reference to Section 151 Officer shall include their duly appointed deputy.

Sub-committees

Formed by the Council, or a committee, to carry out specific tasks with the Council, or committee, delegating the powers (hence "sub" because the powers are taken from the committee and cannot exceed the powers of the parent body).

Summons

Formal notification of a meeting setting out the agenda for business it is proposed will be considered at the meeting.

Task Groups

Informal meetings which may involve non councillors and may, or may not, be open to the public. No decisions can be taken by such groups (see also Advisory Groups).

Timetable of Meetings

The timetable for the year put forward for approval by Council at the Annual Meeting.

Urgent Key Decisions

A Key Decision that cannot wait for the next meeting of the decision making of the Executive. Such decision, if made, are certified not to be subject to Call-in.

Urgent Motion

A motion proposed without the requisite notice accepted as urgent by the Chairman.

Vice-Chairman of Council

The Councillor appointed to deputise for the Chairman.

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Part 1 - Summary and Explanation

1. The Council's Constitution

- **1.1** West Berkshire District Council ("**Council**") has produced a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these decisions are efficient, transparent and accountable to local people:
 - some of these processes are required by law, while others are a matter for the Council to choose;
 - the Constitution is divided into 13 Articles which set out the basic rules governing the Council's business;
 - more detailed procedures and codes of practice are provided in separate rules and protocols.
 - **1.2** All reports presented at public meetings (except for those deemed as exempt or confidential), agendas and minutes, decisions made, timetables of meetings and the West Berkshire Council Forward Plan can also be found on the Council's website (www.westberks.gov.uk).
-

2. Revisions to the Constitution

- **2.1** In April 2023 the Council introduced a suite of changes to the Constitution to update and consolidate the existing Constitution.
 - **2.2** Both the existing ("**Old Constitution**") and revised ("**New Constitution**") versions are divided into numbered Parts.
 - **2.3** The changes introduced Parts 1 to 9 of the New Constitution to replace the following Parts of the Old Constitution: Parts 1, 2, 4 to 7, 9 to 12 and elements of Part 13 (Appendices A, C, G and I).
 - **2.4** For the purposes of (only) the remainder of Part 1 (this Summary and Explanation) and Part 2 (the Articles), "**Part**" refers to a numbered part of the New Constitution and "**O-Part**" refers a numbered Part of the Old Constitution that remains in force.
 - **2.5** For the present, as described at 3.11, all of the O-Parts have been re-numbered to follow on from the new Parts. Thus (for example) O-Part 3 (Scheme of Delegation) is now Part 11.
 - **2.6** Work is ongoing and, in due course, all O-Parts will be replaced with Parts, but at present the Constitution is formed of the Parts and O-Parts together.
-

3. What is in the Constitution

New Constitution

- **3.1** The New Constitution is divided into nine main Parts, some of which have Sub-Parts or Appendices.
- **3.2** Part 1 is this Summary and Explanation.

- **3.3** Part 2 contains 14 sub sections called 'the Articles':
 - **3.3.1** Article 1 commits the Council to using the Constitution to help fulfil its corporate aims and values.
 - **3.3.2** Articles 2 to 14 explain the rights of citizens and how the key parts of the Council operate:
 - Citizens and the Council (Article 2);
 - Members of the Council (Article 3);
 - Decision-Making (Article 4);
 - The Full Council (Article 5);
 - The Executive (Article 6);
 - Overview and Scrutiny (Article 7);
 - Regulatory and Other Committees (Article 8);
 - Joint Arrangements (Article 9);
 - Officers (Article 10);
 - Finance, Contracts and Legal Matters (Article 11);
 - Review and Revision of the Constitution (Article 12);
 - Suspension, Interpretation and Publication of the Constitution (Article 13);
 - Description of Executive Arrangements (Schedule 1)
- **3.4** Part 3 sets out the rules relating to Meetings of the Council, the Executive and other Council Bodies, with Appendices relating to:
 - Questions (Part 3.1);
 - Petitions (Part 3.2);
 - Meetings Rules Table (Part 3.3).
- **3.5** Part 4 relates to the Council.
- **3.6** Part 5 relates to the Executive.
- **3.7** Part 6 relates to Bodies of the Council, with Appendices relating to the:
 - Appeals Committee (Part 6.1);
 - Governance Committee (Part 6.2);
 - Health and Wellbeing Board (Part 6.3):
 - Health and Wellbeing Board Steering Group (Part 6.3.1);
 - Building Communities Together Partnership (Part 6.3.2):
 - Domestic Abuse Board (Part 6.3.2.1):
 - Domestic Abuse Board, Behaviours and Conduct (Part 6.3.2.1.1);
 - Children's Prevention and Early Help Partnership (Part 6.3.3);

- Locality Integration Board (Part 6.3.4);
- Health Scrutiny Committee (Part 6.4);
- Joint Public Protection Committee (Part 6.5);
- Licensing Committee (Part 6.6):
- Licensing Sub-Committee (Part 6.6.1);
- Personnel Committee (Part 6.7);
- Planning Committees (Part 6.8);
- Scrutiny Commission (Part 6.9).
- **3.8** Part 7 relates to the Budget and Policy Framework;
- **3.9** Part 8 relates to Contract Rules;
- **3.10** Part 9 relates to Financial Rules.

Old Constitution

- **3.11** The O-Parts remaining in force are:
 - Part 3 (Scheme of Delegation) (new Part 11) ;
 - Part 8 (Access to Information Rules) (new Part 10);
 - Part 13 (Codes and Protocols, excluding Appendices A, C, G and I) (remains Part 13);
 - Part 14 (Members Allowance Scheme) (remains Part 14);
 - Part 15 (Management Structure) (new Part 12).
 - **3.12** If there is a conflict between the Old and New Constitutions, the New Constitution will prevail.
-

4. How the Council Operates

- **4.1** The Council is composed of 43 Councillors elected every four years, and:
 - Councillors are democratically accountable to residents of their Ward;
 - the overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them;
 - Councillors have to agree to follow the Code of Conduct to ensure high standards in the way they undertake their duties;
 - the Governance Committee recommends appropriate training and advice on the Code of Conduct.
- **4.2** All Councillors meet together as 'the Council', and:
 - Meetings of the Council are normally open to the public;
 - Councillors decide the Council's Budget and Policy Framework and set the budget each year;

- the Council is responsible for electing the Council Leader and is ultimately responsible for holding the Executive to account.
-

5. How Decisions are Made

- **5.1** The Executive is the part of the Council which is responsible for most day-to-day decisions (although most of the operational decision making is delegated to officers).
 - **5.2** The Executive is made up of the Leader and an Executive (or Cabinet) of up to nine Councillors who the Leader appoints annually.
 - **5.3** When Key Decisions are to be discussed or made, these are published on the Council's Forward Plan, which must be published at least 28 days before the decision is made, unless an urgent decision is required.
 - **5.4** All Key Decisions will be discussed at Executive Meetings (and officers will be in attendance to advise Councillors at these meetings).
 - **5.5** Executive Meetings will generally be open for the public to attend except where exempt or confidential matters are being discussed.
 - **5.6** The Executive has to make decisions which are in line with the Council's overall policies and budget - if it wishes to make a decision which is outside the Budget and Policy Framework, this must be referred to the Council as a whole to decide (see Part 7).
 - **5.7** Decisions can also be made by individual Executive Members in accordance with the approved individual decision making protocol (see Part 5 (Executive) and O-Part 13, Appendices B (Protocol for Decision-Making by Individual Executive Members) and B1 (Individual Decision making Process)).
-

6. Scrutiny Commission

- **6.1** The Scrutiny Commission supports the work of the Executive and the Council as a whole by providing a mechanism through which the actions of the Executive can be challenged:
 - it prepares reports and recommendations which advise the Executive on its policies, budget and service delivery, consulting within and outside the Council;
 - it monitors the decisions of the Executive.
- **6.2** Any five Members of the Council may 'call in' a decision which has been made by the Executive but not yet implemented - this enables the Scrutiny Commission to consider whether the decision is appropriate, and it may recommend that the Executive reconsider the decision.
- **6.3** The Scrutiny Commission may also be consulted by the Executive or the Council on forthcoming decisions.

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7. Planning and Licensing Committees

- **7.1** The District Planning Committee, the two Area Planning Committees and the Licensing Committee deal with a range of regulatory functions (set out in Article 8, Part 6.6 (Licensing Committee) and Part 6.8 (Planning Committees)) relating to planning applications, and licensing and gambling policies and applications.
-

8. Governance Committee

- **8.1** The main roles of the Governance Committee are to:
 - challenge and provide independent assurance on the Risk Management Framework and associated internal controls of the Council;
 - consider and make recommendations to the Council on proposed changes to the Constitution;
 - review the Council's financial statements and review the external auditors annual audit letter;
 - promote and maintain high standards of conduct throughout the Council;
 - determine whether breaches of the relevant Code of Conduct have occurred;
 - promote, educate and support Councillors (both District and Parish) in following the highest standards of conduct and ensuring that those standards are fully owned locally.
 - **8.2** An Advisory Panel has been established to make recommendations to the Governance Committee in respect if any complaints received in respect of District or Parish Councillors' behaviour where a potential breach of the relevant Code of Conduct has been identified.
-

9. Personnel Committee

- **9.1** The Personnel Committee is responsible for:
 - agreeing and making changes to the Council's Human Resources and Health and Safety Policies and Procedures;
 - appointing staff at Head of Service level or above by means of an Appointments Panel; and
 - determining requests for the early release of pensions (although the financial implications of each request have to be considered and approved by the Executive).
-

10. The Council's Staff

- **10.1** The Council has people working for it ("officers") to give advice, implement decisions and manage the day-to-day delivery of its services.
- **10.2** Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

- **10.3** A code of practice governs the relationships between Officers and Members of the Council (see O-Part 13 (Codes and Protocols) and its Appendices).
-

11. Citizens' Rights

- **11.1** Citizens have a number of rights in their dealings with the Council, and these are set out in more detail in Article 2 - some of these are legal rights, whilst others depend on the Council's own processes.
- **11.2** In addition the Council has adopted a Customer Service Charter setting out the way in which it will interact with citizens.
- **11.3** Where members of the public use specific Council services, for example as a parent of a school pupil or a social services client, they may have additional rights - these are not covered in this Constitution.
- **11.4** Citizens have the right to:
 - vote at local elections provided they are registered;
 - contact their local Councillor about any matters of concern to them;
 - obtain a copy of the Council's Constitution (available on the Council website at www.westberks.gov.uk/constitution);
 - attend public meetings of the Council and its Bodies except where, for example, exempt or confidential matters are being discussed;
 - petition to request a referendum on a mayoral form of Executive;
 - ask questions at certain Meetings;
 - contribute to investigations, on request, by the Scrutiny Commission;
 - find out, from the Council's Forward Plan, what Key Decisions are to be discussed by the Executive or decided by the Executive, individual Executive Members or Officers, and when;
 - see reports and background papers, except for Exempt Information, as permitted by statute;
 - complain to the Council about something the Council should have done or something that they have done but should not have;
 - complain to the Council concerning an officer's attitude or actions;
 - complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly (this should only be done after using the Council's own complaints process);
 - complain to the Monitoring Officer or Governance Committee if they have evidence which they think shows that a District or Parish/Town Councillor has not followed the relevant Code of Conduct;
 - inspect the Council's accounts and make their views known to the external auditor.
- **11.5** The Council welcomes participation by citizens in its work.

Part 2 - Articles of the Constitution

Article 1 - The Constitution

Powers of the Council

- **1.1** The Council will exercise all its powers and duties in accordance with the law and this Constitution.

The Constitution

- **1.2** This Constitution, and all its appendices, is the Constitution of West Berkshire District Council.

Purpose of the Constitution

- **1.3** The purpose of the Constitution is to put in place a structure for decision making to help the Council realise its corporate aims, objectives and priorities in an efficient and effective manner whilst meeting its legal duties.
- **1.4** In particular the Constitution seeks to help the Council meet its stated corporate priorities and principles.
- **1.5** The Constitution provides the means to focus the Council's decision making to ensure that it:
 - reflects closely the needs and aspirations of local communities, towns and villages;
 - encourages community involvement;
 - helps Councillors represent their constituents effectively;
 - enables decisions to be taken efficiently and effectively;
 - creates a powerful and effective means of holding decision-makers to public account;
 - ensures that no one will review or scrutinise a decision in which they were directly involved;
 - is clear who is accountable for making specific decisions;
 - promotes community leadership.

Interacting with the Local Community

- **1.6** The Council sees its Constitution as more than a series of procedures and rules:
 - it will play a major part in demonstrating how all parts of the Council intend to engage actively with the local community;
 - it will bring about more efficient and effective decision-making, which in turn will ensure that the Council is able to realise its vision: "Keeping West Berkshire a great place in which to live, learn, work and do business in".

Interpretation and Review of the Constitution

- **1.7** Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it believes most closely reflects the objectives and values stated above (see 'Decision-Making' above).
 - **1.8** The Council will monitor and evaluate the operation of the Constitution as set out in Article 12.
-

Article 2 - Citizens and the Council

Citizens' Rights

- **2.1** Citizens have certain rights as defined below. Their rights to information and to participate are explained in more detail in O-Part 8 (Access by the Public to Information Rules of Procedure).

Voting and Petitions

- **2.2** Citizens on the electoral roll for the District have the right to vote and sign a petition to request a referendum for an elected mayor for the Council (subject to the Regulation on time limits).

Definition of Citizens' Rights

- **2.3** Citizens have the right to:
 - **2.3.1** attend Meetings of the Council, its Committees and Sub-Committees except where confidential or exempt information is likely to be disclosed, and the Meeting is therefore held in private (see O-Part 8 (Access by the Public to Information Rules of Procedure));
 - **2.3.2** attend Meetings of the Executive (and any Committee which it may appoint) except where confidential or exempt information is disclosed and the Meeting is therefore held in private;
 - **2.3.3** find out at least 28 days in advance of any Key Decision to be taken by the Executive;
 - **2.3.4** find out from its Work Programme what items the Scrutiny Commission and its Sub-Committees are to consider;
 - **2.3.5** see reports, background papers and any records of decisions made by the Council, its Committees and Sub-Committees, except where this information is deemed to be exempt;
 - **2.3.6** see reports, background papers and any records of decisions made by the Executive, except where this information is deemed to be exempt;
 - **2.3.7** inspect the Council's accounts and make their views known to the external auditor.

Participation

- **2.4** Citizens have the right to:
 - **2.4.1** submit petitions to the Council, Executive, and certain Bodies, in accordance with Parts 3, 3.2 and 3.3;

- **2.4.2** submit written questions to the Council, Executive, and certain Bodies, in accordance with Parts 3, 3.1 and 3.3;
- **2.4.3** actively contribute to the work of the Scrutiny Commission or its Sub-Committees by providing written or verbal evidence when so invited;
- **2.4.4** speak at Area and District Planning Committee Meetings in respect of planning applications in accordance with Part 6.8;
- **2.4.5** speak at Licensing Committee and Sub-Committee Meetings in respect of licensing and gambling applications in accordance with Parts 6.6 and 6.6.1.

Complaints

- **2.5** Citizens have the right to complain to:
 - **2.5.1** the Council itself under its Corporate Complaints Procedure;
 - **2.5.2** the Local Government and Social Care Ombudsman after following the Corporate Complaints Procedure;
 - **2.5.3** the Monitoring Officer about any alleged breach of the Members' Code of Conduct (and the Monitoring Officer may refer such to the Governance Committee).

Citizens' Responsibilities

- **2.6** Citizens are expected to comply with the Council's Customer Service Charter and treat Councillors and Officers with respect - they must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm property owned by the Council, Councillors or officers.

Article 3 - District Councillors

Composition

- **3.1** The Council comprises 43 District Councillors, also referred to in this Constitution in relation to membership of specific Bodies as Members.
- **3.2** One or more Councillors will be elected by the voters of each Council Ward (and thus referred to as a "Ward Councillor" or "Ward Member") in accordance with a scheme drawn up by the Local Government Commission and approved by the Electoral Commission.

Eligibility

- **3.3** Individuals who are aged 18 years or above, and who on the relevant day are registered voters of the District, or those living or working there, or having an interest in land in the District, will be eligible to be elected to the office of Councillor.

Election and Terms of Councillors

- **3.4** The regular election of Councillors will normally be held on the first Thursday in May every four years. The next ordinary elections are due to take place in May 2023, and then in May 2027.

- **3.5** The terms of office of the Chairman of Council, Vice-Chairman of Council and the Leader of Council shall be as set out in Parts 4 (Council) and 5 (Executive).
- **3.6** The terms of office of all other Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.
- **3.7** All Councillors should:
 - collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - individually and collectively advise the Council and its Scrutiny Commission and Sub-Committees on issues of policy;
 - represent their communities and bring their views into the Council's decision-making processes, thereby acting as the advocate of and for their communities;
 - contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
 - deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances in a fair and impartial manner;
 - balance different interests identified within their Ward and represent their Ward as a whole;
 - be involved in decision-making;
 - be available to represent the Council on other bodies;
 - maintain the highest standards of conduct and ethics.

Rights and Duties

- **3.8** All Councillors will:
 - **3.8.1** have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law; (but documents dealing with individuals or other confidential matters may not be available);
 - **3.8.2** not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence by any person or body to anyone other than a Councillor or Officer entitled to know it
- **3.9** For the purpose of 3.7, the terms "confidential" and "exempt" information are defined in O Part 8 (Access by the Public to Information Rules of Procedure).

Conduct

- **3.10** Councillors will at all times observe the Code of Conduct and the Protocol on Member/Officer Relations (see O-Part 13).
- **3.11** Co-opted Members of Committees will be guided by the principles in the Code of Conduct.

Allowances

- **3.12** Councillors will be entitled to receive allowances in accordance with O-Part 14 (Members' Allowances Scheme).

Confidentiality - Non-Disclosure of Reports

- **3.13** Reports to Bodies and Sub-Bodies which are "not for publication", in accordance with the statutory provisions on the grounds that they contain confidential or exempt information, shall be treated as confidential and shall not be disclosed by Councillors or officers of the Council unless the Body in question decides otherwise.
- **3.14** After the meeting of the Body or Sub-Body the information shall continue to be treated as confidential except in so far as it ceases to be confidential by virtue of the statutory provisions or its inclusion in the Minutes of the meeting which are made available for public inspection.

Constitution to be given to Members

- **3.15** As soon as possible following the declaration of acceptance of office, each Member shall be given access to a digital copy of the Constitution.
 - **3.16** Amendments to the Constitution shall be made available to each Member in a digital format as soon as possible after their approval.
-

Article 4 - Decision-Making

Responsibility for Decision-Making

- **4.1** The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decision or decisions relating to particular areas or functions.
- **4.2** This record is set out in O-Part 3 (Scheme of Delegation).

Principles of Decision-Making

- **4.3** Any decisions taken must be in accordance with the terms of this Constitution.
- **4.4** Under the Constitution, decisions will be taken by the full Council, the Executive (both collectively and by individual Members of the Executive), Bodies, Sub-Bodies and officers.
- **4.5** Whichever body or individual is responsible for taking a decision, the decision should be taken, as far as possible, in accordance with the following principles:
 - **4.5.1** there should be a presumption in favour of decision-making being open and transparent, with members of the public being afforded effective access to relevant information and the processes by which decisions are taken;
 - **4.5.2** decisions will be in an open and transparent manner and in accordance with the legislative framework, as detailed at O-Part 8 of the Constitution.

- **4.5.3** appropriate consultation should take place with those likely to be affected by a decision;
- **4.5.4** so far as practicable, decision-taking should be planned in advance and the public given due notification of forthcoming significant decisions;
- **4.5.5** decisions must be taken with regard to all relevant considerations and ignoring all irrelevant matters;
- **4.5.6** decisions should be taken on the basis of the Council's corporate priorities and principles and have regard to any approved policies or procedures of the Council;
- **4.5.7** appropriate professional advice from suitably qualified officers should be obtained and considered;
- **4.5.8** decisions must be taken with regard to proportionality - the action must be proportionate to the desired outcome;
- **4.5.9** decisions must be taken with regard to any relevant statutory requirements and with respect for human rights;
- **4.5.10** any decisions taken must be formally recorded in accordance with the requirements of this Constitution;
- **4.5.11** where the decision is taken by the Executive, or a Member of the Executive, the formal record should state what alternative options were considered and the reason for the decision that was taken.
- **4.6** In some cases (eg where urgent action is necessary, or confidential matters are under discussion) it may not be practicable to fully comply with all of these principles, but decision-makers should satisfy themselves that they have been complied with so far as reasonably practicable in the circumstances.
- **4.7** Decision-makers may be held to account for any failure to comply with these principles.

Full Council Decisions

- **4.8** Certain decisions are reserved to Council in accordance with the Budget and Policy Framework, detailed in Part 7. Further functions are reserved by law to Council, and details of these are set out in the Scheme of Delegation in Part 3 of the Constitution.

Executive Decisions

- **4.9** Any decision that is not a Council decision is reserved by law to the Executive.

Decision-making

- **4.10** Subject to 4.16, when considering any matter:
 - **4.10.1** the Council will follow Part 3 (Meeting Procedure Rules) and Part 4 (Council);
 - **4.10.2** the Executive will follow Part 3 (Meeting Procedure Rules) and Part 5 (Executive);

- **4.10.3** an individual Executive Member will follow the Part 4 (Executive) and the Individual Decision Protocol (O-Part 13, Appendix B);
- **4.10.4** the Scrutiny Commission and its associated Sub Bodies will follow Part 3 (Meeting Procedure Rules), Part 5 (Executive) and Part 6.9 (Scrutiny Commission);
- **4.10.5** other Council Bodies and Sub-Bodies will follow Part 3 (Meeting Procedure Rules), Part 6 (Council Bodies) and the relevant Appendix to Part 6;

Article 5 - The Full Council

Part 3 (Meeting Procedure Rules) and Part 4 (Council) also refer.

Role and Function of the Chairman

- **5.1** The Chairman and Vice-Chairman will be elected by the Council on an annual basis.
- **5.2** The Chairman is the civic head of West Berkshire and will represent the Council at official engagements arranged by the Council or to which the Council is invited.
- **5.3** The Chairman (or in their absence, the Vice-Chairman) has precedence within the District but not prejudicially as to affect the monarch's Royal Prerogative (the Chairman therefore takes precedence over the Town Mayors of Newbury, Thatcham and Hungerford).
- **5.4** In addition, the Chairman also has the following responsibilities:
 - to uphold and promote the purposes of the Constitution, and to interpret the Constitution where necessary;
 - to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the interests of the community and the rights of Councillors;
 - to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive to account;
 - to promote public involvement in the Council's activities;
 - to act in a neutral manner on matters that affect the Council;
 - to attend such civic and ceremonial functions as the Council and the Chairman determines appropriate;
 - to ensure that good working relations are maintained between Councillors and officers.

Article 6 - The Executive

- **6.1** Part 3 (Meeting Procedure Rules) and Part 5 (Executive) also refer.

Executive Portfolios

- **6.2** The Executive Portfolios are determined by the Leader and are currently as follows:
 - Leader, Strategy and Communications
 - Deputy Leader, Planning and Housing
 - Adult Social Care and Public Health
 - Children and Family Services
 - Culture, Leisure, Sport, and Countryside
 - Environment and Highways
 - Transformation and Corporate Programme
 - Public Safety and Capital Projects (Built Environment)
 - Community Engagement, Economic Development and Regeneration and Devolution and Local Government Reorganisation
 - Finance and Resources
-

Article 7 - Overview and Scrutiny

- **7.1** Part 3 (Meeting Procedure Rules) and Part 6.9 (Scrutiny commission) also refers.
-

Article 8 - Regulatory and Other Committees

- **8.1** Part 3 (Meeting Procedure Rules) and Part 6.2 (Governance Committee), Part 6.6 (Licensing Committee), Part 6.7 (Personnel Committee), and Part 6.8 (Planning Committees) also refer.
-

Article 9 - Joint Arrangements

Joint Arrangements

- **9.1** The Council and Executive may enter into arrangements with a person or body to co-operate with, or facilitate or co-ordinate the activities of, such person or body, and may exercise on behalf of that person or body any functions of that person or body. If Council or Executive enter into joint arrangements with a third party, the following rules will apply:
 - **9.1.1** the Council may establish joint arrangements with one or more local authorities to exercise functions in any of the participating authorities, or advise the Council;
 - **9.1.2** the Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions.
- **9.2** Joint arrangements may involve the appointment of Joint Committees with these other local authorities.

Delegation to and from Other Local Authorities

- **9.3** The following conditions will be put in place in respect of delegation to and from other local authorities:
 - **9.3.1** The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.
 - **9.3.2** The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.
 - **9.4** The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council or Executive as appropriate.
-

Article 10 - Officers - The Constitution will be updated as necessary to record details of any joint arrangements.

- **10.1** Part 12 (Management Structure) also refers.

General

- **10.2** The Council may engage such staff (referred to as 'Officers') as it considers necessary to carry out its functions.

Conduct

- **10.3** Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 13 (Codes and Protocols) of this Constitution.

Employment of Officers

- **10.4** The recruitment, selection and dismissal of Officers will comply with the Personnel Rules of Procedure set out in Part 6.7 of this Constitution.
- **10.5** By law the Council is required to designate officers to the positions of Head of Paid Service, Monitoring Officer and Chief Financial Officer. Those designations are currently as follows:-
 - Head of Paid Service - Chief Executive
 - Monitoring Officer - Service Director, Strategy & Governance
 - Chief Finance Officer - Executive Director Resources
- **10.6** The Council will provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.
- **10.7** The Head of Paid Service will determine and publicise a description of the overall structure of the Council, showing the management structure and deployment of Officers. This is outlined in detail in Part 15 of this Constitution.

Functions of the Head of Paid Service

Discharge of Functions by the Council

- **10.8** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade

of Officers required for the discharge of functions and the organisation of Officers.

Restrictions on Functions

- **10.9** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

Functions of the Monitoring Officer

Maintaining the Constitution

- **10.10** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

Ensuring Lawfulness and Fairness of Decision-Making

- **10.11** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Executive in relation to an Executive function, if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

Supporting the Governance and Ethics Committee

- **10.12** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Governance and Ethics Committee.

Conducting Investigations

- **10.13** The Monitoring Officer will conduct investigations or appoint an investigator into matters referred by the Governance and Ethics Committee and make reports or recommendations in respect of them to the Governance and Ethics Committee or its relevant Sub-Committee.

Executive Decisions within the Budget and Policy Framework

- **10.14** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

Providing Advice

- **10.15** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.

Restrictions on Posts

- **10.16** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

Functions of the Chief Finance Officer

Ensuring Lawfulness and Financial Prudence of Decision-Making

- **10.17** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Executive in

relation to an Executive function, and the Council's external auditor, if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

Administration of Financial Affairs

- **10.18** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

Contributing to Corporate Management

- **10.19** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

Providing Advice

- **10.20** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

Giving Financial Information

- **10.21** The Chief Finance Officer will provide financial information to the media, Members of the public and the community.

Article 11 - Finance, Contracts and Legal Matters

- **11.1** Parts 9 (Financial Rules) and 8 (Contract Rules) also refer.
- **11.2** The management of the Council's financial affairs will be conducted in accordance with the Financial Rules set out in Part 9 of this Constitution.
- **11.3** Every contract made by the Council will comply with the Contract Rules of Procedure set out in Part 8 of this Constitution.

Legal Proceedings

- **11.4** The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

Authentication of Documents

- **11.5** Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- **11.6** All contracts entered into by the Council must be in writing in a form approved by the Monitoring Officer or their delegated Officer. Standard Forms of Contract must be used wherever possible.
- **11.7** The Council's seal (including the electronic seal) must be witnessed by the Monitoring Officer or any nominated representative on any documents to which

the Council is a party and the seal affixed in accordance with Article 11.8 (Common Seal of the Council).

Common Seal of the Council

11.8 The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of Council, Executive, or any decision under delegated powers, will be sufficient authority for sealing a document necessary to give effect to the decision. The Common Seal, including an electronic seal) will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested or witnessed by the Monitoring Officer or some other person authorised by them.

Article 12 - Review and Revision of the Constitution

Duty to Monitor and Review the Constitution

- **12.1** The Council, via the Finance and Governance Group, will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for Monitoring and Review of Constitution by Monitoring Officer

- **12.2** A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:
 - **12.2.1** have regard to changes in legislation;
 - **12.2.2** observe meetings of different parts of the Member and Officer structure;
 - **12.2.3** undertake an audit trail of a sample of decisions;
 - **12.2.4** record and analyse issues raised with them by Councillors, Officers, the public and other relevant stakeholders; and
 - **12.2.5** compare practices in this Authority with those in other comparable authorities, or national examples of best practice.

Changes to the Constitution

- **12.3** Changes to the Constitution will only be approved by the full Council with the exception of Part 12 (Management Structure) which will be updated by the Head of Paid Service in accordance with agreed changes to the Council's Management Structure.
 - **12.4** The Monitoring Officer may make minor amendments to the Constitution in order to ensure that legislative provisions are current and any typographical or other errors are corrected.
-

Article 13 - Suspension, Interpretation and Publication of the Constitution

Suspension of the Constitution

- **13.1** The Articles of this Constitution may not be suspended.
- **13.2** The Rules specified in Parts 3, 4, 5, and 6 of this Constitution may be suspended in the following circumstances:
 - **13.2.1** Where specific provision for suspensions are included within the Rules. In such a case, the Procedure outlined in that provision must be followed.
 - **13.2.2** By decision of the Council, provided that notice has been given in the form of a formal Notice or Notices or in a report within the agenda papers for the meeting; or
 - **13.2.3** By decision of the Council, with at least half the total number of Councillors present.
- **13.3** The extent and duration of any suspension of Rules must be proportionate to the result to be achieved, and must take account of the purposes of the Constitution set out in Article 1.

Interpretation of the Constitution during Council Meetings

- **13.4** The ruling of the Chairman of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

Publication of the Constitution

- **13.5** The Monitoring Officer will ensure that the Constitution is published and available for inspection on the Council's website.

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Part 3 - Meeting Rules

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Meeting Procedure Rules

1. Introduction

- **1.1** Council Meetings will be conducted in accordance with all relevant legislation including the Local Government Act 1972, the Local Government and Housing Act 1989, the Local Government Act 2000, the Localism Act 2011 and The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.
 - **1.2** Where they apply (see below), and subject to any specific Procedure Rules for particular Bodies or Meetings set out in other Parts of the Constitution, these Procedure Rules are required to be followed in relation to public Meetings of the Council, the Executive and other Council Bodies.
 - **1.3** These Procedure Rules are not required to be followed in relation to private meetings of Bodies (including Task Groups) but the meeting Chairman may choose to follow some or all of them as desirable in the circumstances.
 - **1.4** These Procedure Rules may be:
 - **1.4.1** common to all Bodies; or
 - **1.4.2** specific to a particular Body or Meeting.
 - **1.5** These Procedure Rules set out:
 - **1.5.1** items of Business that must be taken first and in a particular order;
 - **1.5.2** items of Business that may be taken after those in the category above, but where the order may be varied:
 - **1.5.2.1** by the Meeting Chairman; or
 - **1.5.2.2** upon a successful Motion to do so;
 - **1.5.3** Procedural Motions that may be Moved without Notice;
 - **1.5.4** Proposals that may be Moved on Notice.
-

2. Business at a Meeting - The Meetings Rules Table

- **2.1 The First Appendix** to this Part is a Meetings Rules Table setting out various matters including:
 - Standard Items of Business for particular Meetings;
 - The order in which those Items of Business will be taken;
 - Procedural Motions that may be Moved without Notice at a particular Meeting;
 - Motions and Recommendations that may be Moved on Notice at a particular Meeting;
 - Questions and Petitions that may be asked or presented at a particular Meeting.

- **2.2** If there is any conflict between the wording of the Constitution (excluding the Meetings Rules Table) and the contents of the Meetings Rules Table, the Constitution will prevail.
-

3. Business at a Meeting - Questions and Petitions

- **3.1 The Second Appendix** to this Part sets out the Rules relating to the procedure for Public and Member Questions at particular Meetings.
 - **3.2 The Third Appendix** to this Part sets out the Rules relating to the procedure for dealing with Petitions.
-

4. Types of Public Meeting

- **4.1 Annual Meeting:**
 - **4.1.1** the First Annual Council Meeting following local elections - the Leader of Council is elected for the duration of the Council (four years);
 - **4.1.2** an Annual Council Meeting (including the First Annual Council Meeting following local elections) - the Chairman and Vice-Chairman of Council are elected, the Leader announces the composition of the Executive, and the size, terms of reference and membership of Bodies is decided;
 - **4.1.3** an Annual Meeting of a Body - generally these take place in turn during an adjournment or at the close of the Annual Council Meeting to elect the Body Chairman and Vice-Chairman only.
 - **4.2 Council Budget Meeting** - more fully detailed in Part 4 (Council), this generally takes place in March each year and sets the Council's budget for the following financial year (and the substantive business of the Meeting is restricted to the budget);
 - **4.3 Ordinary Meeting** - the Body in question transacts general business, as described further below.
 - **4.4 Extraordinary Meeting** - the Body in question transacts only the specific business for which the Meeting has been called, as described further below.
-

5. Calling Meetings

- **5.1** The dates and times for Annual, Council Budget, and Ordinary, Meetings are set out in the Timetable of Meetings agreed from time to time by Council.
- **5.2** In any event:
 - **5.2.1** the First Annual Council Meeting following an election will take place within twenty-one days of the retirement of the outgoing Councillors;
 - **5.2.2** in any other year, the Annual Council Meeting will usually take place in May.

- **5.3** In the event that any adjustment to the date of a Meeting is found to be necessary the appropriate Officer should discuss matters with the Body Chairman and/or Vice-Chairman (and, as necessary and appropriate in the circumstances, the Group Leaders and/or Deputy Group Leaders), with the Body Chairman having the final say as to how to proceed.
 - **5.4** An Extraordinary Meeting of a Body may be convened:
 - **5.4.1** by the Body Chairman; or
 - **5.4.2** by the Monitoring Officer; or
 - **5.4.3** by Members of the Body presenting a requisition to the Monitoring Officer signed by at least:
 - **5.4.3.1** five Councillors for an Extraordinary Council Meeting; or
 - **5.4.3.2** three Members of any other Body for an Extraordinary Meeting of that Body; - in which event the Extraordinary Meeting shall be called by the Body Chairman or Monitoring Officer as soon as is practicably possible, but not later than seven days from the date that the requisition is presented to them.
-

6. Quorum

- **6.1** The quorum for a Meeting of:
 - **6.1.1** Council is 11 Councillors;
 - **6.1.2** the Executive is four Executive Members;
 - **6.1.3** a Body is one third of the Body membership or four Body Members, whichever is the greater;
 - **6.1.4** of a Joint Committee shall be determined by reference to the rules relevant to that Body;
 - **6.1.5** a Licensing Sub-Committee or Appeals Panel is three Members;
 - **6.1.6** a Sub-Body is one third of the Sub-Body membership or three Sub-Body Members, whichever is the greater, unless the Parent Body decides otherwise where permitted.
 - **6.2** During any Meeting if the Meeting Chairman counts the number of Members present and declares there is not a quorum present:
 - **6.2.1** the Meeting will adjourn immediately; and
 - **6.2.2** the remaining business will be considered at a time and date fixed by the Meeting Chairman (or, if the Meeting Chairman does not fix a date, at the next Ordinary Meeting).
-

7. Non-Member Councillors

- **7.1** Councillors who are not Members of a Body may attend any Meeting of a Council Body.
-

8. Standard Business to be taken in order

(where applicable - see Meeting Rules Table)

- **8.1** To elect a Member to be Meeting Chairman if the Body Chairman/Vice-Chairman is not present - any power or duty assigned to the Body Chairman in relation to the conduct of the Meeting may be exercised by the Meeting Chairman.
 - **8.2** To receive apologies for an inability to attend the Meeting.
 - **8.3** Any Meeting Chairman's remarks to the Meeting and presentations.
 - **8.4** To elect the Body Chairman (only at the Annual Meeting, unless there is a vacancy).
 - **8.5** To elect the Body Vice-Chairman (only at the Annual Meeting, unless there is a vacancy).
 - **8.6** To approve the Minutes of the previous Meeting(s).
 - **8.7** To receive Declarations of Interest.
 - **8.8** To elect the Leader for a four year term (only at the First Annual Council Meeting following an election, unless there is a vacancy).
 - **8.9** To receive the Leader's Annual Report to Council (at the Annual Council Meeting). The Leader shall be entitled to speak for a ten minute period. Leaders of Opposition Groups shall be entitled to ask questions of the Leader on the points made in the report. The total time for the item shall not exceed 30 minutes.
 - **8.10** To receive the Leader's notification of the number and membership of the Executive (only at an Annual Council Meeting, unless there is a change).
 - **8.11** To receive announcements from the Meeting Chairman/Leader/Executive/Chief Executive.
-

9. Standard Business where order can be varied by the Meeting Chairman or on Motion

(where applicable - see Meeting Rules Table)

- **9.1** To receive Petitions submitted in accordance with the Petitions Appendix.
- **9.2** To respond to public written Questions submitted in accordance with the Questions Appendix.
- **9.3** To decide on Bodies including:
 - **9.3.1** the size and terms of reference;
 - **9.3.2** the allocation of seats to political groups in accordance with the political balance rules.
- **9.4** To appoint Councillors to Bodies.
- **9.5** To appoint Councillors to Outside Bodies (where the power to appoint has not been delegated, eg to the Leader).
- **9.6** To agree amendments to the Constitution.

- **9.7** To respond to Petitions previously received.
 - **9.8** To receive and consider Reports and Recommendations.
 - **9.9** To deal with matters referred to the Body.
 - **9.10** To consider Motions.
 - **9.11** To respond to Members' written Questions submitted in accordance with the Questions Appendix.
 - **9.12** To consider Called In items.
 - **9.13** To consider the business/any other business specified in the Agenda.
-

10. Procedural Motions

(Motions that may be Moved without Notice)

- **10.1** To appoint a Meeting Chairman if the Body Chairman and Vice-Chairman are both absent.
 - **10.2** To agree the accuracy of the Minutes/any amendments.
 - **10.3** To refer any matter to the Council, the Executive, a Body or an Officer.
 - **10.4** To establish a Body or Sub-Body if such need arises from an Agenda item.
 - **10.5** To amend or withdraw a Proposal as permitted.
 - **10.6** To amend the time limit for speeches (if any).
 - **10.7** To allow a member of the public to speak in accordance with these Procedure Rules.
 - **10.8** To allow the continuation of the Meeting past 22:00 (to conclude by 22:30 or, at the Meeting Chairman's discretion, by 22:45 for meetings of Council).
 - **10.9** To suspend a Procedure Rule where permitted.
 - **10.10** To exclude the press and public in accordance with statute.
 - **10.11** That a Member named for Disorderly Conduct not to be further heard or leave the Meeting.
 - **10.12** A Closure Motion (see Rules of Debate - Closure Motions below).
-

11. Motions other than Procedural Motions - submission

- **11.1** A Motion must:
 - **11.1.1** be submitted in writing to the Monitoring Officer;
 - **11.1.2** relate to a matter or matters of concern to the District;
 - **11.1.3** be submitted in the name of a Member or Members of the Body to which it is addressed;
 - **11.1.4** identify the Meeting to which it is submitted.
- **11.2** A Motion:
 - **11.2.1** may be submitted to any Executive Meeting;

- **11.2.2** may not be submitted to an Annual Meeting or an Extraordinary Meeting (other than of the Executive);
- **11.2.3** may only be submitted to the Council Budget Meeting if (in the sole opinion of the S151 Officer) it relates to expenditure or revenue;
- **11.2.4** may be submitted to an Ordinary Meeting.
- **11.3** A Motion:
 - **11.3.1** may be submitted for any Executive Meeting without Notice;
 - **11.3.2** must be submitted for any other Meeting on Notice:
 - **11.3.2.1** by 10:00 at least seven Clear Working Days before the Meeting to which it is to be submitted; or
 - **11.3.2.2** by 10:00 on the day of the Meeting if it is an Urgent Motion and has the written consent of the Body Chairman to which it relates.
- **11.4** Motions will be included in the Summons for the next Meeting of the Body in the order in which they are received unless they are:
 - **11.4.1** Motions to the Executive submitted too late to be included; or
 - **11.4.2** Urgent Motions.
- **11.5** A Motion may be:
 - **11.5.1** amended by the Monitoring Officer for the purpose of clarification, in consultation with the Member(s) who submitted it; or
 - **11.5.2** amended or withdrawn by the Body Chairman, after informing the Member who submitted it, if it appears the wording is not in order or is framed in improper or unbecoming language.
- **11.6** A Motion shall be dated, numbered and entered onto a database in the order in which they are received and the database may be inspected by Members and be open to inspection by the public.
- **11.7** A Motion or amendment in similar terms to one that has been rejected at a meeting of a Body in the past six months cannot be moved.
- **11.8** A Motion may not be moved to rescind a decision made at a meeting of a Body within the preceding six months unless notice of the Motion is given and is signed by at least one quarter of all Members of the Body.

12. Motions other than Procedural Motions - procedure at Meeting

- **12.1** The Member who submitted the Motion, or another Member nominated by them, must Move the Motion and another Member must Second the Motion for it to be considered.
- **12.2** If a Motion specified in the Summons is not Moved, it shall be treated as abandoned and shall not be Moved without fresh Notice.
- **12.3** In the event that multiple Motions are submitted for debate at a Meeting, the Chairman will consult with the Group Leaders to determine the appropriate priority for the order of debate.

- **12.4** The Meeting Chairman will have absolute discretion during the Meeting to move from the item of business considering Motions to the next item of business on the Agenda, where the Meeting Chairman considers that to be necessary for the effective administration of the business on the Agenda.
- **12.5** Any Motion submitted to the Executive that relates to a Key Decision will need to comply with the requirements regarding publication of the proposed decision on the Executive Forward Plan prior to any decision being taken (see Part 5 (Executive)).
- **12.6** Once Moved and Seconded, the Meeting Chairman will indicate that the Motion will be dealt with in one of the following ways:
 - **12.6.1** be referred without debate to a relevant Body for decision because the subject matter falls within their remit for such (for the avoidance of doubt, except in respect of the Council Budget Meeting, any Motion that would materially increase expenditure, involve capital expenditure, materially reduce the revenue of the Council, or involve the disposal of a significant asset, falls within the remit of the Executive);
 - **12.6.2** stand adjourned and be referred without debate to a relevant Body for initial consideration and report back because the subject matter falls within their remit for such;
 - **12.6.3** be debated at the Meeting in accordance with the Rules of Debate; or
 - **12.6.4** stand adjourned to a future Meeting.
- **12.7** Where a Motion has been moved and seconded but is not to be considered at the Meeting:
 - **12.7.1** the mover of the Motion shall be entitled to speak to the Motion for a five minute period;
 - **12.7.2** the Leader or relevant Executive Member shall be entitled to speak in response for a five minute period;
 - **12.7.3** the Motion shall be referred to the next appropriate Meeting of the relevant Body; and
 - **12.7.4** the Mover of the Motion, the Leader and the relevant Executive Member shall receive a copy of the Agenda for that Meeting and shall be invited to attend that Meeting; and:
 - **12.7.5** the Mover of the Motion shall be entitled to speak to the Motion in accordance with the Rules of Debate; and
 - **12.7.6** the Leader or relevant Executive Member shall be entitled to speak in response in accordance with the Rules of Debate; and
 - **12.7.6.1** if the Motion has been referred to the relevant Body for decision, a Report as to the outcome will be included in the Agenda of the next appropriate meeting of the referring Body; or
 - **12.7.6.2** if the Motion has been stood adjourned and referred to the relevant Body for initial consideration, a Report as to the outcome will be included in the Agenda of the next practical/appropriate Meeting of the referring Body and the Motion

shall be debated at that Meeting in accordance with the Rules of Debate.

13. Reports and Recommendations

- **13.1** A Report may be presented to a Meeting:
 - **13.1.1** to be noted; or
 - **13.1.2** with a proposal to adopt a Recommendation.
 - **13.2** The Presenter of a Report shall generally be:
 - **13.2.1** for a Report from or to the Executive, the Leader, relevant Executive Member or a relevant Officer;
 - **13.2.2** for a Report from or to any other Body, the Body Chairman or other Member of the Body, or a relevant Officer.
 - **13.3** Where a Report is presented for information, a Member may ask the Presenter a question or may make a statement lasting no longer than three minutes. The Presenter shall be entitled to reply.
 - **13.4** Where a Report is presented with a proposal to adopt a Recommendation and that proposal is Moved and Seconded, the Report and Recommendation will be debated in accordance with the Rules of Debate.
-

14. Amendments to Motions or Recommendations

- **14.1** Provided that it could be Moved as an Amendment, the Proposer of a Motion or Recommendation may make a minor alteration to the Motion or Recommendation with the consent of the Secunder and the agreement of the Body Chairman.
- **14.2** A proposed Amendment to a Motion or Recommendation, other than a minor alteration, must:
 - **14.2.1** be relevant to the Motion or Recommendation;
 - **14.2.2** not have the effect of negating the Motion or Recommendation;
 - **14.2.3** not seek to introduce new subject matter;
 - **14.2.4** and be to:
 - **14.2.4.1** leave out words; and/or
 - **14.2.4.2** insert or add words.
- **14.3** The Member who submitted the Amendment, or another Member nominated by them, must Move the Amendment and another Member must Second the Amendment for it to be considered.
- **14.4** Only one Amendment may be Moved and discussed at any one time. No further Amendment may be Moved until the Amendment under discussion has been disposed of in accordance with the Rules of Debate.

- **14.5** If an Amendment is carried, the Motion, as amended, takes the place of the original Motion and becomes the Substantive Motion to which any further Amendments are Moved.
 - **14.6** Once all Amendments have been disposed of, the Meeting Chairman will put the Substantive Motion to the vote.
 - **14.7** Any Amendment considered to be substantial by the S151 Officer in relation to a Motion or Recommendation that has a financial implication shall be the subject of discussion with and must receive the approval of the S151 Officer in advance of the Meeting to ensure that the Amendment does not compromise the Council's financial position.
 - **14.8** In relation to the Council Budget Meeting, Part [] (Council) sets out the Rules for substantive Amendments proposed to the budget.
-

15. Withdrawal of Proposal

- **15.1** A Proposal may be withdrawn by the Proposer if the Seconder and the Meeting Chairman consent.
 - **15.2** If consent to withdraw is granted no Member may then speak on the Proposal.
-

16. Rules of Debate - Speaking

- **16.1** If the Meeting Chairman stands, raises their hand, or speaks during a Meeting, the Meeting shall be silent and any Member then standing shall resume their seat.
- **16.2** The Meeting Chairman may request an appropriate Officer to speak by way of explanation of, or to draw the attention of the Meeting to, any legal, technical or administrative matter.
- **16.3** With the exception of the Meeting Chairman, Councillors attending a Council Meeting in person may (where able), stand when speaking. Anyone attending a Council Meeting remotely, or attending any other Meeting, may remain seated when speaking.
- **16.4** All speakers shall address the Meeting Chairman when speaking.
- **16.5** The Meeting Chairman shall decide the order of speakers if more than one speaker wishes to speak.
- **16.6** Members shall direct speeches to the matter under discussion, a Point of Order or a Point of Explanation.
- **16.7** In a Council Meeting, the Mover of a Motion or an Amendment shall be entitled to speak for a five minute period. All other speeches shall not exceed three minutes, unless the Meeting consents or another time limit is specified in these Procedure Rules.
- **16.8** There is a general assumption that Councillors who are not Members of a Body but attend a Meeting of that Body will, at the absolute discretion and upon the invitation of the Meeting Chairman, be permitted to speak at the Meeting.

17. Rules of Debate - Proposals

- **17.1** In a Council Meeting, a Proposal shall not be debated until it has been formally Moved and Seconded. The Secunder may reserve their speech until a later period in the debate.
- **17.2** In any other Meeting, with the consent of the Meeting Chairman, there may be discussion and debate prior to any Proposal being formally Moved.
- **17.3** The Meeting Chairman may require a Proposal to be put into writing before it is debated or voted upon.
- **17.4** A Member shall speak only once on any Proposal except to Move a relevant Procedural Motion or to raise a Point of Order or Explanation, and when a Proposal is under debate no other Proposal shall be Moved except a relevant Procedural Motion.

18. Rules of Debate - Points of Order/Explanation

- **18.1** A Member shall be heard:
 - **18.1.1** immediately on a Point of Order relating to an alleged breach of a Procedure Rule or statutory provision identified by the Member;
 - **18.1.2** when the Meeting Chairman decides it is relevant on a Point of Explanation concerning some material point in the present debate which appears to have been misunderstood.
- **18.2** The ruling of the Meeting Chairman on the validity, and any action to be taken in respect, of Points of Order or Explanation shall be final.
- **18.3** The Meeting Chairman shall rule on the interpretation of the Constitution having, where necessary, taken the advice of the Meeting Clerk and/or Monitoring Officer.

19. Rules of Debate - Closure Motions

- **19.1** At the conclusion of a speech of another Member, a Member may Move without comment that:
 - **19.1.1** the debate be adjourned;
 - **19.1.2** the Meeting be adjourned;
 - **19.1.3** the Meeting proceed to the next business; or
 - **19.1.4** the Meeting proceed immediately to Close of Debate.
- **19.2** Should the Closure Motion be Seconded and the Meeting Chairman consider that the question before the Meeting has been sufficiently discussed:
 - **19.2.1** if the Closure Motion is to adjourn the debate or the Meeting, or to proceed to the next business:
 - **19.2.1.1** the Meeting Chairman shall invite the Proposer to reply;

- **19.2.1.2** the Closure Motion shall be put to the vote and, if carried, the debate or Meeting shall stand adjourned, or the Meeting shall proceed to the next business, as the case may be;
- **19.2.2** if the Closure Motion is to proceed immediately to Close of Debate it shall be put to the vote and if carried the Meeting shall proceed immediately to Close of Debate.

Rules of Debate - Close of Debate

- **20.1** At the close of the debate on a Proposal, the following shall have the right of speech or reply in this order, but shall not introduce any new matter:
 - **20.1.1** the Secunder, if they have not already spoken;
 - **20.1.2** the relevant Executive Member or Body Chairman if they have not already spoken;
 - **20.1.3** the Mover;
 - **20.1.4** and, on an Amendment only, the Mover of the original Motion or Recommendation who shall not otherwise speak on the Amendment.

Voting

- **21.1** Voting shall be by show of hands, or electronically, or otherwise as determined by the Meeting Chairman.
- **21.2** Unless this Constitution or the law provides otherwise any matter will be decided by a simple majority of those present in person and permitted to vote on the matter at the time the question is put.
- **21.3** If there are equal numbers of votes for and against the Meeting Chairman will have a second or casting vote. There will be no restriction on how the Meeting Chairman exercises their vote.
- **21.4** Generally, the voting record in the Minutes will simply indicate whether the vote on the item under consideration was won or lost, but a record of how a vote was, or votes were, cast (as the case may be) will be made:
 - **21.4.1** if, immediately after a vote has been taken, any Member requests that their vote for or against or their abstention be recorded; or
 - **21.4.2** by way of a named vote such that the Monitoring Officer or Meeting Clerk can identify how each Member voting has cast their vote (eg electronically):
 - **21.4.2.1** if any Member requests that the vote be so recorded and three other Members support that request; or
 - **21.4.2.2** in accordance with The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (SI 2014/165) (2014 Regulations) in relation to any decisions relating to the setting of the Council's budget, at the Council Budget Meeting.
- **21.5** A Member may request that their opposition to a decision be recorded in the Minutes.

Confidentiality and Non-Disclosure of Reports

- **22.1** Reports for Meetings which are 'not for publication' in accordance with statutory provisions on the grounds that they contain Confidential Information or Exempt Information shall be treated as confidential and shall not be disclosed by any Member or Officer.
 - **22.2** Such Information shall continue to be treated as confidential after the Meeting at which the Report is presented, except insofar as it ceases to be confidential by virtue of any statutory provision or by its inclusion in the public Minutes of the Meeting.
-

The following co-opted members are defined by statute where the functions of an overview and scrutiny committee relate to any education functions which are the responsibility of the Executive: (i) a person nominated by the Diocesan Board of Education for any Church of England diocese which falls wholly or partly within West Berkshire; (ii) a person nominated by the bishop of any Roman Catholic diocese which falls wholly or partly in West Berkshire; (iii) an elected representatives of primary school parent governors at schools maintained by West Berkshire Council and (iv) an elected representatives of primary school parent governors at schools maintained by West Berkshire Council. In addition, the Children and Young People Scrutiny Committee has elected to appoint two non-statutory co-opted members to represent young people in west Berkshire.

The District Planning Committee membership is comprised of the Executive Portfolio Holder with responsibility for Planning plus five Members each from the Eastern and Western Area Planning Committees.

The members for a Licensing Sub-Committee are identified by Officers based on availability following consultation with the Chairman of the Licensing Committee.

The Chairman (or Vice Chairman if the Chairman is absent) of the Licensing Committee will chair a Licensing Sub Committee meeting if present.

The Governance Committee membership is comprised of eight Councillors plus two Parish Council representatives

The Advisory Panel membership comprises two Councillors from the Administration, two from the main opposition party, two Parish or Town Councillors and two (out of three) Independent Persons.

There are no substitutes for Councillor members of the Advisory Panel, but there are two Parish Council member substitutes (and three Independent Persons, with two sitting on a Panel).

Members for an Appeals Panel are identified by Officers based on availability.

The Appeals Committee as a body does not have a Chairman - the Chairman for each Appeals Panel Meeting will be elected at the Meeting.

The Joint Public Protection Committee (JPPC) comprises four members, two from each local authority (for WBC, the relevant Executive Member and the Chairman of the Licensing Committee), plus a Substitute or Substitutes (for WBC the other Executive Members) with the Chairmanship and Vice-Chairmanship rotating between the Executive membership.

Council Meeting Rules

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Council

Constitution of Body	
Where to look for terms of reference, powers, etc	Part 4
Membership [A] - number of Councillors appointed as Members of Body	43 (all)
Substitutes appointed?	N/A
Members appointed by?	Election
Quorum	11
Councillor Membership politically balanced?	N/A
Number of other Members (see notes below and Constitution for who, how appointed, etc)	None

Standard Items of Business at Meeting (order cannot be varied)			
Annual meeting	Budget meeting	Ordinary meeting	Extraordinary meeting

Standard Items of Business at Meeting (order cannot be varied)			
Elect a Member to preside if Chairman/Vice-Chairman of Body not present			
Yes	Yes	Yes	Yes
Receive apologies for inability to attend the meeting			
Yes	Yes	Yes	Yes
Chairman's remarks			
Yes	Yes	Yes	Yes
Elect Chairman of Body (annually at Annual Meeting unless vacancy)			
[B]	No	No	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)			
Yes	No	No	No
Approve Minutes of previous meeting(s)			
Yes	Yes	Yes	No

Standard Items of Business at Meeting (order cannot be varied)			
Receive Declarations of Interest			
Yes	Yes	Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)			
[B]	No	No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)			
Yes	No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service			
Yes	Yes	Yes	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)			
Annual meeting	Budget meeting	Ordinary meeting	Extraordinary meeting
Receive Petitions			

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)			
No	No	Yes	No
Respond to public written questions			
No	No	Yes	No
Decide on Committees, size, terms of reference, allocation of seats, etc			
Yes	No	No	No
Appoint Councillors to Committees			
Yes	No	Yes	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)			
Yes	No	Yes	No
Agree any amendments to Constitution			
Yes	No	Yes	No
Respond to Petitions previously received			

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)			
No	No	Yes	No
Consider Reports and Proposals from Executive/Scrutiny Commission/Officers			
No	Yes	Yes	No
Deal with matters referred from Council/Scrutiny Commission			
No	No	No	No
Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such			
No	No	Yes	No
Consider Motions submitted by Members			
No	[C]	Yes	No
Respond to Councillors' written questions			
No	No	Yes	No
Consider Called In item			

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)			
No	No	No	No
Consider business/any other business specified in the Agenda			
Yes	Yes	Yes	Yes

Procedural Motions that may be moved without notice			
Annual meeting	Budget meeting	Ordinary meeting	Extraordinary meeting
Appoint a Chairman for meeting if Chairman/Vice-Chairman absent			
Yes	Yes	Yes	Yes
Accuracy of Minutes			
Yes	Yes	Yes	Yes
Closure or adjournment of the meeting			
Yes	Yes	Yes	Yes

Procedural Motions that may be moved without notice

Order of or next business

Yes

Yes

Yes

Yes

Refer any matter to Council/Executive/Committee/Statutory Officer

Yes

Yes

Yes

Yes

Establish a Committee and appoint members if such if arises from an Agenda item

Yes

Yes

Yes

Yes

Establish a Task Group and appoint members if such if arises from an Agenda item

Yes

Yes

Yes

Yes

Establish a Sub-Committee and appoint members if such if arises from an Agenda item

Yes

Yes

Yes

Yes

Withdraw a Motion or amendment with leave of the Chairman

Procedural Motions that may be moved without notice			
Yes	Yes	Yes	Yes
Amend a Motion as permitted			
Yes	Yes	Yes	Yes
Amend the time limit for speeches (if any)			
Yes	Yes	Yes	Yes
Allow member of the public to speak in accordance with Rules			
Yes	Yes	Yes	Yes
Allow continuation of meeting past 22:00			
Yes	Yes	Yes	Yes
Suspend a Rule of Procedure where permitted			
Yes	Yes	Yes	Yes
Exclude the press and public in accordance with the statutory provisions			

Procedural Motions that may be moved without notice			
Yes	Yes	Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting			
Yes	Yes	Yes	Yes
A Closure Motion			
Yes	Yes	Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see [B]) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

C Only Motions relating to Revenue and Expenditure may be considered at the Budget Meeting of Council.

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Executive Meeting Rules

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Executive

Constitution of Body	
Where to look for terms of reference, powers, etc	Part 5
Membership [A] - number of Councillors appointed as Members of Body	2 to 9
Substitutes appointed?	No
Members appointed by?	Leader
Quorum	4
Councillor Membership politically balanced?	N/A
Number of other Members (see notes below and Constitution for who, how appointed, etc)	None

Standard Items of Business at Meeting (order cannot be varied)	
Ordinary meeting	Extraordinary meeting

Standard Items of Business at Meeting (order cannot be varied)	
Elect a Member to preside if Chairman/Vice-Chairman of Body not present	
Yes	Yes
Receive apologies for inability to attend the meeting	
Yes	Yes
Chairman's remarks	
No	No
Elect Chairman of Body (annually at Annual Meeting unless vacancy)	
[D]	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)	
No	No
Approve Minutes of previous meeting(s)	
Yes	No

Standard Items of Business at Meeting (order cannot be varied)	
Receive Declarations of Interest	
Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)	
No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)	
No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service	
Yes	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)	
Ordinary meeting	Extraordinary meeting
Receive Petitions	

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)	
Yes	No
Respond to public written questions	
Yes	No
Decide on Committees, size, terms of reference, allocation of seats, etc	
No	No
Appoint Councillors to Committees	
No	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)	
No	No
Agree any amendments to Constitution	
No	No
Respond to Petitions previously received	

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)	
Yes	No
Consider Reports and Proposals from Executive/Scrutiny Commission/Officers	
Yes	No
Deal with matters referred from Council/Scrutiny Commission	
Yes	No
Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such	
Yes	No
Consider Motions submitted by Members	
Yes	Yes
Respond to Councillors' written questions	
Yes	No
Consider Called In item	

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

No	No
Consider business/any other business specified in the Agenda	
Yes	Yes

Procedural Motions that may be moved without notice

Ordinary meeting	Extraordinary meeting
Appoint a Chairman for meeting if Chairman/Vice-Chairman absent	
Yes	Yes
Accuracy of Minutes	
Yes	Yes
Closure or adjournment of the meeting	
Yes	Yes

Procedural Motions that may be moved without notice	
Order of or next business	
Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer	
Yes	Yes
Establish a Committee and appoint members if such if arises from an Agenda item	
Yes	Yes
Establish a Task Group and appoint members if such if arises from an Agenda item	
Yes	Yes
Establish a Sub-Committee and appoint members if such if arises from an Agenda item	
Yes	Yes
Withdraw a Motion or amendment with leave of the Chairman	

Procedural Motions that may be moved without notice	
Yes	Yes
Amend a Motion as permitted	
Yes	Yes
Amend the time limit for speeches (if any)	
Yes	Yes
Allow member of the public to speak in accordance with Rules	
Yes	Yes
Allow continuation of meeting past 22:00	
Yes	Yes
Suspend a Rule of Procedure where permitted	
Yes	Yes
Exclude the press and public in accordance with the statutory provisions	

Procedural Motions that may be moved without notice	
Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting	
Yes	Yes
A Closure Motion	
Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

D The Leader of Council chairs the Executive.

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Appeals Meeting Rules

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References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Appeals

Constitution of Body	Membership	Appeals Panel meeting
Where to look for terms of reference, powers, etc	Part 6.1	Part 6.1
Membership [A] - number of Councillors appointed as Members of Body	12	4
Substitutes appointed?	No	No
Members appointed by?	Council	[M]
Quorum	N/A	3
Councillor Membership politically balanced?	Yes	No
Number of other Members (see notes below and Constitution for who, how appointed, etc)	None	None

Standard Items of Business at Meeting (order cannot be varied)		
Membership	Appeals meeting	Panel
Elect a Member to preside if Chairman/Vice-Chairman of Body not present		
No	[N]	
Receive apologies for inability to attend the meeting		
No	Yes	
Chairman's remarks		
No	No	
Elect Chairman of Body (annually at Annual Meeting unless vacancy)		
No	No	
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)		
No	No	

Standard Items of Business at Meeting (order cannot be varied)	
Approve Minutes of previous meeting(s)	
No	No
Receive Declarations of Interest	
No	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)	
No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)	
No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service	
No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)	
Ordinary meeting	Extraordinary meeting
Receive Petitions	
No	No
Respond to public written questions	
No	No
Decide on Committees, size, terms of reference, allocation of seats, etc	
No	No
Appoint Councillors to Committees	
No	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)	
No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Agree any amendments to Constitution

No

No

Respond to Petitions previously received

No

No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No

Yes

Deal with matters referred from Council/Scrutiny Commission

No

No

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

Consider Motions submitted by Members

No

No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Respond to Councillors' written questions

No

No

Consider Called In item

No

No

Consider business/any other business specified in the Agenda

No

Yes

Procedural Motions that may be moved without notice

**Ordinary
meeting**

**Extraordinary
meeting**

Appoint a Chairman for meeting if Chairman/Vice-Chairman absent

No

No

Accuracy of Minutes

Procedural Motions that may be moved without notice	
No	No
Closure or adjournment of the meeting	
No	No
Order of or next business	
No	No
Refer any matter to Council/Executive/Committee/Statutory Officer	
No	No
Establish a Committee and appoint members if such if arises from an Agenda item	
No	No
Establish a Task Group and appoint members if such if arises from an Agenda item	
No	No

Procedural Motions that may be moved without notice	
Establish a Sub-Committee and appoint members if such if arises from an Agenda item	
No	No
Withdraw a Motion or amendment with leave of the Chairman	
No	No
Amend a Motion as permitted	
No	No
Amend the time limit for speeches (if any)	
No	Yes
Allow member of the public to speak in accordance with Rules	
No	Yes
Allow continuation of meeting past 22:00	
No	Yes

Procedural Motions that may be moved without notice	
Suspend a Rule of Procedure where permitted	
No	Yes
Exclude the press and public in accordance with the statutory provisions	
No	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting	
No	Yes
A Closure Motion	
No	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

M Members for an Appeals Panel are identified by Officers based on availability.

N The Appeals Committee as a body does not have a Chairman - the Chairman for each Appeals Panel Meeting will be elected at the Meeting.

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Governance Meeting Rules

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Governance

Constitution of Body	Annual Meeting, Ordinary Meeting, Extraordinary Meeting	Advisory Panel meeting
Where to look for terms of reference, powers, etc	Part 6.2	Part 6.2
Membership [A] - number of Councillors appointed as Members of Body	8	4 [K]
Substitutes appointed?	Yes	[L]
Members appointed by?	Council	Council
Quorum	4	3
Councillor Membership politically balanced?	Yes	No [K]
Number of other Members (see notes below and	2 [J]	4 [K]

Constitution of Body	Annual Meeting, Ordinary Meeting, Extraordinary Meeting	Advisory Panel meeting
Constitution for who, how appointed, etc)		

Standard Items of Business at Meeting (order cannot be varied)			
Annual meeting	Ordinary meeting	Extraordinary meeting	Advisory Panel meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present			
No	Yes	Yes	Yes
Receive apologies for inability to attend the meeting			
[F]	Yes	Yes	Yes
Chairman's remarks			
No	No	No	No

Standard Items of Business at Meeting (order cannot be varied)			

Elect Chairman of Body (annually at Annual Meeting unless vacancy)			

[F]	No	No	Yes

Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)			

[F]	No	No	Yes

Approve Minutes of previous meeting(s)			

No	Yes	No	No

Receive Declarations of Interest			

No	Yes	Yes	Yes

Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)			

No	No	No	No

Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)			

Standard Items of Business at Meeting (order cannot be varied)			
No	No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service			
No	No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)			
Annual meeting	Ordinary meeting	Extraordinary meeting	Advisory Panel meeting
Receive Petitions			
No	No	No	No
Respond to public written questions			
No	No	No	No
Decide on Committees, size, terms of reference, allocation of seats, etc			
No	No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Appoint Councillors to Committees

No	No	No	No

Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)

No	No	No	No

Agree any amendments to Constitution

No	No	No	No

Respond to Petitions previously received

No	No	No	No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No	Yes	No	Yes

Deal with matters referred from Council/Scrutiny Commission

No	Yes	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

No

No

Consider Motions submitted by Members

No

No

No

No

Respond to Councillors' written questions

No

No

No

No

Consider Called In item

No

No

No

No

Consider business/any other business specified in the Agenda

No

Yes

Yes

No

Procedural Motions that may be moved without notice			
Annual meeting	Budget meeting	Ordinary meeting	Advisory Panel meeting
Appoint a Chairman for meeting if Chairman/Vice-Chairman absent			
No	Yes	Yes	No
Accuracy of Minutes			
No	Yes	Yes	No
Closure or adjournment of the meeting			
No	Yes	Yes	No
Order of or next business			
No	Yes	Yes	No
Refer any matter to Council/Executive/Committee/Statutory Officer			
No	Yes	Yes	Yes

Procedural Motions that may be moved without notice

Establish a Committee and appoint members if such if arises from an Agenda item

No

No

No

No

Establish a Task Group and appoint members if such if arises from an Agenda item

No

Yes

Yes

No

Establish a Sub-Committee and appoint members if such if arises from an Agenda item

No

Yes

Yes

No

Withdraw a Motion or amendment with leave of the Chairman

No

Yes

Yes

No

Amend a Motion as permitted

No

Yes

Yes

No

Amend the time limit for speeches (if any)

No

Yes

Yes

No

Procedural Motions that may be moved without notice			
Allow member of the public to speak in accordance with Rules			
No	Yes	Yes	No
Allow continuation of meeting past 22:00			
Yes	Yes	Yes	Yes
Suspend a Rule of Procedure where permitted			
No	Yes	Yes	No
Exclude the press and public in accordance with the statutory provisions			
No	Yes	Yes	No
A Member named for disorderly conduct not to be further heard/leave the meeting			
No	Yes	Yes	No
A Closure Motion			
No	Yes	Yes	No

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

F At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

J The Governance Committee membership is comprised of eight Councillors plus two Parish Council representatives

K The Advisory Panel membership comprises two Councillors from the Administration, two from the main opposition party, two Parish or Town Councillors and two (out of three) Independent Persons.

L There are no substitutes for Councillor members of the Advisory Panel, but there are two Parish Council member substitutes (and three Independent Persons, with two sitting on a Panel).

Health and Wellbeing Meeting Rules

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Health and Wellbeing

Constitution of Body	
Where to look for terms of reference, powers, etc	6.3
Membership [A] - number of Councillors appointed as Members of Body	6 [E]
Substitutes appointed?	Yes
Members appointed by?	[E]
Quorum	4 [E]
Councillor Membership politically balanced?	N/A
Number of other Members (see notes below and Constitution for who, how appointed, etc)	15 [E]

Standard Items of Business at Meeting (order cannot be varied)	
Ordinary meeting	Extraordinary meeting

Standard Items of Business at Meeting (order cannot be varied)	
Elect a Member to preside if Chairman/Vice-Chairman of Body not present	
Yes	Yes
Receive apologies for inability to attend the meeting	
Yes	Yes
Chairman's remarks	
No	No
Elect Chairman of Body (annually at Annual Meeting unless vacancy)	
[E]	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)	
[E]	No
Approve Minutes of previous meeting(s)	
Yes	No

Standard Items of Business at Meeting (order cannot be varied)	
Receive Declarations of Interest	
Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)	
No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)	
No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service	
No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)	
Ordinary meeting	Extraordinary meeting
Receive Petitions	

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Yes

No

Respond to public written questions

Yes

No

Decide on Committees, size, terms of reference, allocation of seats, etc

No

No

Appoint Councillors to Committees

No

No

Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)

No

No

Agree any amendments to Constitution

No

No

Respond to Petitions previously received

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)	
Yes	No
Consider Reports and Proposals from Executive/Scrutiny Commission/Officers	
Yes	No
Deal with matters referred from Council/Scrutiny Commission	
Yes	No
Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such	
No	No
Consider Motions submitted by Members	
No	No
Respond to Councillors' written questions	
Yes	No
Consider Called In item	

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

No	No
Consider business/any other business specified in the Agenda	
Yes	Yes

Procedural Motions that may be moved without notice

Ordinary meeting	Extraordinary meeting
Appoint a Chairman for meeting if Chairman/Vice-Chairman absent	
Yes	Yes
Accuracy of Minutes	
Yes	Yes
Closure or adjournment of the meeting	
Yes	Yes

Procedural Motions that may be moved without notice	
Order of or next business	
Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer	
Yes	Yes
Establish a Committee and appoint members if such if arises from an Agenda item	
No	No
Establish a Task Group and appoint members if such if arises from an Agenda item	
Yes	Yes
Establish a Sub-Committee and appoint members if such if arises from an Agenda item	
Yes	Yes
Withdraw a Motion or amendment with leave of the Chairman	

Procedural Motions that may be moved without notice	
Yes	Yes
Amend a Motion as permitted	
Yes	Yes
Amend the time limit for speeches (if any)	
Yes	Yes
Allow member of the public to speak in accordance with Rules	
Yes	Yes
Allow continuation of meeting past 22:00	
Yes	Yes
Suspend a Rule of Procedure where permitted	
Yes	Yes
Exclude the press and public in accordance with the statutory provisions	

Procedural Motions that may be moved without notice	
Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting	
Yes	Yes
A Closure Motion	
Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

E The Health & Wellbeing Board (HWB) is a statutory body constituted as a Committee of the Council. Some members are identified by statute, some are appointed by the Council (by the Leader), and some are appointed by the Board. Any obligation to allocate seats to political parties is disapplied in relation to the HWB. The Chairman is nominated by the Council and the Vice-Chairman by the ICB. The quorum must include at least one WBC Councillor and one ICB representative.

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Health and Adult Social Care Scrutiny Meeting Rules

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Health and Adult Social Care Scrutiny

Constitution of Body	
Where to look for terms of reference, powers, etc	Part 6.4
Membership [A] - number of Councillors appointed as Members of Body	5
Substitutes appointed?	Yes
Members appointed by?	Council
Quorum	4
Councillor Membership politically balanced?	Yes
Number of other Members (see notes below and Constitution for who, how appointed, etc)	None

Standard Items of Business at Meeting (order cannot be varied)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present		
No	Yes	Yes
Receive apologies for inability to attend the meeting		
[F]	Yes	Yes
Chairman's remarks		
No	No	No
Elect Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No

Standard Items of Business at Meeting (order cannot be varied)		
Approve Minutes of previous meeting(s)		
No	Yes	No
Receive Declarations of Interest		
No	Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)		
No	No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)		
No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Receive Petitions		
No	No	No
Respond to public written questions		
No	No	No
Decide on Committees, size, terms of reference, allocation of seats, etc		
No	No	No
Appoint Councillors to Committees		
No	No	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Agree any amendments to Constitution

No

No

No

Respond to Petitions previously received

No

No

No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No

Yes

No

Deal with matters referred from Council/Scrutiny Commission

No

Yes

No

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

No

Consider Motions submitted by Members

No

No

No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Respond to Councillors' written questions

No

No

No

Consider Called In item

No

No

No

Consider business/any other business specified in the Agenda

No

Yes

Yes

Procedural Motions that may be moved without notice

Annual meeting

Ordinary meeting

Extraordinary meeting

Appoint a Chairman for meeting if Chairman/Vice-Chairman absent

No

Yes

Yes

Accuracy of Minutes

Procedural Motions that may be moved without notice		
No	Yes	Yes
Closure or adjournment of the meeting		
No	Yes	Yes
Order of or next business		
No	Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer		
No	Yes	Yes
Establish a Committee and appoint members if such if arises from an Agenda item		
No	No	No
Establish a Task Group and appoint members if such if arises from an Agenda item		
No	Yes	Yes

Procedural Motions that may be moved without notice		
Establish a Sub-Committee and appoint members if such if arises from an Agenda item		
No	Yes	Yes
Withdraw a Motion or amendment with leave of the Chairman		
No	Yes	Yes
Amend a Motion as permitted		
No	Yes	Yes
Amend the time limit for speeches (if any)		
No	Yes	Yes
Allow member of the public to speak in accordance with Rules		
No	Yes	Yes
Allow continuation of meeting past 22:00		
Yes	Yes	Yes

Procedural Motions that may be moved without notice		
Suspend a Rule of Procedure where permitted		
No	Yes	Yes
Exclude the press and public in accordance with the statutory provisions		
No	Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting		
No	Yes	Yes
A Closure Motion		
No	Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

F At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

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JPPC Meeting Rules

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

JPPC

Constitution of Body	Meeting
Where to look for terms of reference, powers, etc	Part 6.5
Membership [A] - number of Councillors appointed as Members of Body	3 [O]
Substitutes appointed?	Yes [O]
Members appointed by?	[O]
Quorum	2
Councillor Membership politically balanced?	[O]
Number of other Members (see notes below and Constitution for who, how appointed, etc)	2 [O]

Standard Items of Business at Meeting (order cannot be varied)	Meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present	Yes
Receive apologies for inability to attend the meeting	Yes
Chairman's remarks	Yes
Elect Chairman of Body (annually at Annual Meeting unless vacancy)	[O]
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)	[O]
Approve Minutes of previous meeting(s)	Yes
Receive Declarations of Interest	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)	Meeting
Receive Petitions	Yes
Respond to public written questions	Yes
Decide on Committees, size, terms of reference, allocation of seats, etc	No
Appoint Councillors to Committees	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)	No
Agree any amendments to Constitution	No
Respond to Petitions previously received	Yes
Consider Reports and Proposals from Executive/Scrutiny Commission/Officers	Yes
Deal with matters referred from Council/Scrutiny Commission	No
Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such	Yes
Consider Motions submitted by Members	Yes
Respond to Councillors' written questions	Yes

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)	Meeting
Consider Called In item	No
Consider business/any other business specified in the Agenda	Yes

Procedural Motions that may be moved without notice	Meeting
Appoint a Chairman for meeting if Chairman/Vice-Chairman absent	Yes
Accuracy of Minutes	Yes
Closure or adjournment of the meeting	Yes
Order of or next business	Yes
Refer any matter to Council / Executive / Committee / Statutory Officer	Yes
Establish a Committee and appoint members if such if arises from an Agenda item	Yes
Establish a Task Group and appoint members if such if arises from an Agenda item	Yes
Establish a Sub-Committee and appoint members if such if arises from an Agenda item	Yes

Procedural Motions that may be moved without notice	Meeting
Withdraw a Motion or amendment with leave of the Chairman	Yes
Amend a Motion as permitted	Yes
Amend the time limit for speeches (if any)	Yes
Allow member of the public to speak in accordance with Rules	Yes
Allow continuation of meeting past 22:00	Yes
Suspend a Rule of Procedure where permitted	Yes
Exclude the press and public in accordance with the statutory provisions	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting	Yes
A Closure Motion	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

O The Joint Public Protection Committee (JPPC) comprises six members, three from each local authority (for WBC, the relevant Executive Member and the Chairman of the Licensing Committee), plus a Substitute or Substitutes (for WBC the other

Executive Members) with the Chairmanship and Vice-Chairmanship rotating between the Executive membership.

Licensing Meeting Rules

The relevant rules and procedures relating to Licensing Committee meetings

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References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Licensing

Constitution of Body	Annual Meeting, Ordinary Meeting, Extraordinary Meeting	Sub-Committee Meeting
Where to look for terms of reference, powers, etc	Part 6.6	Part 6.6
Membership [A] - number of Councillors appointed as Members of Body	12	3
Substitutes appointed?	No	1
Members appointed by?	Council	[H]
Quorum	4	3
Councillor Membership politically balanced?	Yes	No
Number of other Members (see notes below and	None	None

Constitution of Body	Annual Meeting, Ordinary Meeting, Extraordinary Meeting	Sub-Committee Meeting
Constitution for who, how appointed, etc)		

Standard Items of Business at Meeting (order cannot be varied)			
Annual meeting	Ordinary meeting	Extraordinary meeting	Sub-Committee meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present			
No	Yes	Yes	[I]
Receive apologies for inability to attend the meeting			
[F]	Yes	Yes	No
Chairman's remarks			
No	No	No	No

Standard Items of Business at Meeting (order cannot be varied)			
Elect Chairman of Body (annually at Annual Meeting unless vacancy)			
[F]	No	No	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)			
[F]	No	No	No
Approve Minutes of previous meeting(s)			
No	Yes	No	No
Receive Declarations of Interest			
No	Yes	Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)			
No	No	No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)			

Standard Items of Business at Meeting (order cannot be varied)			
No	No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service			
No	No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)			
Annual meeting	Ordinary meeting	Extraordinary meeting	Extraordinary meeting
Receive Petitions			
No	No	No	No
Respond to public written questions			
No	No	No	No
Decide on Committees, size, terms of reference, allocation of seats, etc			
No	No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Appoint Councillors to Committees

No	No	No	No

Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)

No	No	No	No

Agree any amendments to Constitution

No	No	No	No

Respond to Petitions previously received

No	No	No	No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No	Yes	No	Yes

Deal with matters referred from Council/Scrutiny Commission

No	Yes	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

No

No

Consider Motions submitted by Members

No

No

No

No

Respond to Councillors' written questions

No

No

No

No

Consider Called In item

No

No

No

No

Consider business/any other business specified in the Agenda

No

Yes

Yes

Yes

Procedural Motions that may be moved without notice			
Annual meeting	Budget meeting	Ordinary meeting	Extraordinary meeting
Appoint a Chairman for meeting if Chairman/Vice-Chairman absent			
No	Yes	Yes	Yes
Accuracy of Minutes			
No	Yes	Yes	No
Closure or adjournment of the meeting			
No	Yes	Yes	Yes
Order of or next business			
No	Yes	Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer			
No	Yes	Yes	Yes

Procedural Motions that may be moved without notice			
Establish a Committee and appoint members if such if arises from an Agenda item			
No	No	No	No
Establish a Task Group and appoint members if such if arises from an Agenda item			
No	Yes	Yes	No
Establish a Sub-Committee and appoint members if such if arises from an Agenda item			
No	Yes	Yes	No
Withdraw a Motion or amendment with leave of the Chairman			
No	Yes	Yes	No
Amend a Motion as permitted			
No	Yes	Yes	No
Amend the time limit for speeches (if any)			
No	Yes	Yes	Yes

Procedural Motions that may be moved without notice			
Allow member of the public to speak in accordance with Rules			
No	Yes	Yes	Yes
Allow continuation of meeting past 22:00			
Yes	Yes	Yes	Yes
Suspend a Rule of Procedure where permitted			
No	Yes	Yes	Yes
Exclude the press and public in accordance with the statutory provisions			
No	Yes	Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting			
No	Yes	Yes	Yes
A Closure Motion			
No	Yes	Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

F At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

H The members for a Licensing Sub-Committee are identified by Officers based on availability following consultation with the Chairman of the Licensing Committee.

I The Chairman (or Vice Chairman if the Chairman is absent) of the Licensing Committee will chair a Licensing Sub Committee meeting if present.

Personnel Meeting Rules

The relevant rules and procedures relating to Personnel meetings

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Personnel

Constitution of Body	
Where to look for terms of reference, powers, etc	Part 6.7
Membership [A] - number of Councillors appointed as Members of Body	5
Substitutes appointed?	Yes
Members appointed by?	Council
Quorum	4
Councillor Membership politically balanced?	Yes
Number of other Members (see notes below and Constitution for who, how appointed, etc)	None

Standard Items of Business at Meeting (order cannot be varied)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present		
No	Yes	Yes
Receive apologies for inability to attend the meeting		
[F]	Yes	Yes
Chairman's remarks		
No	No	No
Elect Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No

Standard Items of Business at Meeting (order cannot be varied)		
Approve Minutes of previous meeting(s)		
No	Yes	No
Receive Declarations of Interest		
No	Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)		
No	No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)		
No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Receive Petitions		
No	No	No
Respond to public written questions		
No	No	No
Decide on Committees, size, terms of reference, allocation of seats, etc		
No	No	No
Appoint Councillors to Committees		
No	No	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Agree any amendments to Constitution

No

No

No

Respond to Petitions previously received

No

No

No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No

Yes

No

Deal with matters referred from Council/Scrutiny Commission

No

Yes

No

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

No

Consider Motions submitted by Members

No

No

No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Respond to Councillors' written questions

No

No

No

Consider Called In item

No

No

No

Consider business/any other business specified in the Agenda

No

Yes

Yes

Procedural Motions that may be moved without notice

Annual meeting

Ordinary meeting

Extraordinary meeting

Appoint a Chairman for meeting if Chairman/Vice-Chairman absent

No

Yes

Yes

Accuracy of Minutes

Procedural Motions that may be moved without notice		
No	Yes	Yes
Closure or adjournment of the meeting		
No	Yes	Yes
Order of or next business		
No	Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer		
No	Yes	Yes
Establish a Committee and appoint members if such if arises from an Agenda item		
No	No	No
Establish a Task Group and appoint members if such if arises from an Agenda item		
No	Yes	Yes

Procedural Motions that may be moved without notice		
Establish a Sub-Committee and appoint members if such if arises from an Agenda item		
No	Yes	Yes
Withdraw a Motion or amendment with leave of the Chairman		
No	Yes	Yes
Amend a Motion as permitted		
No	Yes	Yes
Amend the time limit for speeches (if any)		
No	Yes	Yes
Allow member of the public to speak in accordance with Rules		
No	Yes	Yes
Allow continuation of meeting past 22:00		
Yes	Yes	Yes

Procedural Motions that may be moved without notice		
Suspend a Rule of Procedure where permitted		
No	Yes	Yes
Exclude the press and public in accordance with the statutory provisions		
No	Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting		
No	Yes	Yes
A Closure Motion		
No	Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

F At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

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Planning - District Meeting Rules

The relevant rules and procedures relating to District Planning Committee meetings

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Planning - District

Constitution of Body	
Where to look for terms of reference, powers, etc	Part 6.8
Membership [A] - number of Councillors appointed as Members of Body	11 [G]
Substitutes appointed?	Yes
Members appointed by?	Council
Quorum	4
Councillor Membership politically balanced?	Yes
Number of other Members (see notes below and Constitution for who, how appointed, etc)	None

Standard Items of Business at Meeting (order cannot be varied)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present		
No	Yes	Yes
Receive apologies for inability to attend the meeting		
[F]	Yes	Yes
Chairman's remarks		
No	No	No
Elect Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No

Standard Items of Business at Meeting (order cannot be varied)		
Approve Minutes of previous meeting(s)		
No	Yes	No
Receive Declarations of Interest		
No	Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)		
No	No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)		
No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Receive Petitions		
No	No	No
Respond to public written questions		
No	No	No
Decide on Committees, size, terms of reference, allocation of seats, etc		
No	No	No
Appoint Councillors to Committees		
No	No	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Agree any amendments to Constitution

No

No

No

Respond to Petitions previously received

No

No

No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No

Yes

No

Deal with matters referred from Council/Scrutiny Commission

No

Yes

No

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

No

Consider Motions submitted by Members

No

No

No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Respond to Councillors' written questions

No

No

No

Consider Called In item

No

Yes

No

Consider business/any other business specified in the Agenda

No

Yes

Yes

Procedural Motions that may be moved without notice

Annual meeting

Ordinary meeting

Extraordinary meeting

Appoint a Chairman for meeting if Chairman/Vice-Chairman absent

No

Yes

Yes

Accuracy of Minutes

Procedural Motions that may be moved without notice		
No	Yes	Yes
Closure or adjournment of the meeting		
No	Yes	Yes
Order of or next business		
No	Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer		
No	Yes	Yes
Establish a Committee and appoint members if such if arises from an Agenda item		
No	No	No
Establish a Task Group and appoint members if such if arises from an Agenda item		
No	No	No

Procedural Motions that may be moved without notice		
Establish a Sub-Committee and appoint members if such if arises from an Agenda item		
No	No	No
Withdraw a Motion or amendment with leave of the Chairman		
No	Yes	Yes
Amend a Motion as permitted		
No	Yes	Yes
Amend the time limit for speeches (if any)		
No	Yes	Yes
Allow member of the public to speak in accordance with Rules		
No	Yes	Yes
Allow continuation of meeting past 22:00		
Yes	Yes	Yes

Procedural Motions that may be moved without notice		
Suspend a Rule of Procedure where permitted		
No	Yes	Yes
Exclude the press and public in accordance with the statutory provisions		
No	Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting		
No	Yes	Yes
A Closure Motion		
No	Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

F At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

G The District Planning Committee membership is comprised of the Executive Portfolio Holder with responsibility for Planning plus five Members each from the Eastern and Western Area Planning Committees.

Planning - Area Meeting Rules

The relevant rules and procedures relating to Area Planning Committee meetings

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Planning - Area

Constitution of Body	
Where to look for terms of reference, powers, etc	Part 6.8
Membership [A] - number of Councillors appointed as Members of Body	9 [from Area]
Substitutes appointed?	Yes
Members appointed by?	Council
Quorum	4
Councillor Membership politically balanced?	Yes
Number of other Members (see notes below and Constitution for who, how appointed, etc)	None

Standard Items of Business at Meeting (order cannot be varied)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present		
No	Yes	Yes
Receive apologies for inability to attend the meeting		
[F]	Yes	Yes
Chairman's remarks		
No	No	No
Elect Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No

Standard Items of Business at Meeting (order cannot be varied)		
Approve Minutes of previous meeting(s)		
No	Yes	No
Receive Declarations of Interest		
No	Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)		
No	No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)		
No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Receive Petitions		
No	No	No
Respond to public written questions		
No	No	No
Decide on Committees, size, terms of reference, allocation of seats, etc		
No	No	No
Appoint Councillors to Committees		
No	No	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Agree any amendments to Constitution

No

No

No

Respond to Petitions previously received

No

No

No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No

Yes

No

Deal with matters referred from Council/Scrutiny Commission

No

Yes

No

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

No

Consider Motions submitted by Members

No

No

No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Respond to Councillors' written questions

No

No

No

Consider Called In item

No

Yes

No

Consider business/any other business specified in the Agenda

No

Yes

Yes

Procedural Motions that may be moved without notice

Annual meeting

Ordinary meeting

Extraordinary meeting

Appoint a Chairman for meeting if Chairman/Vice-Chairman absent

No

Yes

Yes

Accuracy of Minutes

Procedural Motions that may be moved without notice		
No	Yes	Yes
Closure or adjournment of the meeting		
No	Yes	Yes
Order of or next business		
No	Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer		
No	Yes	Yes
Establish a Committee and appoint members if such if arises from an Agenda item		
No	No	No
Establish a Task Group and appoint members if such if arises from an Agenda item		
No	No	No

Procedural Motions that may be moved without notice		
Establish a Sub-Committee and appoint members if such if arises from an Agenda item		
No	No	No
Withdraw a Motion or amendment with leave of the Chairman		
No	Yes	Yes
Amend a Motion as permitted		
No	Yes	Yes
Amend the time limit for speeches (if any)		
No	Yes	Yes
Allow member of the public to speak in accordance with Rules		
No	Yes	Yes
Allow continuation of meeting past 22:00		
Yes	Yes	Yes

Procedural Motions that may be moved without notice		
Suspend a Rule of Procedure where permitted		
No	Yes	Yes
Exclude the press and public in accordance with the statutory provisions		
No	Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting		
No	Yes	Yes
A Closure Motion		
No	Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

F At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

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Resources and Place Scrutiny Meeting Rules

The relevant rules and procedures relating to Resources and Place Scrutiny meetings

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Resources and Place Scrutiny

Constitution of Body	
Where to look for terms of reference, powers, etc	Part 6.9
Membership [A] - number of Councillors appointed as Members of Body	9
Substitutes appointed?	Yes
Members appointed by?	Council
Quorum	4
Councillor Membership politically balanced?	Yes
Number of other Members (see notes below and Constitution for who, how appointed, etc)	None

Standard Items of Business at Meeting (order cannot be varied)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present		
No	Yes	Yes
Receive apologies for inability to attend the meeting		
[F]	Yes	Yes
Chairman's remarks		
No	No	No
Elect Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No

Standard Items of Business at Meeting (order cannot be varied)		
Approve Minutes of previous meeting(s)		
No	Yes	No
Receive Declarations of Interest		
No	Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)		
No	No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)		
No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Receive Petitions		
No	No	No
Respond to public written questions		
No	No	No
Decide on Committees, size, terms of reference, allocation of seats, etc		
No	No	No
Appoint Councillors to Committees		
No	No	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Agree any amendments to Constitution

No

No

No

Respond to Petitions previously received

No

No

No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No

Yes

No

Deal with matters referred from Council/Scrutiny Commission

No

Yes

No

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

No

Consider Motions submitted by Members

No

No

No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Respond to Councillors' written questions

No

No

No

Consider Called In item

No

Yes

No

Consider business/any other business specified in the Agenda

No

Yes

Yes

Procedural Motions that may be moved without notice

Annual meeting

Ordinary meeting

Extraordinary meeting

Appoint a Chairman for meeting if Chairman/Vice-Chairman absent

No

Yes

Yes

Accuracy of Minutes

Procedural Motions that may be moved without notice		
No	Yes	Yes
Closure or adjournment of the meeting		
No	Yes	Yes
Order of or next business		
No	Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer		
No	Yes	Yes
Establish a Committee and appoint members if such if arises from an Agenda item		
No	No	No
Establish a Task Group and appoint members if such if arises from an Agenda item		
No	Yes	Yes

Procedural Motions that may be moved without notice		
Establish a Sub-Committee and appoint members if such if arises from an Agenda item		
No	Yes	Yes
Withdraw a Motion or amendment with leave of the Chairman		
No	Yes	Yes
Amend a Motion as permitted		
No	Yes	Yes
Amend the time limit for speeches (if any)		
No	Yes	Yes
Allow member of the public to speak in accordance with Rules		
No	Yes	Yes
Allow continuation of meeting past 22:00		
Yes	Yes	Yes

Procedural Motions that may be moved without notice		
Suspend a Rule of Procedure where permitted		
No	Yes	Yes
Exclude the press and public in accordance with the statutory provisions		
No	Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting		
No	Yes	Yes
A Closure Motion		
No	Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

F At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

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Children and Young People Scrutiny Meeting Rules

The relevant rules and procedures relating to Children and Young People Scrutiny meetings

This content is intended as a precis of elements of the Constitution relating to the make up of the Council, Committees, etc. It also lists (i) the standard items of business, (ii) the order of those items of business, and (iii) the Motions that can be moved without notice, at a meeting. In some places the Constitution will refer to this content to identify which item of business/Motion/etc a particular meeting can consider/deal with. If there is any conflict between the wording of the Constitution and the contents of this content, the Constitution will prevail.

References to [A], [B], [C], etc, are to the notes at the bottom of the content.

Children and Young People Scrutiny Scrutiny

Constitution of Body	
Where to look for terms of reference, powers, etc	Part 6.10
Membership [A] - number of Councillors appointed as Members of Body	9
Substitutes appointed?	Yes
Members appointed by?	Council
Quorum	4
Councillor Membership politically balanced?	Yes
Number of other Members (see notes below and Constitution for who, how appointed, etc)	6

Standard Items of Business at Meeting (order cannot be varied)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Elect a Member to preside if Chairman/Vice-Chairman of Body not present		
No	Yes	Yes
Receive apologies for inability to attend the meeting		
[F]	Yes	Yes
Chairman's remarks		
No	No	No
Elect Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No
Elect Vice-Chairman of Body (annually at Annual Meeting unless vacancy)		
[F]	No	No

Standard Items of Business at Meeting (order cannot be varied)		
Approve Minutes of previous meeting(s)		
No	Yes	No
Receive Declarations of Interest		
No	Yes	Yes
Elect Leader of Council (four-yearly at First Annual Meeting after elections unless vacancy)		
No	No	No
Receive Leader's notification of number and membership of Executive (annually at Annual Meeting, unless change)		
No	No	No
Receive announcements from Chairman/Leader/Executive/Head of Paid Service		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)		
Annual meeting	Ordinary meeting	Extraordinary meeting
Receive Petitions		
No	Yes	No
Respond to public written questions		
No	No	No
Decide on Committees, size, terms of reference, allocation of seats, etc		
No	No	No
Appoint Councillors to Committees		
No	No	No
Appoint Councillors to Outside Bodies (if not delegated, eg to Leader)		
No	No	No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Agree any amendments to Constitution

No

No

No

Respond to Petitions previously received

No

No

No

Consider Reports and Proposals from Executive/Scrutiny Commission/Officers

No

Yes

No

Deal with matters referred from Council/Scrutiny Commission

No

Yes

No

Receive Reports on joint arrangements/external organisations and receive questions/provide answers on such

No

No

No

Consider Motions submitted by Members

No

No

No

Standard Items of Business (where relevant) at Meeting (order can be varied by Chairman or on Motion)

Respond to Councillors' written questions

No

No

No

Consider Called In item

No

Yes

No

Consider business/any other business specified in the Agenda

No

Yes

Yes

Procedural Motions that may be moved without notice

Annual meeting

Ordinary meeting

Extraordinary meeting

Appoint a Chairman for meeting if Chairman/Vice-Chairman absent

No

Yes

Yes

Accuracy of Minutes

Procedural Motions that may be moved without notice		
No	Yes	Yes
Closure or adjournment of the meeting		
No	Yes	Yes
Order of or next business		
No	Yes	Yes
Refer any matter to Council/Executive/Committee/Statutory Officer		
No	Yes	Yes
Establish a Committee and appoint members if such if arises from an Agenda item		
No	No	No
Establish a Task Group and appoint members if such if arises from an Agenda item		
No	Yes	Yes

Procedural Motions that may be moved without notice		
Establish a Sub-Committee and appoint members if such if arises from an Agenda item		
No	Yes	Yes
Withdraw a Motion or amendment with leave of the Chairman		
No	Yes	Yes
Amend a Motion as permitted		
No	Yes	Yes
Amend the time limit for speeches (if any)		
No	Yes	Yes
Allow member of the public to speak in accordance with Rules		
No	Yes	Yes
Allow continuation of meeting past 22:00		
Yes	Yes	Yes

Procedural Motions that may be moved without notice		
Suspend a Rule of Procedure where permitted		
No	Yes	Yes
Exclude the press and public in accordance with the statutory provisions		
No	Yes	Yes
A Member named for disorderly conduct not to be further heard/leave the meeting		
No	Yes	Yes
A Closure Motion		
No	Yes	Yes

A Each Councillors' terms of office starts on the fourth day after being elected and finishes (except for the Chairman of Council and Leader of Council - see **[B]**) on the fourth day after the date of the next all council elections.

B The Chairman of Council and Leader of Council continue as Councillors (and thus in post) until the agenda items for election of Chairman and Leader at the first Annual Meeting of Council after all council elections.

F At the first meeting of a committee in the municipal year, the Clerk will (i) take apologies for absence and (ii) seek nominations for Chairman, then the (newly) elected Chairman (or the Clerk if they are absent) will take nominations for Vice-Chairman.

G The following co-opted members are defined by statute where the functions of an overview and scrutiny committee relate to any education functions which are the

responsibility of the Executive: (i) a person nominated by the Diocesan Board of Education for any Church of England diocese which falls wholly or partly within West Berkshire; (ii) a person nominated by the bishop of any Roman Catholic diocese which falls wholly or partly in West Berkshire; (iii) an elected representatives of primary school parent governors at schools maintained by West Berkshire Council and (iv) an elected representatives of primary school parent governors at schools maintained by West Berkshire Council. In addition, the Children and Young People Scrutiny Committee has elected to appoint two non-statutory co-opted members to represent young people in west Berkshire.

Questions Appendix

1. Public Written Questions

- **1.1** Members of the public residing or working in the District, or their representative, may ask a question at a relevant Meeting (see the **Meeting Rules Table**).
 - **1.2** Questions must:
 - **1.2.1** relate to the business of the Council;
 - **1.2.2** be a matter for which the Council has responsibility; or
 - **1.2.3** be related to the wellbeing of West Berkshire.
-

2. Councillors' Written Questions

- **2.1** Councillors may ask any Member of the Executive any question relating to:
 - **2.1.1** the business of the Council;
 - **2.1.2** a matter over which the Council has responsibility; or
 - **2.1.3** the wellbeing of West Berkshire.
 - **2.2** Councillors may ask any Chairman of a Committee any question relating to the business of that Committee.
-

3. Procedure - Submission

- **3.1** Questions may only be asked at an Ordinary Meeting of the Body in question.
 - **3.2** Questions must be submitted in writing by post, or electronic mail, to the Monitoring Officer and must specify:
 - **3.2.1** the name of the Councillor; or
 - **3.2.2** the name, address and contact telephone number of the member of the public (or representative).
 - **3.3** Questions that do not relate to an item of business on the Agenda for the Meeting in question must be submitted no later than 10:00, seven Clear Working Days before the Meeting.
 - **3.4** Questions relating to an item of business on the Meeting Agenda must be submitted no later than 10:00, two Clear Working Days before the Meeting.
 - **3.5** Provided that the Body Chairman consents, a question relates to an urgent matter may be considered by a Body if it is submitted to the Monitoring Officer by 10:00 on the day of the Meeting.
-

4. Procedure - Scrutiny

- **4.1** The Monitoring Officer may reject a question if (in their sole opinion):

- **4.1.1** it is not about a matter over which the Body to which it has been put has responsibility;
 - **4.1.2** it contains an excessive element of statement beyond the scope of the question;
 - **4.1.3** it is defamatory, frivolous, abusive, or argumentative;
 - **4.1.4** it requires the disclosure of confidential or exempt information;
 - **4.1.5** it relates to a licensing or planning application; or
 - **4.1.6** it is substantially the same as a question which has been put at a meeting of any Body in the past six months.
 - **4.2** Where a question has been rejected a letter will be sent to the questioner setting out the reasons for the rejection.
-

5. Procedure - Written Questions

- **5.1** The Meeting Chairman will nominate an appropriate person to provide an answer to each question in turn or indicate how such an answer will be provided.
 - **5.2** An answer may take the form of:
 - **5.2.1** a direct oral answer;
 - **5.2.2** a reference to a Council publication containing the desired information;
 - **5.2.3** a written answer where an oral reply cannot conveniently be given.
-

6. Procedure - Supplementary Questions

- **6.1** A person having received an answer to a written question may ask one supplementary question which must:
 - **6.1.1** arise directly out of the answer given to the original question; and
 - **6.1.2** not introduce any new subject matter.
 - **6.2** For the avoidance of doubt the person answering the original question, or the Meeting Chairman, will invite the questioner to ask a supplementary question if the questioner has one.
 - **6.3** Questioners must confine their contributions to questions, and answers and must not make statements or attempt to debate the matter.
 - **6.4** Where the Meeting Chairman considers that a questioner is contravening this rule they will stop the individual concerned from speaking on this matter.
-

7. Order of Questions and Multiple Questions

- **7.1** The Meeting Agenda shall list the questions to be answered in order, but the Meeting Chairman may determine that the questions shall be answered in a different order.

- **7.2** Subject to the Meeting Chairman's discretion, if there is more than one questioner at any Meeting only their first question shall be answered in turn.
 - **7.3** If, after all initial questions have been answered, there is sufficient time available the Meeting Chairman may allow answers to be given to such questions as remain in such order as the Meeting Chairman determines.
-

8. Time Limit on Questions

- **8.1** Subject to other Parts (for example, in relation to the Council Budget Meeting), the time allowed for written and supplementary questions at any meeting shall not exceed thirty minutes for public questions or one hour for Councillors' questions or such period as the Meeting Chairman may permit.
 - **8.2** Questions not answered within that period shall receive a written reply.
-

9. Written Questions concerning the Thames Valley Police and Crime Panel (TVPCP) and Royal Berkshire Fire and Rescue Service (RBFRS)

- **9.1** Subject to the rules within this Appendix, a Councillor may also ask:
 - **9.1.1** the Council's representative on the TVPCP a question on the functions or performance of the TVPCP; or
 - **9.1.2** one of the Council's representatives on the RBFRS a question on the functions or performance of the RBFRS.

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Petitions Appendix

1. Introduction

- **1.1** The Council welcomes petitions and recognises that they are one way in which people can let the Council know about their concerns. Petitions have a long tradition and can be useful in suggesting levels of support for various proposals.
 - **1.2** The Council publishes advice regarding the content and submission of petitions on its website.
 - **1.3** In this Appendix "Petitions Officer" refers to the Council Officer or Officers dealing with received petitions.
-

2. What is a Petition?

- **2.1** The Council defines a petition as 'any communication which is signed or sent to us on behalf of a number of people'. There is a minimum requirement of at least 50 signatories before something is treated as a petition, but exceptions can be made in special cases at the discretion of the Monitoring Officer.
- **2.2** A petition must include:
 - **2.2.1** the name and contact details of the signatory who is the "Petition Organiser" - the person that the Council will contact in relation to dealing with the petition (if the Petition Organiser relinquishes the role another signatory must be identified as Petition Organiser);
 - **2.2.2** either:
 - **2.2.2.1** the name of the Body being asked to consider the petition (see **Meetings Rules Table** for Bodies able to accept petitions); or
 - **2.2.2.2** the matter or consultation it relates to;
 - **2.2.3** a clear and concise statement of the issue and what is being requested;
 - **2.2.4** unless the Monitoring Officer agrees otherwise, the names of at least 50 valid petitioners (in most cases this will mean that they live, work or study in West Berkshire), which may include the Petition Organiser:
 - **2.2.4.1** for a paper petition, actual signatures from each petitioner would be preferable but this is not essential;
 - **2.2.4.2** petitioners may be required to provide verifiable details that they live, work or study in West Berkshire;
 - **2.2.4.3** other petitioners may be considered if they are relevant to the issue in the petition subject (whilst the Council is keen to hear from people who live, study or work in West Berkshire, this is not always a requirement - for example, a petition from 50 visitors about the quality of tourism facilities in the district would qualify).

- **2.3** The subject matter of the petition must relate to the District or to something which the Council has responsibility for or over which it has influence:
 - **2.3.1** where the petition relates to a matter which is the responsibility of another public authority the Council will ask the Petition Organiser whether they would like to redirect the petition to that authority;
 - **2.3.2** where the petition relates to a matter over which the Council has no influence or responsibility, the petition will be returned to the Petition Organiser with an explanation for that decision.
- **2.4** A petition may be rejected if it:
 - **2.4.1** fails to comply with the requirements above;
 - **2.4.2** is, in the opinion of the Monitoring Officer:
 - **2.4.2.1** a duplicate or a near duplicate of a petition submitted within the previous 12 months;
 - **2.4.2.2** vexatious, abusive or otherwise inappropriate (eg relating to information about an individual or individuals);
 - **2.4.3** contains false signatories, or details of alleged signatories who have not given their permission for their details to be used (the Council has a duty to verify signatories to all petitions, using publicly available databases, and by contacting those named);
 - **2.4.4** a petition raising the issue of possible Councillor misconduct will be taken as a complaint arising under the Localism Act 2011 and dealt with under the Council's Procedure for Local Determination of Allegations as a complaint, and not dealt with under this Petition Scheme;
 - **2.4.5** deadlines for consultation petitions will be enforced and a petition received after such a deadline will not be valid in relation to the process in question.
- **2.5** In the period immediately before an election or a referendum the Council may need to deal with a petition differently - this will be explained to the Petition Organiser.
- **2.6** Where the guidelines set out here are not followed the Council may decide not to do anything further with the petition.

3. Types of Petition

- **3.1 Ordinary Petitions:** These are petitions which do not fall into any of the other petition categories below.
- **3.2 Consultation Petitions:** These are petitions in response to an invitation from the Council to comment on a particular proposal, policy or application. For example, planning or licensing applications, or proposals concerning speed limits.
- **3.3 Statutory Petitions:** Certain statutes require the Council to consider petitions (eg proposing a directly-elected Mayor or for a review of Parish Councils).

- **3.4 Petitions to Hold an Officer to Account:** Petitioners can seek to require a Senior Officer (Chief Executive, Executive Director or Service Director), identified either by name or by role, to answer questions on a particular matter at a Meeting of the relevant Scrutiny Committee. Such a petition will require a minimum of 750 petitioners, unless it relates to an issue affecting no more than two electoral wards in West Berkshire, in which case the requirement may be reduced to 500 petitioners at the discretion of the Monitoring Officer. Where such a petition raises issues of competence or misconduct it will be referred to the Chief Executive (or the Service Director (Strategy, ICT and Governance) in the case of the Chief Executive) for consideration under the Council's Capability and/or Disciplinary Procedures, and will not be dealt with under this Petition Scheme.
 - **3.5 Petitions for Debate:** A petition can seek to have an issue debated at a relevant Meeting. For a petition to be reported to a Meeting for debate by Members it must contain a minimum of 1,500 petitioners, unless it relates to an issue affecting no more than two electoral wards in West Berkshire, in which case the requirement may be reduced to 500 petitioners per ward at the discretion of the Body Chairman in consultation with the Monitoring Officer. Where it is desired to have a petition debated at a specific Meeting (eg because the Petition Organiser believes that the subject will be an item on the Agenda for that meeting), the petition must be submitted at least ten Clear Working Days before the Meeting in question.
-

4. Submission

- **4.1** A Consultation Petition should be directed to the return address specified in the consultation details or in the notice (etc) regarding the matter in question, application, etc - this will ensure that it is considered at the appropriate time in relation to the matter in question.
 - **4.2** If a petition is in relation to a statutory process, or where there is an existing appeal mechanism in place (for example council tax banding), particular submission requirements may apply and will be advised to the Petition Organiser.
 - **4.3** For all other petitions, there is a choice of means of submission:
 - paper petitions should be addressed to the Monitoring Officer, West Berkshire Council, Market Street, Newbury RG14 5LD;
 - emailed petitions should be sent to **petitions@westberks.gov.uk**;
 - online petitions should be submitted via **www.westberks.gov.uk/petitions** ("the Webpage"). Online petitions will remain open for six weeks unless otherwise agreed with the Petition Organiser;
 - petitions may be submitted at a relevant Ordinary Meeting by a Councillor or a member of the public (see **Meetings Rules Table**).
-

5. Process - Initial Recording

- **5.1** Consultation Petitions will be reported at the relevant Meeting or to the relevant person taking the decision.
 - **5.2** Where the petition is not accepted for consideration, the Petitions Officer will advise the Petition Organiser of the grounds for rejection.
 - **5.3** All other petitions will be detailed on the Webpage, including:
 - the subject matter of the petition;
 - the date the petition was received and the closing date for receipt of additional signatures;
 - the number of petitioners (this will be updated weekly until the petition has closed);
 - the name and contact details of the Petition Organiser.
 - **5.4** Within ten Clear Working Days of receipt of the completed petition, Officers shall determine how the petition will be considered and when. These details will be added to the petition details on the Webpage and sent to the Petition Organiser. If the petition meets the threshold for a debate, this will be confirmed with the Petition Organiser as will details of when the Meeting will take place.
 - **5.5** The Monitoring Officer or Petitions Officer will notify relevant Councillors as to petitions received (eg a Ward Councillor or Executive Member in relation to a petition relevant to that Ward or Portfolio).
-

6. Process - Petition for Debate

- **6.1** A Petition for Debate will generally be listed on the Summons/Agenda for the next Ordinary Meeting of the Body in question after a minimum of ten Clear Working Days after submission (or on the Summons/Agenda for a different Meeting if in the opinion of the Petitions Officer this will be more relevant to the subject matter of the petition - in which event the Petitions Officer will discuss the circumstances with the Petition Organiser).
- **6.2** Where a Petition for Debate is included on the Summons/Agenda for a Meeting:
 - **6.2.1** the Petition Organiser will be sent a copy of the Summons/Agenda and invited to the Meeting;
 - **6.2.2** a Report on the subject matter of the Petition may be submitted by Officers;
 - **6.2.3** an Officer, or relevant Member (eg an Executive Member) may set out the background to the issue at the Meeting;
 - **6.2.4** the Petition Organiser or their nominated spokesperson will have up to five minutes to present their position at the meeting.
- **6.3** For a localised petition, Ward Councillors will have up to five minutes (between them if more than one) to make any comments on the petition, which will not limit their ability to participate in the debate.
- **6.4** Members may ask questions of the parties following their submissions.
- **6.5** The Body may decide to:

- **6.5.1** take or not take the action sought in the petition; or
 - **6.5.2** commission any further investigation or Report, etc, into the matter.
 - **6.6** Subject to the discretion of the Meeting Chairman, a maximum of 30 minutes is permitted for the discussion of petitions prior to the normal business of a relevant Meeting. Any petitions not considered in this time will be held over to the next appropriate Meeting.
 - **6.7** Once determined, and if the Petition Organiser was not present for the decision, the Petitions Officer will notify the Petition Organiser of the decision within five Clear Working Days.
-

7. Process - Other Petitions

- **7.1** Consultation Petitions will be dealt with in accordance with the consultation or application process as appropriate. Certain petitions of objection to a planning application may trigger a meeting of an Area Planning Committee - see the **Planning Committee Appendix**.
- **7.2** Statutory Petitions will be dealt with in accordance with the relevant statutory process.
- **7.3** Petitions to Hold an Officer to Account (other than those raising issues of competence or misconduct, which will be dealt with under the Council's Capability and/or Disciplinary Procedures) will be dealt with by the relevant Scrutiny Committee.
- **7.4** The process for dealing with Ordinary Petitions will depend upon the nature of the petition:
 - **7.4.1** in some instances the Petitions Officer may be able to seek to resolve the matter by involving the relevant Executive Member or Officer to consider what is being sought and take appropriate action:
 - **7.4.1.1** in this event the Petitions Officer will ask the Petition Organiser whether they consider the matter to have been resolved and, if they agree, that will be an end to the petition process;
 - **7.4.1.2** failing this the petition will continue as if the Executive Member or Officer had not been consulted;
 - **7.4.2** unless the matter is in the process of Executive Member/Officer consultation as above (or that process has ended without resolution) the Petitions Officer will provide a response to the Petition Organiser which sets out:
 - **7.4.2.1** who or what Body the petition will be reported to for consideration;
 - **7.4.2.2** when and where that consideration will take place.
- **7.5** Where an Ordinary Petition is submitted and the Petitions Officer determines that it should be referred to a Meeting, and notice has been given to the Monitoring Officer by 10:00 seven Clear Working Days before such a

relevant Meeting, details will be included in the Summons or Agenda for the Meeting.

- **7.6** Where an Ordinary Petition is presented at an Executive Meeting (or with less notice than above) and relates to an item of business on the Agenda for that Meeting, it will be dealt with under that Agenda item, otherwise (unless the Leader determines to deal with it at the Meeting) it will be dealt with at the next relevant Executive Meeting.
- **7.7** In all other cases where a petition is to be referred to a Meeting, it will wait for the next relevant Meeting after seven Clear Working Days and details will be included in the Summons or Agenda for the Meeting.

8. Process - Consideration of Ordinary Petition at a Meeting

- **8.1** If an Ordinary Petition is to be considered at a Meeting, the following process will be followed:
 - **8.1.1** details will be included on the Summons or Agenda for the Meeting as set out above;
 - **8.1.2** the Petition Organiser will be sent a copy of or link to the Summons/Agenda;
 - **8.1.3** an Officer may be asked to set out the background to the issue at the meeting;
 - **8.1.4** the Petition Organiser or their nominated spokesperson will have up to five minutes to present their petition at the meeting.
- **8.2** Ward Councillors will have up to five minutes to make any comments on the petition.
- **8.3** Members may then ask questions of the parties.
- **8.4** The matter will then be discussed by the Body and the Body may:
 - **8.4.1** determine the matter;
 - **8.4.2** refer the matter for investigation and report back; or
 - **8.4.3** refer the matter up to a Meeting of Council or the Executive for determination.
- **8.5** In the case of an Individual Executive Member Decision, the Executive Member will consider representations from the Petition Organiser and Ward Councillors before they proceed to take a decision.
- **8.6** Once determined, the Petitions Officer will notify the Petition Organiser of the decision within five Clear Working Days.

9. Communication with the Petition Organiser

- **9.1** The Petitions Officer will keep the Petition Organiser regularly updated with developments on the petition and notify them of the outcome of the petition's consideration in writing within five Clear Working Days of the decision.

- **9.2** When responding to the Petitions Organiser, the Petitions Officer will also forward the same information to the relevant Executive and Shadow Executive Members and Ward Councillors.
- **9.3** The outcome will also be reported to the next practical/appropriate Meeting of the referring Body for information.

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Part 4 - Council Rules

1. Establishment

- **1.1** West Berkshire District Council (usually referred to as "West Berkshire Council") is a body corporate which derives its powers from statute.
 - **1.2** The Council is the principal authority for the district of West Berkshire, which has a single tier of local government (and is also referred to as a unitary authority).
-

2. Scope of Role - Statutory

- **2.1** A unitary authority is responsible for the full range of local government services, such as education, transport, planning, social care, waste, trading standards, council tax collection, housing, and licensing.
-

3. Scope or Role - General

- **3.1** The Council operates an executive form of governance in accordance with the Local Government Act (LGA) 2000 and associated legislation.
 - **3.2** Legislation reserves a number of functions to Council. Local authorities also have discretion to determine where responsibility for some functions will sit. All other functions are reserved to the Executive by law.
 - **3.3** Thus some functions are the responsibility of the Executive, some are the responsibility of Council, and some are the responsibility of both the Executive and Council.
-

4. Membership

- **4.1** The Council is comprised of 43 District Councillors elected every four years.
-

5. Chairman of Council

- **5.1** In accordance with s3, Local Government Act (LGA) 1972, the Chairman of Council shall, unless they resign or become disqualified, continue in office until their successor becomes entitled to act as Chairman of Council.
 - **5.2** During their term of office, the Chairman of Council shall not be elected as Chairman of any Body.
-

6. Meetings - General

- **6.1** Council Meetings will be conducted in accordance with the Part 3 (Meetings Procedure Rules) save as set out/added to below.
-

7. Budget Meeting - Procedure

- **7.1** Budget papers will have been available to Members since the meeting of the Executive prior to the Budget Meeting.
 - **7.2** Prior to the Budget Meeting, the Chairman of Council will invite the Political Group Leaders or their duly nominated representatives, together with the Portfolio Holder with responsibility for Finance, to a pre-council briefing to support the effective operation of the Budget Meeting.
 - **7.3** The standard items of business (and see the Meetings Rules Table) shall (only) be to:
 - **7.3.1** elect a person to preside if the Chairman or Vice-Chairman of Council is not present;
 - **7.3.2** receive apologies for an inability to attend the meeting;
 - **7.3.3** receive any declarations of interest from Members;
 - **7.3.4** public questions which must relate to items on the agenda;
 - **7.3.5** debate the proposed Medium Term Financial Strategy (MTFS);
 - **7.3.6** debate the proposed Investment Strategy;
 - **7.3.7** debate the proposed Capital Strategy;
 - **7.3.8** debate the proposed Revenue Budget.
 - **7.4** Proposed Amendments to items on the Agenda must be tabled by the Political Groups, and:
 - **7.4.1** where there has been no substantive change to the item (for example, excluding any minor grammatical, typographical, etc, amendments) following the meeting of the Executive prior to the Budget Meeting:
 - **7.4.1.1** must be submitted to the S151 Officer by no later than 17:00, five Clear Working Days before the meeting; and
 - **7.4.1.2** following submission, the S151 Officer will add an opinion to the proposed Amendments and will distribute to all Councillors at least three Clear Working Days before the meeting; or
 - **7.4.2** where there has been any substantive change to the item following the meeting of the Executive prior to the Budget Meeting:
 - **7.4.2.1** must be submitted to the S151 Officer by no later than 17:00, three Clear Working Days before the meeting; and
 - **7.4.2.2** following submission, the S151 Officer will add an opinion to the proposed Amendments and will distribute to all Councillors at least one Clear Working Day before the meeting.
 - **7.5** Prior to an Amendment being voted upon, the Proposer of the Amendment may request that the Meeting Chairman permit that there be separate votes in respect of parts of the Amendment. Subject to any comments from the Council's Statutory Officers, it shall be within the Meeting Chairman's discretion to permit separate votes on items within a proposed Amendment.
-

8. Themed Debates

- **8.1** Themed debates may occur during the early autumn Meeting of Council.
- **8.2** The subject matter of themed debates are to be agreed at a meeting of the Political Group Leaders, to take place at least six weeks prior to the Meeting. Any theme to be debated should be of relevance to the residents of West Berkshire.
- **8.3** In the absence of agreement, the Chairman of Council will determine the subject matter for debate.
- **8.4** At the Meeting, the Meeting Chairman may determine that questions submitted will receive a written response in accordance with the Questions appendix in order to allow time for the themed debate.
- **8.5** The following guidelines shall be followed for the debate:
 - **8.5.1** the debate will be for a maximum of one hour;
 - **8.5.2** the Leader of each Political Group (or their nominated representative) will be invited to make opening remarks;
 - **8.5.3** there will be no formal time limit on speeches, but the Meeting Chairman will control the allocation of time during the debate, having regard to the political balance of the Council.

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Part 5 - Executive Rules

1. Introduction

- **1.1** The Council operates an executive leader and cabinet executive model of governance, as set out in the LGA 2000.
 - **1.2** Executive Meetings will be conducted in accordance with the Part 3 (Meetings Procedure Rules) save as set out/added to below.
-

2. Leader of Council

- **2.1** The Leader of Council ("the Leader") shall be a Councillor elected as Leader at the Annual Meeting of Council following local elections, or in the event of a vacancy.
 - **2.2** The Leader shall hold office until:
 - **2.2.1** they resign from office; or
 - **2.2.2** they are removed from office by resolution of the Council; or
 - **2.2.3** (following local elections) their successor becomes entitled to act as Leader.
-

3. Deputy Leader of Council

- **3.1** The Leader shall appoint a Deputy Leader of Council ("the Deputy Leader") who shall cease to be Deputy Leader if they:
 - **3.1.1** resign from the office; or
 - **3.1.2** are no longer a Councillor; or
 - **3.1.3** they are removed from office by the Leader.
 - **3.2** In the event of a vacancy in the post of Deputy Leader, the Leader shall appoint a new Deputy Leader.
 - **3.3** The Deputy Leader shall:
 - **3.3.1** chair the Executive in the Leader's absence;
 - **3.3.2** act in the Leader's place if for any reason the Leader is unable to act.
-

4. Appointment of the Executive

- **4.1** The Leader shall appoint an Executive of at least two, but no more than nine, Councillors including the Deputy Leader (plus themselves) upon their election as Leader.
- **4.2** The Leader shall ascribe executive portfolios to individual Executive Members (each the "Lead Member" for that portfolio).
- **4.3** The Leader shall chair the Executive.

- **4.4** The Executive may not include the Chairman or Vice-Chairman of Council.
 - **4.5** There may be no Substitutes for Executive Members at Executive Meetings.
 - **4.6** The Leader may change the number and/or composition of the Executive at any time by notifying the Chief Executive in writing.
 - **4.7** The Leader shall announce the current composition of the Executive at each Annual Council Meeting and at the next Council Meeting following any change.
-

5. Scope of Role - Statutory

- **5.1** The Leader is responsible for all executive functions as set out in the LGA2000 ("Executive Functions").
 - **5.2** The Executive may make decisions on all matters except those prohibited by law (eg under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000).
-

6.Scope of Role - General

- **6.1** The Leader shall establish an Executive Scheme of Delegation from time to time setting out how Executive Functions are to be discharged.
 - **6.2** The Leader may amend the Executive Scheme of Delegation at any time by notifying the Chief Executive and Monitoring Officer in writing.
 - **6.3** The Monitoring Officer shall ensure that changes to the Executive Scheme of Delegation are incorporated in the Constitution and notified to all Councillors.
 - **6.4** Decisions of the Leader, the Executive, Committees of the Executive, individual Lead Members, and Key Decisions taken under delegated powers of Officers, are referred to together as "Executive Decisions" (for the avoidance of doubt, reports published for information only will not be treated as requiring an Executive Decision).
 - **6.5** A Protocol in respect of decisions by the Leader or other Executive Members is contained in an **Appendix to this Part**.
-

7. Key Decisions

- **7.1** A "Key Decision" is a decision in respect of an Executive Function that is significant within the meaning of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in that, in the opinion of the Chief Executive, or the S151 Officer, or the Monitoring Officer (each a "Statutory Officer"), it meets the financial and/or community impact criteria set out below.
- **7.2** A decision is significant financially if it will result in the Council:
 - **7.2.1** incurring potential revenue expenditure or making savings above an amount determined by Council;

- **7.2.2** incurring potential capital expenditure or making savings above an amount determined by Council.
- **7.3** A decision is significant in terms of community impact if its effect on communities living or working in an area comprising two or more Wards or electoral divisions would result in:
 - **7.3.1** a significant number of users of the service in the Wards or divisions being affected; and/or
 - **7.3.2** an impact that will last for a number of years or be permanent; and/or
 - **7.3.3** a significant impact on communities in terms of environmental and social well-being.
- **7.4** The following are not regarded as constituting Key Decisions:
 - **7.4.1** implementing approved budgets or policies and strategies where there is little or no further choice involved and the main decision has already been taken by the Council in agreeing the Budget and Policy Framework;
 - **7.4.2** implementing approved actions and targets in annual service plans;
 - **7.4.3** changes arising from amendments to statute where there is little or no discretion.
- **7.5** Where a Key Decision is taken by the Executive, it must be taken in public, except for items that are deemed to include Exempt Information.

8. Publicity in Connection with Key Decisions (the Executive Forward Plan)

- **8.1** A Forward Plan will be prepared and published at least 28 days before the Key Decision is made unless an urgent decision is required.
- **8.2** The Forward Plan will contain matters which the Leader has reason to believe will be the subject of a Key Decision.
- **8.3** The Forward Plan will describe the following particulars insofar as the information is available, applicable or might reasonably be obtained:
 - **8.3.1** the matter in respect of which a decision is to be made;
 - **8.3.2** where the decision taken is by an individual their name and title, if any, and where the decision-taker is a body, its name and details of membership;
 - **8.3.3** the date on which, or the period within which, the decision will be taken;
 - **8.3.4** the identity of the principal individuals or groups that the decision-taker proposes to consult before taking the decision;
 - **8.3.5** the means by which any such consultation is proposed to be undertaken;

- **8.3.6** the steps any person might take who wishes to make representations to the Executive or decision-taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- **8.3.7** a list of the documents submitted to the decision-taker for consideration in relation to the matter.
- **8.4** Exempt Information and Confidential Information will not be included in the Forward Plan.

9. Exceptions to publicity in connection with Key Decisions

- **9.1** Where publicity of a Key Decision for 28 days is impractical, that decision may only be taken:
 - **9.1.1** If it is an Urgent Key Decision and the rules relating to such have been followed; or
 - **9.1.2** if the Monitoring Officer has:
 - **9.1.2.1** informed the relevant Scrutiny Committee Chairman or, in their absence, each Member of that Scrutiny Committee, by notice in writing, of the matter about which the decision is to be made;
 - **9.1.2.2** made a copy of that notice available at the Council offices for inspection by the public and published it on the Council's website.
- **9.2** As soon as reasonably practicable after the Monitoring Officer has complied with paragraph 9.1.2 they must:
 - **9.2.1** make available at the Council offices a notice setting out the reasons why compliance with paragraph 8.1 is impracticable; and
 - **9.2.2** publish that notice on the Council's website.
- **9.3** Where the procedure at 9.1.2 has been followed, the decision may be taken after five Clear Days have elapsed.

10. Urgent Key Decisions

- **10.1** An Urgent Key Decision is a Key Decision that, in the opinion of a Statutory Officer, needs to be determined urgently, making publicity of the decision in accordance with paragraph 8.1 or compliance with paragraph 9.1.2 impractical. In those circumstances, the Urgent Key Decision can only be made where the Statutory Officer has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred from:
 - **10.1.1** the relevant Scrutiny Committee Chairman; or
 - **10.1.2** in the absence of the relevant Scrutiny Committee Chairman, the Chairman of Council; or
 - **10.1.3** in the absence of the Chairman of Council, the Vice-Chairman of Council.

- **10.2** Where the procedure at 10.1 has been followed, the decision may be taken immediately.
 - **10.3** As soon as reasonably practicable after the Statutory Officer has obtained agreement as above, they must:
 - **10.3.1** make available at the Council offices a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred; and
 - **10.3.2** publish that notice on the Council's website.
-

11. Recording and Publication of Executive Decisions

- **11.1** All Executive Decisions will be recorded as soon as practicable, including:
 - **11.1.1** a record of the Executive Decision and the date it was made;
 - **11.1.2** the reasons for the Executive Decision;
 - **11.1.3** any alternative options considered and rejected in making the Executive Decision; and
 - **11.1.4** any conflict declared by the decision maker(s) and any dispensations granted.
 - **11.2** All Executive Decisions shall be published on the Council's website as soon as practical.
-

12. Call-In

- **12.1** The procedure for Calling-In an Executive Decision is set out in Parts 6.4, 6.9 and 6.10 (Council Bodies; Health and Adult Social Care Scrutiny Committee Appendix, Resources and Place Scrutiny Committee Appendix, and Children and Young People Scrutiny Committee Appendix). **Part 6.9 (Council Bodies, Scrutiny Commission Appendix).**
-

13. Decisions not Subject to Call-In

- **13.1** The Call-In procedure shall not apply where the Executive Decision:
 - **13.1.1** has been the subject of a previous Call-In request; or
 - **13.1.2** is due to be referred to Council for final approval (eg the budget);
 - **13.1.3** has been considered by any Scrutiny Committee or any Scrutiny Committee Sub-Body within the preceding six months; or
 - **13.1.4** in the opinion of a Statutory Officer has to be implemented before the expiry of the Call-in Period, and:
 - **13.1.4.1** is an Urgent Key Decision; or
 - **13.1.4.2** in the opinion of a Statutory Officer a delay in implementing the decision would have serious financial implications for the Council or could compromise the Council's position.

- **13.2** If a decision is stated not to be subject to Call-In, an explanation to support the reason why that is asserted must be specified in the report. In the event of a dispute over the reason why the item is not subject to Call-In, a decision of a Statutory Officer shall be final.
-

14. Implementation of Decisions

- **14.1** Except for an item that is not subject to Call-In (see paragraph 13 above), Executive Decisions shall not be implemented until either:
 - **14.1.1** the Call-In Period has expired without such a request being made; or
 - **14.1.2** the Call-In process has concluded.
-

15. Executive Agenda

- **15.1** The Agenda for an Executive Meeting shall include any item requested by:
 - **15.1.1** the Leader;
 - **15.1.2** the Council;
 - **15.1.3** any Scrutiny Committee or any Scrutiny Committee Sub-Body;
 - **15.1.4** any Council Committee;
 - **15.1.5** any Statutory Officer (and reports of Statutory Officers may not be deferred if, in the opinion of the Officer concerned, it is necessary for the report to be considered at that Executive Meeting).
- **15.2** The Leader and the Chief Executive will agree the Agenda for each Executive Meeting to ensure that the volume of business is manageable and appropriate information is available about any item on the Agenda.

Executive Appendix

1. Introduction

- **1.1** Individual Executive Members (Portfolio Holders) may make "Individual Decisions".
- **1.2** Individual Decisions are subject to the same rules and requirements as for Executive Decisions (see Part 3 (Executive)) - eg relating to publicity in relation to any proposed decision, and they may be subject to Call-In if they meet the relevant criteria (see below).
- **1.3** It has been agreed by Council that Individual Executive Members can make the following Key Decisions:
 - **1.3.1** all decisions relating to Highway Matters which are within the approved budget and policy framework;
 - **1.3.2** with the exception of those strategic plans, strategies and policies requiring Council approval (as set out in **Part 7 of the Constitution, Budget and Policy Framework**) decisions relating to all other plans, strategies and policies that the Council is required to produce;
 - **1.3.3** the Council's response to Government and other consultation documents;
 - **1.3.4** appointments to outside bodies;
 - **1.3.5** decisions relating to Public Rights of Way;
 - **1.3.6** approval by the Leader of the Council's Forward Plan for Key Decisions to be taken by or on behalf of the Executive;
 - **1.3.7** agreement of Annual Reports and Statements of Purpose;
 - **1.3.8** granting permission to consult publicly regarding a Report (etc).
- **1.4** A step by step guide to Individual Decisions is attached to this Appendix.

2. The Executive Forward Plan

- **2.1** The rules relating to publicity in connection with Key Decisions and exceptions to the publicity requirements as set out in Part 5 (the Executive Rules) apply to any decision of an Individual Executive Member.

3. Dates when Individual Decisions can be made

- **3.1** It is the responsibility of each Department or Service Area to ensure that the Executive Member is aware of the forthcoming Individual Decisions and to agree the date when the decision will be taken.
- **3.2** The Executive Member will normally make their decision following advice from relevant Officers.

- **3.3** In the absence of the Executive Member (and with their agreement) the Leader or Deputy Leader of the Council can be authorised to make a decision on their behalf under this procedure.
-

4. Formal Written Report

- **4.1** Before an Individual Decision is made, a written report will be prepared for consideration by the Executive Member.
 - **4.2** The report shall include the following information:
 - **4.2.1** the name of the Executive Member within whose portfolio the matter falls;
 - **4.2.2** the issue to be decided with reasons for the decision;
 - **4.2.3** supporting information - a summary of the facts relating to the matter under consideration;
 - **4.2.4** confirmation that the proposed course of action is in accordance with the approved policy and budget framework;
 - **4.2.5** details of any corporate implications (finance, personnel, legal, etc);
 - **4.2.6** the Officer's recommendation and the reasons for that recommendation;
 - **4.2.7** other options considered;
 - **4.2.8** a list of background papers;
 - **4.2.9** details of any consultation undertaken, the method of consultation, and a summary of any representations.
 - **4.3** A report which excludes certain information on the grounds that it is Confidential or Exempt Information must state the reasons why such information is exempt from publication.
 - **4.4** The report must be emailed to the Monitoring Officer at least seven Clear Working Days before the decision is due to be made.
 - **4.5** The report will be sent out to all Members at least five Clear Working Days prior to any decision being made.
-

5. Decision Record Notice

- **5.1** A Decision Record Notice will be prepared by the relevant Officer and contain the following information if not included within the report:
 - **5.1.1** the matter to be decided with reasons for the decision;
 - **5.1.2** other options considered and rejected;
 - **5.1.3** a summary of comments received in response to consultations (including other Members consulted if appropriate);
 - **5.1.4** a list of background papers;

- **5.1.5** whether or not any Member consulted in connection with the matter or participating in the making of the decision has declared a Conflict of Interest under the Local Code of Conduct.
 - **5.2** If a conflict of interest has been declared as above, a copy of the minute of any dispensation granted by the Governance Committee or Chief Executive (as Head of Paid Service) should be attached to the decision notice.
 - **5.3** Where the Decision Record Notice contains Confidential or Exempt Information reasons must be given as to why such information is contained.
 - **5.4** After each decision has been taken, the relevant Executive Member shall sign, or approve electronic signature of, the Decision Record Notice.
 - **5.5** The Decision Record Notice will then be sent to the Monitoring Officer who will make this and the report available via the Council's website.
-

6. Call-In

- **6.1** Decisions of Individual Executive Members are subject to the same Call-In provisions as apply to decisions of the Executive.
 - **6.2** The rules relating Call-In are contained in Parts 6.4, 6.9 and 6.10 (Council Bodies; Health and Adult Social Care Scrutiny Committee Appendix, Resources and Place Scrutiny Committee Appendix, and Children and Young People Scrutiny Committee Appendix).
-

Individual Decision Making Process - Flowchart

Step 1

Contact the relevant Executive Member to ensure that they are happy to take the item as an Individual Decision. Agree a suitable date for the decision to be taken.



Step 2

Complete **Online Forward Plan Submission Form** whilst adhering to the deadlines contained in the protocol.



Step 3

Write report and send the draft to the Executive Member.



Step 4

Consultation process: consult with Members, Officers and appropriate other bodies as set out on the report template. (*Allow at least two weeks for consultation*)



Step 5

Send final report to **Executivecycle@westberks.gov.uk**, ensuring that it arrives seven clear working days prior to the decision being made.



Step 6

Complete a Decision Record Sheet and forward it to **Executivecycle@westberks.gov.uk** two days before the decision is being made.



Step 7

Author of report to arrange a time and venue for the Executive Member to consider and determine the matter.



Step 8

Ensure that either you or a representative from your Service Area is present to record the Decision.

Part 6 - Council Bodies Terms of Reference

1. Bodies - Introduction

- **1.1** The Council has established various Bodies (the term includes Committees and Boards - see Glossary) - these may only be added to or removed by the Council.
- **1.2** Each Body will have a number of aspects, many of which will be common (to a greater or lesser extent) to other Bodies and to the Council or Executive. Each Body will have:
 - A specified Composition;
 - Terms of Reference;
 - Rules of Procedure;

and may have:

- Delegated or Statutory Powers.
- **1.3** The Bodies of the Council are:
 - The Health and Adult Social Care Scrutiny Committee;
 - The Appeals Committee;
 - The Children and Young People Scrutiny Committee;
 - The District Planning Committee;
 - The Eastern Area Planning Committee;
 - The Governance Committee;
 - The Licensing Committee;
 - The Personnel Committee;
 - The Resources and Place Scrutiny Committee;
 - The Western Area Planning Committee.
- **1.4** The following bodies also act in accordance with these Rules with aspects similar to Council Bodies:
 - The Health and Wellbeing Board;
 - The Joint Public Protection Committee.

2. Bodies - Composition

- **2.1** At each Annual Meeting (or at any other Meeting as necessary) Council will confirm the continuation of, or establish, or amend, or disband, its Bodies and decide upon the composition of each and appoint the membership.
- **2.2** Membership may be required by statute to reflect the Political Balance of the Council.

- **2.3** Bodies may or may not have Substitute Members able to substitute for a Member of a Body unable to attend a particular meeting.
- **2.4** Bodies may or may not have external members.
- **2.5** The specific composition of all Bodies, including the number of members and political affiliations (where the Body is politically balanced), substitutes, etc, is set out in a list published in respect of each Council Annual Meeting and re-published in the event of any changes, and available on the Website, and reflected in the Meetings Rules Table.

3. Sub-Committees, Panels and Task Groups ("Sub-Bodies")

- **3.1** A Body ("Parent Body") may form one or more Sub-Committees, Panels or Task Groups (together "Sub-Bodies") as described in this Part and/or in the relevant Appendix to this Part ("Body Appendix").
- **3.2** In particular:
 - The Governance Committee has a Standing Advisory Panel established by Council for certain purposes in relation to the Code of Conduct (and only the Governance Committee has a Standing Panel);
 - The Licensing Committee forms task-limited Sub-Committees from time to time to determine certain types of licensing application;
 - The Appeals Committee forms task-limited Panels from time to time to determine certain appeals against Officer Decisions;
 - The Health and Wellbeing Board has a Steering Group and a number of Sub-, Sub-Sub-, and Sub-Sub-Sub- Bodies (each a "Health and Wellbeing Sub-Body") as more fully detailed in the relevant Committee Appendices;
 - Any Scrutiny Committee may form Task Groups for the purpose of conducting in-depth scrutiny reviews on a particular topic.
- **3.3** The Governance Committee Standing Advisory Panel, Licensing Sub-Committees and Appeals Panels are together referred to as the "Standing Sub-Bodies".
- **3.4** So far as a Sub-Body other than a Standing Sub-Body, is concerned (eg a Health and Wellbeing Sub-Body, a Sub-Committee or a Task Group), unless the relevant Body Appendix and/or the minutes of the meeting of the Parent Body that established it state otherwise:
 - **3.4.1** Health and Wellbeing Sub-Bodies:
 - **3.4.1.1** will be standing bodies meeting in private; and
 - **3.4.1.2** any powers to act will be set out in the relevant Body Appendix and/or the Scheme of Delegation;
 - **3.4.2** Sub-Committees:
 - **3.4.2.1** will be standing bodies meeting in public; and
 - **3.4.2.2** any powers to act will be set out in the relevant Body Appendix and/or the Scheme of Delegation;

- **3.4.3 Task Groups:**
 - **3.4.3.1** will be time- or task- limited bodies generally meeting in private; and
 - **3.4.3.2** have no powers to act, only to advise/recommend.
-

4. Sub-Bodies - Composition

- **4.1** Sub-Body membership may be required by statute to reflect the Political Balance of the Council.
 - **4.2** Sub-Bodies may or may not have Substitute Members able to substitute for a Sub-Body Member unable to attend a particular meeting.
 - **4.3** Sub-Bodies may or may not have external members, subject to the agreement of the Monitoring Officer.
 - **4.4** The composition of the Standing Sub-Bodies is set out in the relevant Body Appendix and reflected in the Meetings Rules Table.
 - **4.5** The composition of Sub-Bodies other than the Standing Sub-Bodies will be set out, as appropriate in the circumstances, in the relevant Body Appendix and/or the minutes of the meeting of the Parent Body that established it.
 - **4.6** The Parent Body may determine that certain classes of Sub-Body Member (eg Members of the Parent Body) shall be voting members of the Sub-Body and others (eg Non-Councillors) shall be non-voting.
 - **4.7** The minimum membership shall be three voting Members for a Task Group and four voting Members for any other Sub-Body, apart from a Licensing Sub-Committee which shall be formed of three voting Members.
-

5. Bodies and Sub-Bodies - Terms of Reference and Delegated Powers

- **5.1** The terms of reference for each Body and Standing Sub-Body are set out in the relevant Body Appendix.
- **5.2** The terms of reference for Sub-Bodies other than the Standing Sub-Bodies are set out, as appropriate in the circumstances, in the relevant Body Appendix and/or the minutes of the meeting of the Parent Body that established it.
- **5.3** When establishing a Task Group, the Parent Body will determine:
 - **5.3.1** the membership of the Task Group;
 - **5.3.2** whether to appoint one of those Members to act as the chairman of the Task Group or let this be determined by the Task Group;
 - **5.3.3** whether any non-Body members should be appointed to the Task Group;
 - **5.3.4** whether there should be substitute members of the Task Group;
 - **5.3.5** who other than Task Group members should be involved with the Task Group's work and who (if anyone) should be consulted
 - **5.3.6** the Terms of Reference for the Task Group;

- **5.3.7** what the timescale for the task in question should be;
 - **5.3.8** who should be responsible for reporting progress back to the Parent Body and how often;
 - **5.3.9** and any other appropriate matter.
- **5.4** The powers delegated to each Body and, where relevant, Sub-Body are set out in Part 11 (Scheme of Delegation).
-

6. Bodies and Sub-Bodies - Rules of Procedure

- **6.1** The general rules of procedure for each Body or Sub-Body are set out in Part 3 (Meeting Procedure Rules).
- **6.2** Specific Procedure Rules relating to a Body and/or its Sub-Bodies are set out in the relevant Body Appendix.

Part 6.1 - Appendix: Appeals Committee

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
-

2. Establishment

- **1.1** The Appeals Committee shall consist of 12 Councillors reflecting the political balance of the Council. The membership is set out in the Committees List and Meeting Rules Table. There shall be no Substitute Members on the Appeals Committee.
 - **2.2** The Appeals Committee shall not have a Chairman, nor an Annual Meeting.
 - **2.3** This Appendix shall be circulated amongst the Committee Membership on an annual basis (to coincide with the Annual Meetings of other Bodies) to ensure that it continues to be fit for purpose.
-

3. Scope of Role - General

- **3.1** The Appeals Committee forms task-limited Panels from time to time to determine certain appeals against Officer Decisions.
 - **3.2** An Appeals Panel shall consist of at least three, but preferably four, Members chosen on the basis of availability (and Appeals Panels need not be politically balanced).
 - **3.3** The quorum for an Appeals Panel is three Members.
 - **3.4** Each Member must receive such formal training and refresher training in the relevant areas as determined by the appropriate Service Manager(s).
 - **3.5** Members may not sit on an Appeals Panel in relation to matters concerning their Ward.
-

4. Scope of Role - Appeals Panels

- **4.1** An Appeals Panel will be formed to determine appeals in respect of:
 - **4.1.1** Council Tax liability;
 - **4.1.2** a refusal to grant permission for Tourist Information Signs;
 - **4.1.3** entitlement to Home-to-School Transport.
-

5. Scope of Role - Employment Appeals

- **5.1** A single Member shall be appointed to an employment appeals panel (to consider an appeal by an employee of the Council against a decision affecting

their employment) where an employment policy requires that a Councillor be appointed to such. Such employment appeals panels are governed by their own procedure rules.

6. Appeals Panel Procedure - Prior to Meeting

- **6.1** The parties entitled to speak at a Panel Meeting are:
 - **6.1.1** the Appellant (or representative) (references below to the Appellant are to be taken to include any representative of the Appellant);
 - **6.1.2** an Officer or Officers.
 - **6.2** Officers arranging a Panel Meeting will seek to find a date that the Appellant and sufficient Members can attend (taking into account any statutory limits within which appeals must be heard).
 - **6.3** Prior to the Panel Meeting the Appellant will be sent details of the Meeting and of any papers that Officers intend to present to the Panel.
 - **6.4** The Appellant will be invited to the Meeting, but may be represented by someone on their behalf if they wish.
 - **6.5** Any other person wishing to speak will only be permitted to do so with the agreement of the Panel Chairman.
-

7. Appeals Panel Procedure - Meeting

- **7.1** The first order of business will be for the Members to appoint a Panel Chairman.
 - **7.2** The following procedure shall apply in respect of each item as relevant in the circumstances (but the Panel Chairman may change the order at their discretion, or invite any speaker or other person appearing at the hearing to clarify a factual issue at any time):
 - **7.2.1** introduction of item by Officer(s);
 - **7.2.2** questions to Officer(s) from the Panel;
 - **7.2.3** questions to Officer(s) from the Appellant;
 - **7.2.4** representations by the Appellant;
 - **7.2.5** questions to the Appellant from the Panel;
 - **7.2.6** questions to the Appellant from the Officer(s);
 - **7.2.7** summing up by the Officer(s);
 - **7.2.8** summing up by the Appellant;
 - **7.2.9** close of Meeting by the Panel Chairman (with explanation as to next steps).
-

8. Determination following Panel Meeting

- **8.1** Once the Panel Meeting is closed the Members will retire to deliberate.

- **8.2** Determinations will be made within any legislative timescales and the parties informed.
-

9. Signing Minutes

- **9.1** Due to the nature of Appeal Panel Meetings, the Appeals Panel Minutes (Record of Proceedings) will be circulated after the meeting to the Members for them to approve as a true and correct record. Once approved, the Chairman's signature will be applied to the minutes.

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Part 6.2 - Appendix: Governance Committee

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
-

2. Scope of Role

- **2.1** The Governance Committee ("the Committee") will support the Council to establish, maintain, and improve effective governance, risk management, and internal controls.
 - **2.2** The Committee is responsible for supporting the Council in the areas of governance, risk management, external audit, internal audit, financial reporting, and for managing the risk of the Council's exposure to fraud and corruption.
 - **2.3** S.27 of the Localism Act 2011 imposes a duty on local authorities to promote and maintain high standards of conduct. S.28(6) of the same Act requires that arrangements are in place under which allegations can be investigated and arrangements under which decisions on allegations can be made. The Committee will have oversight of these arrangements.
-

3. Membership

- **3.1** The Committee shall consist of nine Councillors reflecting the political balance of the Council, together with up to two co-opted but non-voting Independent Members (Audit), and up to two co-opted but non-voting Parish or Town Councillors.
 - **3.2** The membership is set out in the Committees List and Meeting Rules Table.
 - **3.3** The Committee shall also have Substitute Members, but to sit a Substitute Member must be a Member of the same political group as the Member they are substituting for.
 - **3.4** In undertaking its duties, the Committee may request attendance of the external auditors at its meetings when appropriate.
-

4. Terms of Reference

- **4.1** The Committee is responsible for:
 - **4.1.1** ensuring that the Council's corporate governance arrangements are adequate and operating effectively in practice;
 - **4.1.2** considering the Council's corporate governance arrangements and the Annual Governance Statement;
 - **4.1.3** considering and making recommendations to the Council on proposed changes to the Constitution;

- **4.1.4** providing effective challenge and independent assurance on the risk management and governance framework;
- **4.1.5** monitoring the effectiveness of the Council's the internal control environment including arrangements for financial management and ensuring value for money;
- **4.1.6** ensuring that counter fraud and corruption arrangements are appropriate for managing the Council's exposure to the risks of fraud and corruption;
- **4.1.7** endorsing the annual Risk Management Strategy and recommending it to the Executive for adoption;
- **4.1.8** reviewing and approving the Council's Statement of Accounts and review and approve the external auditors' annual audit letter;
- **4.1.9** considering any governance issues emanating from the Government and determine their effect on the Council's business and governance processes;
- **4.1.10** considering any issues brought to the attention of the Committee, by the Chief Internal Auditor at any time during the year; and
- **4.1.11** approving the Internal Audit Strategy and Plan (to ensure adequate coverage) and monitor performance (assessing whether adequate skills and resources are available to provide an effective function).
- **4.2** The Committee will review Partnerships arrangements that the Council has entered into, to ensure that they have robust Governance and Risk Management arrangements and that any risk to the Council from the Partnership is minimised.
- **4.3** With the support of the Monitoring Officer, the Committee will promote and maintain high standards of conduct by all Councillors and co-opted members, including:
 - **4.3.1** assisting Councillors and co-opted members to observe the Councillors' Code of Conduct;
 - **4.3.2** advising the Council on the adoption, or revision of, the Councillors' Code of Conduct;
 - **4.3.3** monitoring operation of the Councillors' Code of Conduct;
 - **4.3.4** advising and training councillors and co-opted councillors on matters relating to the Councillors' Code of Conduct;
 - **4.3.5** granting dispensations to Councillors and co-opted members on requirements relating to interests.
- **4.4** The Committee has responsibility for ensuring that arrangements are in place by which allegations against Councillors and other Members of a Body, or of Town or Parish Councillors, which assert a breach of the relevant Code of Conduct, can be investigated and determined.

5. Advisory Panel

- **5.1** An Advisory Panel comprising of ten Members - two Councillors each from the Administration, the main Opposition Party, and the Minority Party, together with two Independent Members (Standards), and two Parish or Town Councillors - will be appointed and will be responsible for dealing with any complaints where evidence of a breach of the relevant Code of Conduct has been identified.
- **5.2** In the event that the Advisory Panel finds there has been a breach of the relevant Code of Conduct, it will report its findings to the Governance Committee for a formal decision.
- **5.3** The Advisory Panel will be chaired by an Independent Person (Standards).

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Part 6.3 - Appendix: Health and Wellbeing Board

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
-

2. Establishment

- **2.1** S.194(1) Health and Social Care Act 2012 ("HSCA") requires first tier local authorities, such as the Council, to establish a Health and Wellbeing Board ("HWB"). The West Berkshire HWB is referred to below as "the Board".
 - **2.2** By s.194(11) HSCA the Board is a committee of the Council and is to be treated as if it were a committee appointed by the Council under s.102 LGA 1972.
-

3. Scope of Role - Statutory

- **3.1** S.195 HSCA requires the Board to:
 - **3.1.1** encourage integrated working between bodies involved in the commissioning and delivery of health, social care and other public services in order to improve health and wellbeing outcomes for local residents, and in particular;
 - **3.1.2** encourage arrangements between the authority and the NHS under s.75 National Health Service Act 2006 ("NHS Act").
 - **3.2** S.196 HSCA provides that the Board shall exercise the functions of the Council under ss.116 and 116A Local Government and Public Involvement in Health Act 2007, namely to lead and co-ordinate actions to:
 - **3.2.1** assess the health needs of local residents and to prepare and publish a Joint Strategic Needs Assessment (JSNA); and
 - **3.2.2** support the preparation and publication of a Joint Health and Wellbeing Strategy, and to oversee delivery of that Strategy.
 - **3.3** Ss.2B and 111 NHS Act require the Board to ensure that the Council complies with its duties to improve public health.
 - **3.4** S.128A NHS Act requires the Board to assess the need for pharmaceutical services in its area and to publish a Pharmaceutical Needs Assessment.
 - **3.5** The Better Care Fund Policy Framework published by NHS England further to s.223 NHS Act (as amended by s.121 Care Act 2014, and the Health and Care Act 2022) requires the Board, subject to any direction by the Secretary of State, to approve submission of the Better Care Fund Plan to NHS England.
-

4. Scope of Role - General

- **4.1** In general terms HWBs act "as a forum in which key leaders from the local health and care system ... work together to improve the health and wellbeing of their local population" (King's Fund).
- **4.2** The Board will lead the development and review of the Council's Vision as set out in its Vision Document.
- **4.3** The Board will undertake such oversight of local safeguarding arrangements as it considers appropriate and necessary.
- **4.4** The Board will consider, as appropriate and necessary, reports from Sub-Groups.

5. Membership

- **5.1** Applying s.194 HSCA (as amended by the Health and Social Care Act 2022) to the Council, the minimum core Board membership is:
 - **5.1.1** at least one elected Councillor appointed (s.194(3)(a) HSCA) by the Leader of Council;
 - **5.1.2** at least one representative from the Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board ("ICB");
 - **5.1.3** the Council's Executive Director - People (as both DASS (Director of Adult Social Services) and DCS (Director of Children's Services));
 - **5.1.4** the Director of Public Health for Berkshire West;
 - **5.1.5** a representative from Healthwatch West Berkshire.
- **5.2** Ss.194(8) and (9) HSCA set out that further Board Members may be appointed:
 - **5.2.1** by the Council (ie by the Leader of Council) in consultation with the Board; or
 - **5.2.2** by the Board itself.
- **5.3** Regulation 7 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 disapplies ss.15 and 16, and Schedule 1, Local Government and Housing Act 1989 vis-a-vis HWBs such that rules as to political proportionality of seats (etc) on Council committees do not apply to the Board.
- **5.4** Membership of the Board currently consists of the following (with Members encouraged to identify Substitutes to attend if they are unable to do so):
 - the WBC Leader of Council
 - the WBC Portfolio Holder with responsibility for Adult Social Care
 - the WBC Portfolio Holder with responsibility for Children and Young People
 - the WBC Portfolio Holder with responsibility for Health and Wellbeing
 - the WBC Shadow Spokesperson for Health and Wellbeing
 - the WBC Minority Group Spokesperson for Health and Wellbeing

- the WBC Executive Director - People (as both DASS and DCS)
- the Director of Public Health, Berkshire West
- the WBC Service Director for Communities and Wellbeing
- two nominated representatives from the ICB
- a nominated representative from Healthwatch West Berkshire
- a nominated representative from Berkshire Healthcare NHS Foundation Trust
- a nominated representative from Royal Berkshire NHS Foundation Trust
- a nominated representative from the Voluntary and Community Sector
- a nominated representative from Thames Valley Police
- a nominated representative from Royal Berkshire Fire and Rescue Service;
- a nominated representative from the housing sector
- a nominated representative from the arts and leisure sector

6. Chairmanship, Quorum and Voting

- **6.1** The Chairman of the Board shall be nominated by the Leader of Council from amongst the Councillors on the Board.
- **6.2** The Vice-Chairman of the Board shall be nominated from amongst the ICB representatives on the board.
- **6.3** The quorum for a meeting shall be four Members, which must include at least one WBC Councillor and at least one ICB representative.

7. Governance and Code of Conduct

- **7.1** S.27 Localism Act 2011 requires that all members of a Council committee (and thus all Board Members in respect of the Board) adhere to the relevant Councillors' Code of Conduct.
- **7.2** Members other than Councillors and Officers (who must do so anyway) must also complete a Register of Interests Form and declare any interests, gifts or hospitality they receive that could influence their decisions.
- **7.3** Members must notify the Monitoring Officer of any disclosable pecuniary interest (DPI) within 28 days of being appointed to the Board and are prohibited from participating in discussion or voting on any matter where they have a DPI.

8. Meetings and Decisions

- **8.1** The Board will meet at least five times per year, with ordinary meeting dates published in the Council's timetable for meetings.
- **8.2** Any recommendation, or proposed or prospective action, of the Board that would, in the opinion of the Chairman, impact on the finances or general

operation of the Council must be referred to the Executive for final determination and decision.

9. Sub-Bodies and Steering Group

- **9.1** The Board is supported by a number of Sub-Bodies, which may have Sub-Bodies themselves, each responsible for an aspect of the Board's work or, in some cases, statutory obligations:
 - Ageing Well Task Group
 - Building Communities Together Partnership
 - Domestic Abuse Board
 - Lived Experience Sub-Group
 - Children's Delivery Group
 - Health and Wellbeing Engagement Group
 - Health Inequalities Taskforce
 - Homelessness Strategy Group
 - Locality Integration Board
 - Mental Health Action Group
 - Skills and Enterprise Partnership
- **9.1** The Sub-Bodies may have responsibility for overseeing implementation of particular aspects of the Joint Health and Wellbeing Strategy and its associated Delivery Plan.
- **9.2** The Board is supported by a Steering Group, which is comprised of the Chairman and Vice-Chairman of the Board, together with the chairmen or a representative of each of the Sub-Bodies.
- **9.3** The Vice-Chairman and Chairman of the Board shall be the chairman and vice-chairman respectively of the Steering Group.
- **9.4** The Steering Group's role shall be the effective forward planning, agenda preparation, performance and programme management, and delivery of the Board's decisions.
- **9.5** The Steering Group and the Sub-Bodies may:
 - have their own Terms of Reference; or
 - act in accordance with any resolution of the Board establishing them, or any other resolution of the Board.

Part 6.3.1 - Appendix: Health and Wellbeing Board Steering Group

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
-

2. Establishment and Accountability

- **2.1** The Health and Wellbeing Board Steering Group ("HWBSG") is a Sub-Body of the West Berkshire Health and Wellbeing Board ("HWB").
 - **2.2** The HWBSG through the Chairman and Vice-Chairman is accountable to the HWB.
-

3. Scope of Role

- **3.1** The HWBSG will:
 - oversee the work of, and receive reports from, other HWB Sub-Bodies, as listed in Part 6.3 (Health and Wellbeing Board);
 - undertake effective forward planning of the HWB's work plan, agendas, etc for its public meetings, workshops and conferences, ensuring that its priorities are delivered and statutory duties are discharged;
 - monitor the implementation of decisions taken by the HWB;
 - oversee any budgets/financial arrangements (not specifically assigned elsewhere) on behalf of the HWB;
 - work with the Berkshire West Shared Public Health Team to produce the Joint Strategic Needs Assessment ("JSNA") - for agreement by the HWB - identifying the current and future health and social care needs of the local population so as to inform local decision making;
 - liaise with the relevant Director of Public Health regarding the preparation of the Joint Local Health and Wellbeing Strategy ("Strategy") - for agreement by the HWB - to identify actions to meet the health and social care needs of the local population, as identified within the JSNA;
 - liaise with the relevant Director of Public Health regarding the preparation of a Strategy delivery plan ("the Delivery Plan") with prioritised programmes of actions to achieve the Strategy's priorities and objectives;
 - ensure that effective arrangements are put in place to manage implementation of the Delivery Plan, and develop and maintain a suitable reporting mechanism to facilitate the tracking of performance in delivering actions and achievement of targets and outcomes;

- provide regular updates to the HWB on progress in implementation of the Delivery Plan, highlighting any performance exceptions.
-

4. Membership

- **4.1** The HWBSG membership consists of the following individuals (with members encouraged to identify Substitutes to attend if they are unable to do so):
 - the Chairman and Vice Chairman of the HWB;
 - the Council's Chief Executive;
 - the Chairmen from each of the HWB Sub-Bodies listed in Part 6.3 (Health and Wellbeing Board);
 - lead Council officers from each of the HWB Sub-Bodies as appropriate;
 - the Council's Service Director with responsibility for Health and Wellbeing (if not already included as above);
 - a representative from Healthwatch West Berkshire;
 - a representative from the Voluntary and Community Sector.
-

5. Chairman and Quorum

- **5.1** The HWB Vice-Chairman shall be Chairman of the HWBSG and the HWB Chairman shall be Vice-Chairman.
 - **5.2** The quorum for a meeting is four members.
-

6. Meetings and Decision-Making

- **6.1** Ordinary Meetings of the HWBSG will generally take place three weeks in advance of HWB meetings.
- **6.2** All reports / presentations must be provided to the Principal Policy Officer at least six clear working days before the meeting. Papers will be distributed to the Steering Group five clear working days before the meeting.
- **6.3** Items going to HWB that require a decision must use the HWB report template and must be first be checked and approved by the Steering Group.
- **6.4** Items going to HWB for discussion that do not require a decision, may use the HWB report template, or alternatively may take the form of a presentation, but a copy of any slides should be provided within the agenda. Verbal reports should be avoided.
- **6.5** Items going to HWB for information only do not require a covering report.

Part 6.3.2 - Appendix: Building Communities Together Partnership

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
 - **1.3** The West Berkshire Building Communities Together Partnership ("BCTP") is a Sub-Body of the West Berkshire Health and Wellbeing Board ("HWB").
-

2. Background Legislation

- **2.1** Community Safety Partnerships ("CSPs") are established by virtue of ss.5-7, Crime and Disorder Act 1998 ("CDA") to formulate strategies in relation to the area in question to:
 - reduce crime and disorder (including anti-social and other behaviour adversely affecting the local environment);
 - combat the misuse of drugs, alcohol and other substances; and
 - reduce re-offending.
 - **2.2** The CDA sets out "responsible authorities" in relation to CSPs, to include for the area in question:
 - the local authority or authorities;
 - the probation service;
 - the police;
 - the fire and rescue authority; and
 - the Integrated Care Board.
 - **2.3** S.39, CDA requires local authorities to establish Youth Offending Teams ("YOTs") and for others, including the police and probation services, to cooperate in the discharge of functions relating to YOTs.
 - **2.4** Sched 6, Counter-Terrorism and Security Act 2015 ("CTSA") sets out "specified authorities" as including district councils.
 - **2.5** S.26, CTSA obliges a specified authority to have due regard to the need to prevent people from being drawn into terrorism in exercising its functions (the 'Prevent' and 'Contest' strategies).
-

3. Scope of Role - Statutory

- **3.1** The BCTP shall be:
 - the CSP for West Berkshire;
 - the Steering Group for the West Berkshire YOT;
 - the West Berkshire Prevent Partnership Board.

- **3.2** The BCTP shall seek to:
 - reduce and prevent crime;
 - ensure that statutory responsibilities are fulfilled;
 - identify and respond to changes in the nature, incidence and severity of crime within West Berkshire;
 - safeguard those who are vulnerable;
 - help people and communities help each other and to engage with community safety related initiatives.
-

4. Scope of Role - General

- **4.1** The BCTP shall seek to establish partnership working amongst its members to ensure that West Berkshire is, and continues to be, a safe place to live, work and learn.
 - **4.2** The BCTP will:
 - undertake an annual strategic assessment of crime, disorder and other emerging issues and agree shared partnership strategic priorities;
 - produce, and refresh annually, a three year Partnership Strategic Action Plan to address shared strategic priorities;
 - oversee strategic partnership activity contributing to addressing shared strategic priorities, regularly reviewing the impact of actions on outcomes;
 - review and approve an annual Youth Justice Plan;
 - approve a Community Safety Fund Spending Plan;
 - ensure compliance with national guidance and statutory responsibilities;
 - engage with communities and ensure that information from engagement informs the future development of the BCTP and community safety related work;
 - manage resources including identifying national and local sources of funding.
-

5. Membership

- **1.1** Membership of the Board shall include the following bodies or their named representatives (with members encouraged to identify Substitutes to attend if they are unable to do so):

Responsible Authorities ("Core Members")

- West Berkshire Council ("WBC");
- Thames Valley Police ("TVP");
- Probation Service;
- Royal Berkshire Fire and Rescue Service;

- Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board

Key Partners

- Housing Registered Providers;
- West Berkshire YOT;
- The Voluntary Sector;
- Healthwatch West Berkshire;
- Berkshire Healthcare NHS Foundation Trust;
- Community;
- Faith Sector;
- West Berkshire Council Education;

Other Interested Parties

- WBC Elected Members - the relevant Executive Portfolio Holder and deputy, and shadow portfolio holder or holders;
- WBC's Police and Crime Panel Member;
- the TVP Police and Crime Commissioner.

6. Chairmanship, Quorum and Voting

This section will be updated shortly.

7. Meeting and Decision Making

- **7.1** Ordinary Meetings of the BCTP will take place every quarter.
- **7.2** The BCTP is also be accountable to:
 - the communities of West Berkshire - in respect of community safety;
 - the Home Secretary - for all areas of planning and performance in relation to crime, anti-social behaviour, substance misuse and re-offending;
 - the Home Office - in respect of statutory duties under the Contest Strategy (eg Prevent and 'Channel');
 - the Ministry of Justice - in relation to the work of the YOT;
 - local Safeguarding Partnerships for Children and Adults - in respect of the functions of a CSP;
 - the TVP Police and Crime Commissioner - in respect of utilisation of the Community Safety Fund.
- **7.3** The BCTP will provide, when required, reports to all of the above and also the Thames Valley Police and Crime Panel.

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Part 6.3.2.1 - Appendix: Domestic Abuse Board

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
-

2. Establishment and Accountability

- **2.1** By Part 4 and s.58, Domestic Abuse Act 2021 ("DAA") a "relevant local authority" (which term includes the Council) is required to appoint a domestic abuse local partnership board ("DALPB") for the purposes of providing advice to the authority about certain functions and aspects of domestic abuse.
 - **2.2** The West Berkshire Domestic Abuse Board ("DAB") is the Council's DALPB.
 - **2.3** The DAB is a Sub-Body of the Building Communities Together Partnership ("BCTP") which, in turn, is a Sub-Body of the West Berkshire Health and Wellbeing Board ("HWB").
 - **2.4** The DAB, through the Chairman, is accountable to the Council via (in turn) the BCTP, the West Berkshire Health and Wellbeing Board Steering Group ("HWBSG"), and the HWB.
 - **2.5** The Council receives funding from the Department for Levelling Up, Housing and Communities ("DLUHC") to undertake certain functions and activities in relation to domestic abuse and has accountability to DLUHC for that funding.
-

3. Scope of Role - Statutory

- **3.1** The DAA requires a DALPB to:
 - assess the scale and nature of the needs for support within safe accommodation for all victims, including their children, including those that require highly specialist support and those that come from out of area;
 - prepare and publish a domestic abuse support in safe accommodation strategy setting out the steps needed to meet the needs of diverse victims including their children;
 - give effect to the strategy by making commissioning and decommissioning decisions of support within safe accommodation for the area;
 - monitor and evaluate the effectiveness of the strategy, including local delivery of support within domestic abuse safe accommodation;
 - report on progress and how funding has been used to DLUHC (see above);

- review the provision of any other local authority support being provided to victims of domestic abuse or their children within the area.

4. Scope of Role - General

- **4.1** The DAB will also:
 - maintain and regularly update corresponding action plans for the West Berkshire Domestic Abuse Strategy and the West Berkshire Domestic Abuse Safe Accommodation Strategy to ensure it is being delivered effectively;
 - regularly review performance data to monitor any trends or anomalies locally to help identify and delegate areas for improvement, opportunities to increase service provision, develop training and further protect victims;
 - actively seek to include the voice of victims/survivors and their children (or specialist practitioners on their behalf) in understanding the range and complexity of needs;
 - meet the support needs of all victims including those with protected characteristics and/or complex needs;
 - manage and decide how any funding to support the work of the DAB is allocated in the district;
 - consider, as appropriate and necessary, reports from Sub-Bodies (for example the Lived Experience Sub Group ("LESG"));
 - provide regular reports to the BCTP and/or the HWBSG and/or the HWB.

5. Membership

- **5.1** The membership of the DAB consists of a minimum core membership as set out under the DAA, together with other members of the DAB from additional organisations (with members encouraged to identify Substitutes to attend if they are unable to do so).
- **5.2** An Appendix to this Part details the behaviour and conduct expected of the DAB membership.
- **5.3** The minimum core membership consists of the following ("Core Members"):
 - a representative of the Council (Executive Director - People (DASS and DCS));
 - the Council's Executive Member with responsibility for Health and Wellbeing;
 - at least one person appearing to the Council to represent the interests of victims of domestic abuse (facilitators of LESB);
 - at least one person appearing to the Council to represent the interests of children of domestic abuse victims (A2Dominion and Children and Family Services);

- at least one person appearing to the Council to represent the interests of charities and other voluntary organisations that work with victims of domestic abuse in its area (Berkshire Women's Aid, Flag DV, Parents and Children Together, Home-Start, Safe, ManKind and SupportU);
 - at least one person appearing to the Council to represent the interests of persons who provide, or have functions relating to, health care services in its area (Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board, Berkshire Healthcare NHS Foundation Trust, Royal Berkshire Healthcare NHS Foundation Trust, and South Central Ambulance Service NHS Foundation Trust);
 - at least one person appearing to the Council to represent the interests of persons with functions relating to policing or criminal justice in its area (Thames Valley Police and National Probation Service).
- **5.4** Additional membership of the DAB are the following members:
 - Adult Social Care;
 - Berkshire West Safeguarding Children Partnership;
 - Diverse Ethnic Communities Support Agency;
 - Education Welfare Team;
 - Healthwatch West Berkshire;
 - Housing Team;
 - Portfolio Holder with responsibility for Children and Young People;
 - Public Health and Wellbeing Team;
 - Sovereign Housing Association;
 - Stone Water Housing Association;
 - Two Saints;
 - WDP, Drug and Alcohol Misuse Service;
 - Youth Offending Team.
-

6. Chairman and Quorum

- **6.1** The Council's Executive Director, People, shall be Chairman of the Board and the senior representative of Thames Valley Police on the Board shall be Vice-Chairman.
 - **6.2** The quorum for a meeting is four Core Members.
-

7. Meetings and Decision Making

- **7.1** Ordinary Meetings of the DAB will generally take place every two months.
- **7.2** The DAB will be responsible for making decisions in relation to its operational and strategic domestic abuse duties. All views should be considered during this process but ultimately any final decisions which have to be taken will be made in accordance with the Council's Scheme of Delegation.

- **7.3** Where commissioning/de-commissioning decisions are to be made during a meeting, any representatives from commissioned domestic abuse charities and services will be taken to have a disclosable pecuniary interest ("DPI") and be required to leave the meeting for the duration of the item.

Part 6.3.2.1.1 - Appendix: Domestic Abuse Board, Behaviours and Conduct

1. Introduction

- **1.1** Many of the members of the Domestic Abuse Board ("DAB") will be subject to a Code of Conduct, Professional Rules and Regulations, etc. This Appendix is to be read as being in addition to, and not replacement of, such obligations.
-

2. Obligations

- **2.1** The following set of behaviours and general conduct have been produced so all those who sit on, or otherwise attend meetings of, the DAB have a shared set of agreed standards to be adhered to:
 - listening with respect;
 - being brave and inviting different debates and challenges;
 - staying curious and open-minded;
 - differentiating between fact and opinion;
 - agreeing to disagree;
 - being apolitical;
 - staying on track;
 - contributing;
 - having commitment to stay with it;
 - voicing your needs;
 - asking questions;
 - being mindful of confidentiality; and
 - being mindful of meeting (including virtual meeting) etiquette.
- **2.2** The DAB will work in a co-productive manner, with all parties to a conversation regarding the design, delivery and evaluation of services being listened to equally, underpinned by the following principles:
 - Equality - working together as equals. Appreciating our diversity of experience and expertise.
 - Making a difference - creating change and making West Berkshire better for everyone. Being both brave and realistic.
 - Inclusiveness - creating opportunities for everyone to get involved. Being proactive about making everything we do accessible to all.

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Part 6.3.3 - Appendix: Children's Prevention and Early Help Partnership

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
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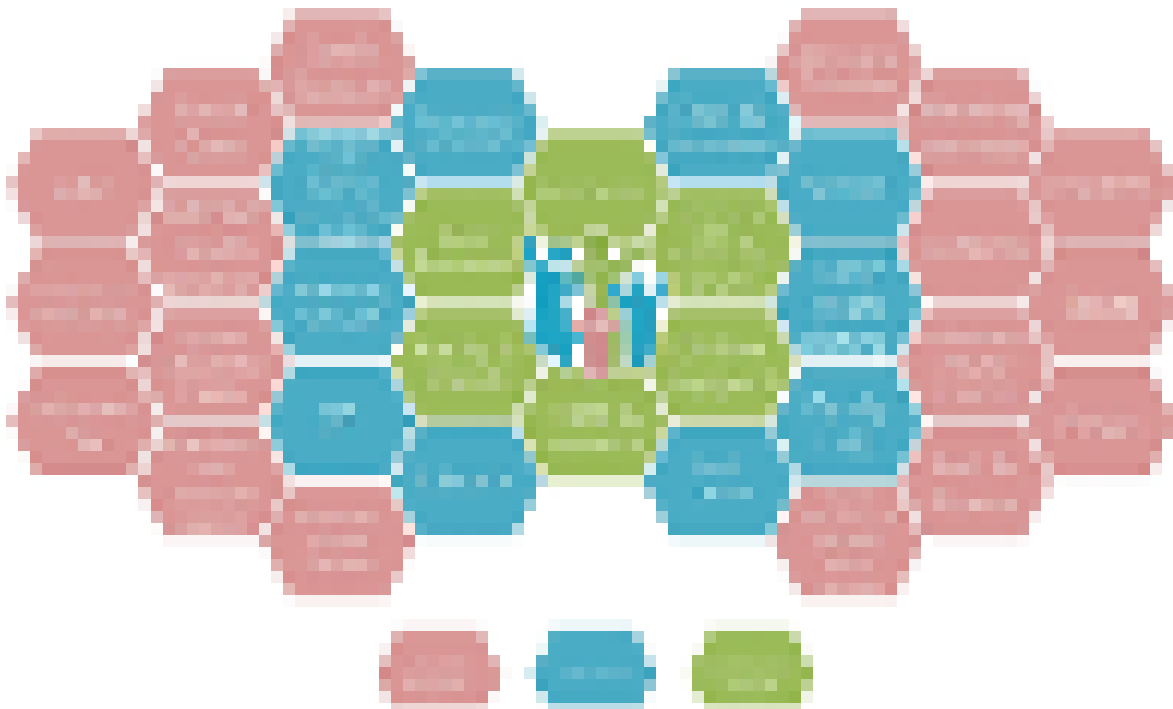
2. Establishment and Accountability

- **2.1** The Children's Prevention and Early Help Partnership ("CPEHP") (previously the Children's Delivery Group) is a Sub-Body of the West Berkshire Health and Wellbeing Board ("HWB").
 - **2.2** The CPEHP will link and liaise with the Berkshire West Children's Safeguarding Partnership and its associated sub groups.
 - **2.3** The CPEHP, through the Chairman, is accountable to the Council via the HWB Steering Group ("HWBSG"), and the HWB.
-

3. Scope of Role

- **3.1** The CPEHP will:
 - act as the strategic group accountable for the Early Help ("EH") System ("EHS" - see diagram below at 3.2) and the partnership infrastructure;
 - provide a focus on, and foster strong partnership arrangements to enable partners to take collective responsibility for, share risks and jointly invest in, EH, whole family and whole system working;
 - have oversight of the development, embedding, monitoring and review of an EH assessment and plan ('My Family Plan') across the CPEHP;
 - work towards a shared culture, principles, practice framework and set of processes within the EHS;
 - create context where leaders at different levels across the CPEHP focus on building productive and trusting relationships with partners;
 - develop a balanced system, so that more appropriate support is provided for children and families earlier to reduce unnecessary or costly statutory intervention in the children's social care system;
 - draw on local and national evaluation to show the impact of EH on outcomes for children and families and reducing demand on statutory services;
 - prioritise an EH Strategy which is a product of joined up thinking across the CPEHP;
 - have oversight of the 1001 days approach to early years;

- agree a shared set of measures at family, cohort, demand and population level, including quality of whole family practice and family voice, which collectively represent the effectiveness of the EHS;
 - use outcome measures to generate an enquiring and learning culture, with high support and high challenge, enabling shared responsibility for improving outcomes, recognising that no one organisation delivers a specific outcome on their own;
 - develop a culture of using evaluation and evidence to inform the development of the EHS and the quality of whole family working;
 - ensure that work undertaken is trauma informed and developmentally aware, keeping therapeutic approaches at the forefront;
 - ensure that there is synergy with the SEND (Special Educational Needs and Disabilities) Strategy and Early Years Strategy, linking in with the relevant strategic/operational groups;
 - ensure good early help practice forms part of the standards for commissioning of services to support the application of local voluntary, community and faith groups as service providers;
 - act as the delivery arm of the HWB and support the delivery of the Joint Health and Wellbeing Strategy principles.
 - provide regular reports to the HWBSG and/or the HWB.
- **3.2 Image of EHS:**



4. Membership

- **4.1** The CPEHP group membership consists of the following individuals, or a representative of the following bodies or groups (with members encouraged to identify Substitutes to attend if they are unable to do so):
 - the Executive Member with responsibility for Children Services;
 - Children and Family Service - the Council's senior responsible officer;
 - Early Response Hub - the Council's senior officer;
 - Supporting Families - the Council's senior officer;
 - Education - the Council's senior responsible officer;
 - Public Health and Wellbeing Team - the Council's senior officer;
 - Housing - the Council's senior officer;
 - Building Communities Together Team - the Council's senior officer;
 - Schools - Primary/Secondary head teacher representative;
 - Thames Valley Police;
 - Health (CAMHS/school nursing/health visiting);
 - Voluntary and Community Sector;
 - Berkshire West Safeguarding Children Partnership;
 - Healthwatch West Berkshire;
 - Family Parent Carer Forum.
-

5. Chairman and Quorum

- **5.1** The Council's senior responsible officer for its Children and Family Service shall be Chairman of the Board and Council's senior responsible officer for its Education Service shall be Vice-Chairman.
 - **5.2** The quorum for a meeting is four members.
-

6. Meetings and Decision Making

- **6.1** Ordinary Meetings of the CPEHP will generally take place quarterly.
- **6.2** The CPEHP will be responsible for making decisions in relation to its operational and strategic priorities and the delivery of such.

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Part 6.3.4 - Appendix: Locality Integration Board

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
- **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.

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2. Establishment and Accountability

- **2.1** The Locality Integration Board ("LIB") is a Sub-Body of the West Berkshire Health and Wellbeing Board ("HWB").
- **2.2** The LIB, through its Co-Chairmen (see below), is accountable to the Council via (in turn) the HWB Steering Group ("HWBSG") and the HWB.
- **2.3** The LIB is also accountable as set out below to the Buckinghamshire, Oxfordshire and Berkshire West ("BOB") Integrated Care Board ("ICB") and, in particular, the ICB's Berkshire West Place-Based Partnership Board ("PBP").

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3. Scope of Role - Statutory

- **3.1** The Council receives funding - the Better Care Fund ("BCF") - from NHS England ("NHSE") to undertake certain functions and activities in relation to health and social care integration and has accountability to NHSE for that funding (and, as detailed in the HWB Appendix, the HWB has to approve submission of the BCF Plan to NHSE).
- **3.2** The NHS Act 2006, as amended by the Care Act 2014 and the Health and Care Act 2022, gives NHSE powers to attach conditions to the payment of the BCF, including a requirement that HWBs jointly agree plans for how the money will be spent, with plans signed-off by the Council (via the HWB) and the ICB.

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4. Scope of Role - General

- **4.1** The LIB will:
 - **4.1.1** drive the co-design of integrated care neighbourhoods within the District and ways of working with District's Primary Care Networks ("PCNs"), NHS Providers, other Local Authority Providers and other stakeholders;
 - **4.1.2** develop and deliver a work programme for integrated care for the District's population enabling whole system benefits from integration;

- **4.1.3** develop a Population Health Management approach to proactively managing the health of the population of the District with 'rising risk' and by utilising the appropriate support tools, such as care planning and anticipatory care, and supporting primary prevention activity;
- **4.1.4** develop plans for allocating the BCF in the District and monitoring performance;
- **4.1.5** provide regular reports to the PBP and/or the HWBSG and/or the HWB.

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5. Membership

- **5.1** The membership of the LIB consists of:
 - at least one relevant Council Executive Member;
 - at least one representative of the Council's Adult Social Care function;
 - at least one representative of the ICB;
 - a representative of the Council's Housing function;
 - a representative of the Council's Public Health function;
 - at least one representative of the PCNs;
 - a representative of Berkshire Healthcare NHS Foundation Trust;
 - a representative of Royal Berkshire NHS Foundation Trust;
 - a representative of Pharmacy Thames Valley;
 - a representative of Healthwatch West Berkshire;
 - a representative of the voluntary and community sector;
- **5.2** Additional members may be co-opted onto the LIB as the agenda and work programme dictates.
- **5.3** If a member of the LIB is unable to attend a meeting they should identify a suitable substitute to attend on their behalf (and notify those administering the LIB).

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6. Chairmanship and Quorum

- **6.1** The Council's and the ICB's senior appointees to the LIB (as identified by those bodies) shall be its Co-Chairmen, taking it in turns to chair meetings.
- **6.2** The quorum for a meeting shall be four members, which must include at least one of the Co-Chairmen or their substitute.

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7. Meetings and Decision-Making

- **7.1** Ordinary meetings of the LIB will generally take place monthly.
- **7.2** The LIB will seek to make all decisions via a consensus. In the event that a consensus cannot be reached, either Co-Chairman may call a vote, to be determined by a simple majority.
- **7.3** The LIB may delegate decisions to one, other or both Co-Chairmen, or in a matter of urgency the Co-Chairmen may jointly take a decision without a meeting of the LIB. In either event the action taken will be reported to the next relevant meeting.

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Part 6.4 - Health and Adult Social Care Scrutiny Committee

1. Preamble

- **1.1** Part 3 (Council Bodies) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Part 3 and this Appendix, this Appendix will prevail.
-

2. Scope of Role

- **2.1** The role of this Committee is to:
 - **2.1.1** undertake scrutiny of the planning, development and operation of Public Health and NHS services for citizens of West Berkshire, in accordance with the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) and the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013;
 - **2.1.2** undertake scrutiny of adult social care and adult safeguarding services provided or commissioned by West Berkshire Council; and hear call-ins of Executive decisions that relate to public health, adult social care and adult safeguarding services.
-

3. Membership

- **3.1** There will be nine Members of the Committee, which will be politically balanced and its membership will be as set out in the Committees List and Meetings Rules Table.
 - **3.2** Executive Member may be a Member or Substitute Member of the Committee or any of its Sub Bodies.
 - **3.3** The Committee may appoint non-voting co-opted Members to the Committee or any of its Task and Finish Groups to provide specialist expertise. This may be on an ongoing basis or to assist with a particular review.
 - **3.4** No Member may be involved in scrutinising a decision in which they have been directly involved. Any query about the meaning of "directly involved" will be decided by the Monitoring Officer.
-

4. Terms of Reference

- **4.1** Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities specifies that effective overview and scrutiny should:
 - provide constructive 'critical friend' challenge
 - amplify the voices and concerns of the public

- be led by independent people who take responsibility for their role
 - drive improvement in public services and strategic decision-making
- 4.2** The Committee has the power to review and scrutinise any matter relating to the planning, provision and operation of Public Health and NHS services for citizens of West Berkshire, and in doing so to ensure that services are safe and effective in improving health and wellbeing of local citizens and reducing health inequalities.
- **4.2** The Committee has the power to review and scrutinise any matter relating to the planning, provision and operation of Adult Social Care, Public Health and NHS services for citizens of West Berkshire, and in doing so to ensure that services are safe and effective in improving health and wellbeing of local citizens and reducing health inequalities.
 - **4.3** Although the Committee may make recommendations for changes or improvements in the way that the Council or other bodies enact their business it does not have any direct decision-making powers, except in the way that it discharges its own responsibilities.
 - **4.4** The Committee shall:
 - **4.4.1** hold the Council's Executive and other decision makers to account for matters relating to Public Health, Adult Social Care and Adult Safeguarding;
 - **4.4.2** review existing policies and strategies that relate to Public Health, Adult Social Care and Adult Safeguarding;
 - **4.4.3** proactively seek information about the quality of local Public Health and NHS services, and about the performance of the commissioners and providers of these services, and also to test information provided by commissioners and providers by drawing on different sources of intelligence;
 - **4.4.4** consider and respond to consultations by relevant NHS bodies or health service providers, on proposals that both parties agree constitute a substantial development or substantial variation in the provision of health services for citizens of West Berkshire, using the powers set out in the relevant legislation and referring to any guidance issued by the Secretary of State for Health;
 - **4.4.5** develop and maintain a joint protocol about how the Committee and responsible NHS bodies and health service providers will reach a view as to whether or not a proposal constitutes a "substantial development" or "substantial variation";
 - **4.4.6** require the relevant NHS body or health service provider to provide information about the proposal under consideration and its impacts on patients in West Berkshire, and where appropriate to require the attendance of a representative of NHS body or health service provider before the Committee to answer such questions as appear to it to be necessary for the discharge of its function in connection with the consultation;

- **4.4.7** liaise with Healthwatch West Berkshire (or its contractors) in relation to the health care element of their work programme, and to consider and respond to referrals from Healthwatch West Berkshire in relation to the planning, provision and operation of health services in the area;
- **4.4.8** set up task and finish groups to undertake in-depth scrutiny reviews in relation to the above services on behalf of the Committee;
- **4.4.9** consider and approve reports, including recommendations, prepared following in-depth reviews undertaken by task and finish groups, for submission to the Executive, relevant NHS organisation or other decision maker. Such reports and recommendations to include:
 - an explanation of the matter reviewed or scrutinised;
 - summary of the evidence considered;
 - a list of participants involved in the review or scrutiny; and
 - an explanation of any recommendations on the matter reviewed or scrutinised.
- **4.4.10** report on a quarterly basis to the Commission on progress against the work programme and any recommendations it makes.
- **4.5** Where there is a disagreement between the Committee and the relevant NHS body or health service provider, which cannot be resolved after reasonable practicable steps and the Committee believes that:
 - the proposed substantial variation or development would not be in the interests of the citizens of West Berkshire; or
 - the arrangements put in place by the relevant NHS body or health service provider for consultation have not been adequate in relation to content or time allowed; or
 - the reasons given for not consulting by the relevant NHS body or health service provider are not adequate;
 - the Committee may determine whether to refer the matter to the Secretary of State for Health, in accordance with the relevant legislation and any government guidance, and taking account of any protocol agreed between the Committee and the NHS body or health service provider.
- the Committee may determine whether to request that the Secretary of State for Health calls-in the matter for review, in accordance with the relevant legislation and any government guidance, and taking account of any protocol agreed between the Committee and the NHS body or health service provider.
- **4.6** In undertaking the above, the Committee should seek opportunities to engage with and represent local people, and engage them in the scrutiny process.

5. Proceedings

- **5.1** The Committee is responsible for setting its own work programme.

- **5.2** The Committee is not obliged to pursue a matter referred by a Member, Committee or Task Group but it must give reasons for its decision.
 - **5.3** If it decides to pursue the matter, the Committee shall:
 - **5.3.1** consider representations from the Member who referred it; and
 - **5.3.2** report its findings and any recommendations back to the relevant person.
 - **5.4** Where a matter is referred to the Committee by local Healthwatch organisations or contractors the Committee must:
 - **5.4.1** acknowledge receipt of referrals within 20 working days;
 - **5.4.2** keep the local Healthwatch organisations (or contractors as the case may be) informed of any action it takes in relation to the matter referred.
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6. Evidence - Documents

- **6.1** All relevant NHS bodies and health service providers (including GP practices and other primary care providers and any private, independent or third sector providers delivering services under arrangements made by Integrated Care Boards, NHS England, the Department of Health and Social Care, or the Council) have a duty to provide such information about the planning, provision and operation of health services in the area of the authority as the Council may reasonably require to discharge its health scrutiny functions.
- **6.2** The type of information requested and provided will depend on the subject under scrutiny. It may include:
 - financial information about the operation of an NHS trust, ICB or other body;
 - management information such as commissioning plans for a particular type of service;
 - operational information such as information about performance against targets or quality standards, waiting times;
 - patient information such as patient flows, patient satisfaction surveys, numbers and types of complaints and action taken to address them.
 - any other information relating to the topic of a health scrutiny review which can reasonably be requested.
- **6.3** As commissioners or providers of public health services and as providers of health services to the NHS, services commissioned or provided by local authorities are themselves within the scope of the health scrutiny legislation. To that end the Council may be a body that is scrutinised, as well as a body that carries out health scrutiny. The duties which apply to scrutinised bodies such as the duty to provide information, to attend before health scrutiny and to consult on substantial reconfiguration proposals will apply to the Council insofar as it may be a "relevant health service provider".

- **6.4** In relation to services provided or commissioned by the Council, Committee and Task Group Members have the right to documents as set out in the Access to Information Rules in Part 10.
- **6.5** To facilitate effective scrutiny, more detailed liaison between the Executive and the Committee or a Task Group may take place depending on the particular matter under consideration.
- **6.6** The Committee will be entitled to copies of any document which is in the possession or control of the Executive that relates to a matter under review and which contains material relating to:
 - **6.6.1** any business transacted at a meeting of the Executive or its Committees; or
 - **6.6.2** any decision taken by an individual Member of the Executive; or
 - **6.6.3** any decision made by an Officer under the Executive arrangements
- **6.7** But the Committee will not be entitled to:
 - **6.7.1** any document that is in draft form;
 - **6.7.2** any part of a document that contains Exempt or Confidential Information, unless:
 - **6.7.2.1** that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; and
 - **6.7.2.2** the Monitoring Officer decides that it is appropriate for such Exempt or Confidential Information to be provided (in which event Commission Members shall respect the confidentiality of the information); or
 - **6.7.2.3** the advice of a political adviser or Group Executive that would be exempt under a Freedom of Information Act request.

7. Evidence - Testimony

- **7.1** Members and employees of a relevant NHS body or relevant health service provider have a duty to attend before the Committee or a Task Group (provided reasonable notice has been given) to answer questions the Committee or a Task Group believes are necessary to carry out its health scrutiny functions.
- **7.2** In relation to services provided or commissioned by the Council, the Committee or a Task Group may require the attendance of the relevant Executive Member, or any Senior Officer, to attend a meeting in order to provide advice and evidence in pursuit of a review being undertaken.
- **7.3** The Committee or a Task Group may invite other persons relevant to an item of business or matter under review to address it and/or answer questions on a voluntary basis.
- **7.4** The Committee may consider evidence in open or confidential session as the Chairman thinks appropriate following advice from the Monitoring Officer.

- **7.5** Where the Committee or a Task Group conducts a scrutiny review, the Committee will ask people to attend to give evidence at meetings which will be conducted in accordance with the following principles:
 - **7.5.1** that the meeting is conducted fairly and all Members of the Committee are given an opportunity to ask questions of attendees and speak;
 - **7.5.2** that those assisting the Committee by giving evidence are treated with respect and courtesy; and
 - **7.5.3** that the meeting is conducted so as to maximise the efficiency of the review.
 - **7.6** Where any Member or Officer is required to attend the Committee, or Task Groups under this provision, the Chairman of the Committee will inform the Monitoring Officer. Senior Officers can be asked to attend. Officers below second tier may attend but will usually be accompanied by a senior manager.
 - **7.7** The Monitoring Officer shall inform the Member or Officer in writing giving at least five clear working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee or Task Group. Where the account to be given to the Committee or Task Group will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that documentation.
-

8. Reports

- **8.1** Following any review, the scrutinising body shall prepare a draft report, with recommendations as appropriate, for publication and submission to the Committee. The Committee will agree or amend the report and direct it to the Monitoring Officer. In cases where the Committee is the scrutinising body, the agreed report will be directed to the Monitoring Officer. The Monitoring Officer will then refer the report, via the Chief Executive and S151 Officer, to check for factual errors and consideration of any financial implications, to:
 - **8.1.1** the Council (if the recommendations would require a departure from, or a change to, the agreed Budget or Policy Framework); or
 - **8.1.2** the Executive (if the proposals are consistent with the Budget and Policy Framework); or
 - **8.1.3** another Body as they deem appropriate for a formal response to the report's recommendations; or
 - **8.1.4** an outside body or bodies in respect of a report with implications for such.
- **8.2** Where the Committee or Task Group requests a response from the relevant NHS body or health service provider to which it has made a report or recommendation, there is a statutory requirement (Regulation 22) for the body or provider to provide a response in writing within 28 days of the request.

- **8.3** The response to a recommendation from a decision-maker should consist of:
 - **8.3.1** a clear commitment to delivering the measure within the timescale set out
 - **8.3.2** a commitment to be held to account on that delivery in six months or a year's time
 - **8.3.3** where it is not proposed that a recommendation be accepted, the provision of detailed, substantive reasons why not.
 - **8.4** It is the Committee's responsibility to monitor and evaluate recommendations once they are implemented.
-

9. Minority Report

- **9.1** If the Committee or a Task Group cannot agree on one single report to the Executive or to Council or to a named external organisation as appropriate, then up to one minority report may be prepared and submitted for consideration with the majority report.
-

10. Response to Consultation

- **10.1** Where the Committee has been consulted by a relevant NHS body or health service provider on substantial developments or variations, the Committee has the power to make comments on the proposals by the date notified by the body or provider undertaking the consultation. Having considered the proposals and local evidence, the Committee should normally respond in writing to the body undertaking the consultation.
 - **10.2** Where the Committee's comments include a recommendation and the consulting organisation disagrees with that recommendation, that organisation must notify the Committee of the disagreement. Both the consulting organisation and the Committee must take such steps as are reasonably practicable to try to reach agreement. Where NHS England or an Integrated Care Board (ICB) is acting on behalf of a provider, in accordance with the Regulations, the Committee and NHS England or the ICB (as the case may be) must involve the provider in the steps they are taking to try to reach agreement.
 - **10.3** In the event that agreement cannot be reached, the Committee (or any other interested party) may request that the Secretary of State uses their power of call-in to review the matter. The Committee will notify the consulting organisation where it has made such a request.
-

11. Secretary of State Call-In

- **11.1** The Committee (or any other interested party) may request that the Secretary of State use their powers of call-in to review decisions related to developments or variations in Health Services if:
 - **11.1.1** it is not satisfied with the adequacy of content of the consultation;

- **11.1.2** it is not satisfied that sufficient time has been allowed for the consultation;
 - **11.1.3** it considers that the proposal would not be in the interests of the health service in its area;
 - **11.1.4** it has not been consulted, and it is not satisfied that the reasons given for not carrying out consultation are adequate.
- **11.2** Where the Committee has made a recommendation and the relevant NHS body or health service provider has disagreed with the recommendation, the health scrutiny body should not request that the decision be called-in unless:
 - **11.2.1** it is satisfied that reasonably practicable steps have been taken to try to reach agreement (with steps taken to involve the provider where NHS England or an ICB is acting on the provider's behalf) but agreement has not been reached within a reasonable time; or
 - **11.2.2** it is satisfied that the relevant NHS body or health service provider has failed to take reasonably practicable steps to try to reach agreement within a reasonable period.
- **11.3** In a case where the Committee has not commented on the proposal or has commented without making a recommendation, it may not request that the Secretary of State uses their power of call-in unless:
 - **11.3.1** it has informed the relevant NHS body or health service provider of:
 - **11.3.1.1** its decision as to whether to make such a request and, if applicable, the date by which it made the request, or
 - **11.3.1.2** the date by which it proposes to make a decision as to whether to make such a request; and
 - **11.3.2** in a situation where it informed the relevant NHS body or health service provider of the date by which it proposed to make the request to the Secretary of State, it has made that decision by that date and informed the body or provider of the decision.

12. Report to Council - Key Decision

- **12.1** The Committee can require a report if it thinks that a Key Decision that affects the health and wellbeing of the local population has been taken which was not:
 - **12.1.1** treated as being a Key Decision; or
 - **12.1.2** included in the Forward Plan; or
 - **12.1.3** the subject of the general exception procedure; or
 - **12.1.4** the subject of an agreement with the Committee Chairman, or the Chairman/Vice-Chairman of the Council.

The Committee may then require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require

such a report on behalf of the Committee when so requested by the Chairman or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Committee.

13. Decisions of the Executive

- **13.1** All decisions of the Executive are subject to rules regarding publicity as set out in Part 5 (Executive Rules).
- **13.2** Any decision of the Executive which affects the health and wellbeing of the local population may be subject to the Call in Procedure that is fully set out in Part 6.9 (the Scrutiny Commission Appendix). Rules 11 to 17 of the Scrutiny Commission Appendix will apply to the Health Scrutiny Committee, save that any reference to Commission shall be taken for these purposes to refer to the Health Scrutiny Committee.

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Part 6.5 - Appendix: Joint Public Protection Committee

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
-

2. Introduction

- **2.1** The Joint Public Protection Committee ("JPPC") has been established to oversee the strategic leadership of the Joint Public Protection Partnership ("PPP"), comprising Bracknell Forest Council ("BFC") and West Berkshire District Council ("WBC") (together, "the Councils").
 - **2.2** WBC is the host authority for the PPP and, unless otherwise agreed in writing, the WBC Constitution will apply to all procedures and Meetings of the JPPC.
-

3. Scope of Role

- **3.1** The purpose of the JPPC is to:
 - **3.1.1** set the strategic direction for the PPP; and
 - **3.1.2** review:
 - standards of service delivery and performance;
 - fee income and costs (on a cost recovery basis unless a statutory basis applies);
 - the treatment of trading surpluses or deficits;
 - an action plan for business growth and development.
-

4. Membership

- **4.1** The JPPC shall comprise of six Members, three from each of BFC and WBC as follows:
 - **4.1.1** The Executive/Cabinet Member with responsibility for Public Protection Services (appointed by the Leader of the respective council);
 - **4.1.2** Two additional Members (appointed by each Council at its respective Annual Meeting or in the event of a vacancy) reflecting the political balance of the individual Council.
 - **4.2** At least one officer representing each partner local authority will attend the JPPC to advise Members. Where possible, the Public Protection Manager for the Service will also attend.
-

5. Chairman and Vice-Chairman

- **5.1** The JPPC shall appoint one of its Members to be Chairman of the JPPC on an annual basis (or in the event of a vacancy) who shall continue in office until their successor becomes entitled to act.
 - **5.2** The Chairmanship and Vice-Chairmanship of the JPPC shall rotate between the Councils on an annual basis, with each post being held by a different Council.
-

6. Quorum

- **6.1** The quorum of a Meeting shall be two.
 - **6.2** At least one Executive Member from each Council must be present for the meeting to be quorate.
-

7. Frequency of Meetings

- **7.1** The JPPC will meet a minimum of twice per year (on a six monthly basis). Additional meetings may take place with the agreement of the Chairman. Meetings will be held at a venue to be agreed with the Chairman.
-

8. Significant Decisions

- **8.1** The JPPC shall refer back to the Councils for decision any proposal that it has agreed in principle seeking to:
 - **8.1.1** admit an additional party or parties to the PPP;
 - **8.1.2** incur expenditure which requires increased contributions by the Councils; or
 - **8.1.3** make significant changes to the fundamental principles or operation of the PPP.
-

9. Forward Plan

- **9.1** The JPPC will take Key Decisions on behalf of the two Councils and will give notice of these decisions at least 28 days before they are due to be taken.
-

10. Administration

- **10.1** WBC will provide administration for the JPPC.

Part 6.6 - Appendix: Licensing Committee

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
-

2. Establishment

- **2.1** The Licensing Act 2003 requires each licensing authority to establish a licensing committee.
 - **2.2** The Licensing Committee shall consist of 12 Members reflecting the political balance of the Council. The membership is set out in the Committees List and Meeting Rules Table. There shall be no Substitute Members on the Licensing Committee.
-

3. Scope of Role

- **3.1** The Licensing Committee is responsible for exercising (or delegating), where legislation permits:
 - **3.1.1** any of the Council's licensing functions under or related to:
 - **3.1.1.1** the Licensing Act 2003;
 - **3.1.1.2** the Gambling Act 2005; or
 - **3.1.2** any other:
 - **3.1.2.1** functions which legislation confers on a Licensing Authority or Licensing Committee;
 - **3.1.2.2** matters associated with or related to Licensing Committee functions or delegated to it by the Council.
- **3.2** Where a duty arises to hold a hearing to determine a matter pursuant to the Licensing Committee's functions:
 - **3.2.1** a Sub-Committee of the Licensing Committee will generally be formed to determine such matters; but
 - **3.2.2** where the Licensing Committee Chairman so decides, the Licensing Committee may determine the matter rather than a Sub-Committee being formed to do so, in which case it will adopt the same process as outlined in the Licensing Sub-Committee Appendix.
- **3.3** The Licensing Committee also makes determinations in respect of the Council's other regulatory licensing functions including taxi licensing and street trading.
- **3.4** The Licensing Committee will also consider licensing matters generally.

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Part 6.6.1 - Appendix: Licensing Sub-Committee

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
 - **1.3** Any reference to a 'hearing' in this Appendix shall also be taken to mean Meeting.
-

2. Establishment

- **2.1** Licensing Sub-Committees consist of three Members of the Licensing Committee. They need not be politically balanced and Members of the Sub-Committee are chosen on the basis of availability.
 - **2.2** Sub-Committees may have one Substitute Member, but a Substitute Member must be drawn from the Licensing Committee and is chosen on the basis of availability.
 - **2.3** Before serving on any Sub-Committee, each Licensing Committee Member must receive such formal training and subsequently refresher training in the licensing system as determined by the Council.
 - **2.4** Members of the Licensing Committee may not sit on a Sub-Committee in relation to a matter concerning a premises, activity or event which is within their Ward.
 - **2.5** If the Chairman or Vice-Chairman of the Licensing Committee is sitting on the Sub-Committee they will be Meeting Chairman unless they decline. If neither are present or they decline, the first item of business of the Sub-Committee will be to elect a Chairman.
-

3. Scope of Role

- **3.1** Generally Sub-Committees will be established where a duty arises for a hearing to be held to make determinations pursuant to Licensing Committee functions. This Appendix sets out the procedure to be followed for Licensing Sub-Committee hearings. If a Sub-Committee or other Sub-Body is established to exercise another function, the Licensing Committee may specify the procedure or terms of reference of that Sub-Committee or Sub-Body is to follow upon delegating that function to it.
- **3.2** The procedure in this Appendix is subject to legislative requirements. The hearing procedures that may be prescribed by legislation will depend on the matter to be determined. For example, certain procedures are set out in:
 - **3.2.1** the Licensing Act 2003 (Hearings) Regulations 2005; and,

- **3.2.2** the Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007.
 - **3.3** The relevant procedural information will be provided to those entitled to speak at a hearing when notice of the hearing is given. The Sub-Committee will be assisted by a Legal Advisor.
-

4. Hearing Procedure - Speakers

- **4.1** The parties entitled to speak at a hearing will generally include:
 - **4.1.1** the Applicant;
 - **4.1.2** persons who have made relevant representations, as defined by the relevant legislation;
 - **4.1.3** Responsible Authorities, as defined by the relevant legislation, who have made relevant representations;
 - **4.1.4** the Chief of Police, where a statutory notice has been given under the relevant legislation; and
 - **4.1.5** the (proposed or actual) holder of the licence, certificate or permit affected, where they are not the Applicant.
 - **4.2** The Sub-Committee shall also ask and permit to speak, where appropriate and where they attend:
 - **4.2.1** Responsible Authorities who have not made relevant representations; and
 - **4.2.2** the relevant Ward Councillor(s).
 - **4.3** Any reference to a party/parties in this Appendix shall also include that party's/parties' representative or agent.
 - **4.4** Parties, excluding Responsible Authorities and Ward Councillors, who have made relevant representations will be grouped together as 'Supporters' or 'Objectors' as appropriate.
 - **4.5** Prior to a hearing, the parties will be notified of the hearing and will be asked to confirm whether they intend to attend and to register to speak. Any failure to confirm attendance or register to speak may affect speaking rights at the hearing.
 - **4.6** Any person or body not referred to above, who attends the hearing, shall only be permitted to speak with the agreement of the Sub-Committee, or as otherwise permitted in legislation.
-

5. Meeting Procedure - Order of Representations etc

- **5.1** The Meeting Chairman, on behalf of the Sub-Committee, shall explain the procedure being followed at the beginning of a hearing.
- **5.2** The following procedure shall apply in respect of each item as relevant in the circumstances (but the Meeting Chairman may change the order at their

discretion, or invite any speaker or other person appearing at the hearing to clarify a factual issue at any time):

- **5.2.1** introduction of item by Officer(s);
 - **5.2.2** questions to Officer(s);
 - **5.2.3** representations by Applicant;
 - **5.2.4** questions to Applicant;
 - **5.2.5** representations by party responding to the application, where applicable (ie (proposed or actual) holder of the licence, certificate or permit affected);
 - **5.2.6** questions to Respondent, where applicable;
 - **5.2.7** representations by Objector(s);
 - **5.2.8** questions to Objector(s);
 - **5.2.9** representations by Supporter(s);
 - **5.2.10** questions to Supporter(s);
 - **5.2.11** representations by Responsible Authorities;
 - **5.2.12** questions to Responsible Authorities;
 - **5.2.13** representations by Ward Councillor(s);
 - **5.2.14** questions to Ward Councillor(s);
 - **5.2.15** summing up by the Applicant;
 - **5.2.16** summing up by the party responding to the application, where applicable;
 - **5.2.17** closing of the hearing by the Chairman.
- **5.3** The total time allowed for representations in respect of each of the groups of speakers shall not exceed ten minutes or such longer period as the Chairman may allow with the consent of the Sub-Committee.
 - **5.4** Each individual Responsible Authority shall be treated as an individual group for the purposes of speaking rights.
 - **5.5** Where more than one person is entitled or has registered to speak in any of the groups of speakers, the ten minute period shall be shared between them. In such circumstances, speakers are encouraged to appoint a spokesperson, but if no spokesperson is nominated, the speaker will be heard in the order in which they have registered until the ten minute period has elapsed.
 - **5.6** Where there is more than one Ward Councillor speaking, but requiring a fundamentally different outcome, the speakers will be allowed ten minutes each; where the outcome required is fundamentally the same, the ten minutes will be shared by the speakers.
 - **5.7** Any questions to each group shall be from the Sub-Committee first, followed in turn by each group listed in the order of speakers above unless otherwise directed by the Chairman and shall be through the Chairman.

- **5.8** Questions raised as part of the above process may only seek to clarify a statement made and not to introduce new business.
 - **5.9** The total time allowed for summing up (to respond to any of the representations made), in respect of each of the groups of speakers identified above shall not exceed ten minutes, and shall only take place after all representations and questions are dealt with.
-

6. Determination following hearing

- **6.1** Once the hearing is closed the Members of the Sub-Committee will retire to deliberate in private.
 - **6.2** Determinations will be made within the timescales set out in legislation, which depends on the type of hearing. For most hearings the Sub-Committee must make its determination within the period of five working days beginning with the day or the last day on which the hearing was held.
-

7. Signing Minutes

- **7.1** Due to the nature of Meetings, the Sub-Committee Minutes (Record of Proceedings) will be circulated after the meeting to the three Members of the Sub-Committee for them to approve as a true and correct record. Once approved, the Chairman's signature will be applied to the minutes.

Part 6.7 - Appendix: Personnel Committee

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
-

2. Scope of Role

- **2.1** The Local Authorities (Standing Orders) (England) Regulations 2001, set out specific requirements in relation to the recruitment and appointment of the Head of Paid Service, Chief Officers and Deputy Chief Officers. These include a requirement to draw up job descriptions and person specifications.
 - **2.2** The Council's recruitment and selection policy is set out in the Recruitment and Selection Policy, Procedure and Guidance document on the Council's intranet.
-

3. Membership

- **3.1** The Committee shall consist of five Members reflecting the political balance of the Council.
 - **3.2** The membership is set out in the Committees List and Meeting Rules Table.
 - **3.3** The Committee shall also have Substitute Members, but to sit a Substitute Member must be a Member of the same political group as the Member they are substituting for.
-

4. Terms of Reference

- **4.1** The principal functions of the Committee shall be to:
 - **4.1.1** appoint staff at Head of Service level or above by means of an Appointments Panel and to agree terms of reference for that Appointments Panel;
 - **4.1.2** agree and make necessary changes to the Council's Human Resources policies and procedures;
 - **4.1.3** designate an Officer as the Director of Adult Social Care and to designate an Officer as the Director of Children's Services;
 - **4.1.4** recommend Officers as Monitoring Officer and S151 Officer; and
 - **4.1.5** consider requests for the early release of pensions (the financial implications of which will need to be considered and approved by the Executive).
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5. Recruitment of Chief Executive, Executive Directors, Service Directors and Heads of Service

- **5.1** Where the Council proposes to appoint a Chief Executive, Executive Director, Service Director or Head of Service it will convene an Appointments Panel, which shall:
 - **5.1.1** in the case of the recruitment of a Chief Executive, consist of five Councillors;
 - **5.1.2** In the case of Executive Directors, Service Directors, or Heads of Service, consist of three Councillors;
 - **5.1.3** include at least one Executive Member;
 - **5.1.4** have regard to the political balance of the Council;
 - **5.1.5** draw up a statement specifying the duties of the Officer concerned and any qualifications or qualities to be sought in the person to be appointed;
 - **5.1.6** make arrangements for the post to be suitably advertised.
- **5.2** The Council must approve the appointment of the Chief Executive having regard to the recommendations of the Appointments Panel before an offer of employment is made to that person.
- **5.3** The Council must approve the designation of an Officer as the S151 Officer or the Monitoring Office, having regard to the recommendations of the Appointments Panel.
- **5.4** The Council may only make or approve the appointment of the Chief Executive where no well-founded objection has been made by any Member of the Executive.
- **5.5** Executive Directors, Service Directors, or Heads of Service will be appointed by the Appointments Panel.
- **5.6** An offer of employment as an Executive Director, Service Director, or Head of Service must not be made until:
 - **5.6.1** the Proper Officer has been advised of the name of the person to whom the offer is going to be made, and any other particulars relevant to the appointment;
 - **5.6.2** the Proper Officer has notified every Member of the Executive as to:
 - **5.6.2.1** the name of the person to whom the Appointments Panel wish to make the offer;
 - **5.6.2.2** any other particulars relevant to the appointment which the Appointments Panel has notified to the Proper Officer; and
 - **5.6.2.3** the period within which any objection to the making of the offer is to be made by the Executive Leader, on behalf of the Executive, to the Proper Officer; and either:
 - the Leader has, within the period specified in the Notice, notified the Appointments Panel that neither they nor any

other Member of the Executive has any objection to the making of the offer; or

- the Appointments Panel is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

6. Dismissal of Chief Executive, S151 Officer, or Monitoring Officer

- **6.1** In this Part -
 - "Chief Finance Officer", "Head of the Authority's Paid Service" and "Monitoring Officer" (each a "Relevant Officer"), and "disciplinary action" have the same meaning as in Regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;
 - "Independent Person" means an Independent Person (Standards) appointed under s.28(7) of the Localism Act 2011;
 - "the Panel" means a Committee appointed by the Council under s.102(4) of LGA 1972 for the purposes of advising the Council on matters relating to the dismissal of relevant Officers of the authority; and
 - "Relevant Meeting" means a meeting of the Council to consider whether or not to approve a proposal to dismiss a relevant Officer.
- **6.2** The Council must approve that dismissal of a Relevant Officer before notice is given to that person.
- **6.3** In this paragraph, "Dismissor" means, in relation to the dismissal of a Relevant Officer, the Council or Body as the case may be.
- **6.4** Notice of the dismissal of an Officer referred to above, must not be given by the Dismissor until:
 - **6.4.1** the Dismissor has notified the Proper Officer of the name of the person who the Dismissor wishes to dismiss, and any other particulars which the Dismissor considers are relevant to the dismissal;
 - **6.4.2** the Proper Officer has notified every Member of the Executive of:
 - **6.4.2.1** the name of the person to whom the Dismissor wishes to dismiss;
 - **6.4.2.2** any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and
 - **6.4.2.3** the period within which any objection to the dismissal is to be made by the Leader, on behalf of the Executive, to the Proper Officer, and either:
 - the Leader has, within the period specified in the Notice above, notified the Dismissor that neither they nor any other Member of the Executive has any objection to the dismissal;

- the Dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- **6.5** A Relevant Officer may not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
- **6.6** The Council must invite its Independent Persons (Standards) to be considered for appointment to the Panel, with a view to appointing at least two such Persons to the Panel.
- **6.7** Where there are fewer than two such Persons available, the Council shall seek to appoint one or more Independent Persons as have been appointed by another authority or authorities as the Council considers appropriate, so that there are at least two Independent Persons appointed to the Panel.
- **6.8** Subject to paragraph 6.10, the Council must appoint to the Panel such Independent Persons who have accepted an invitation issued in accordance with paragraph 6.7 in accordance with the following priority order:
 - **6.8.1** an Independent Person (Standards) who has been appointed by the Council and who is a local government elector;
 - **6.8.2** any other Independent Person (Standards) who has been appointed by the Council;
 - **6.8.3** an Independent Person or Persons who have been appointed by another authority or authorities.
- **6.9** Not more than two Independent Persons shall be required to be appointed to the Panel.
- **6.10** The Council must appoint the Panel at least 20 Working Days before the Relevant Meeting.
- **6.11** Before the taking of a vote at the Relevant Meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:
 - **6.11.1** any advice, views or recommendations of the Panel;
 - **6.11.2** the conclusions of any investigation into the proposed dismissal; and
 - **6.11.3** any representations from the relevant Officer.
- **6.12** Any remuneration, allowances or fees paid by the Council to an Independent Person appointed to the Panel must exceed the level of remuneration, allowances or fees payable to that Independent Person in respect of that person's role as Independent Person under the 2011 Act.

Part 6.8 - Appendix: Planning Committees

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
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2. Role and Conduct of Councillors and Officers

- **2.1** Councillors and Officers have different, but complementary, roles in the planning process and it is important that an open, respectful and transparent relationship is developed based upon mutual trust and understanding of each other's positions. It is important for the overall standing of the Council that they work as an effective team.
- **2.2** Members of the Planning Committee have different roles to those of other Councillors. Councillors who are members of the Planning Committee determine the more significant and contentious planning applications received by the Council. In doing so, these Councillors and nominated substitutes perform a quasi-judicial role and are required to consider all planning proposals against the wider public interest.
- **2.3** When considering planning applications, Councillors need to ensure that only material planning considerations are taken into account. In reaching a decision, Councillors should ensure they understand, consider and take account of the relevant material considerations connected with the application and should not favour any person, group or locality or put themselves in a position where they may appear to do so. In order to ensure that decisions are taken on planning grounds and are sound it is incumbent on all Planning Committee Members to give full consideration to reports prepared by Officers and familiarise themselves with all relevant national planning policy and guidance (including the National Planning Policy Framework), Development Plan policies and other material considerations well in advance of the consideration of a development proposal at the Planning Committee itself.
- **2.4** Planning Committee Members must take steps to ensure that in their discharge of their Planning Committee duties the distinction between this role and their role as Ward Members is constantly made clear. If Members wish to act in the latter capacity they must make that clear at the outset.
- **2.5** Officers are employed by the Council. Instructions may only be given to Officers by the Council, its Executive or a Committee or by way of delegated powers. Officers involved in the processing and determination of Planning matters must act in accordance with the Officers Code of Conduct (see paragraph 13.5 of Part 13 of the Constitution) and with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct and any other applicable guidance. Officers are required to act impartially at all times in determining applications and providing advice at the Planning Committee.

Officers will be expected to conduct themselves in all they say and do in a manner which totally preserves this position of impartiality.

- **2.6** It is not appropriate for Councillors to direct, or seek to influence, Officers to determine an application in a particular way. A Councillor must not use improperly their position as a Member to confer on, or secure for himself or any other person, an advantage or disadvantage.
 - **2.7** Councillors must not favour, or discriminate against, any person, company, group or locality nor put themselves in a position where they appear to do so.
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3. Establishment

- **3.1** The Council is a Local Planning Authority ("LPA") and has established a District Planning Committee and two Area Planning Committees (the Eastern Area Planning Committee and the Western Area Planning Committee).
- **3.2** The Eastern Area Committee covers the following Wards:
 - Aldermaston;
 - Basildon;
 - Bradfield;
 - Bucklebury;
 - Burghfield and Mortimer;
 - Pangbourne;
 - Thatcham Central;
 - Thatcham Colthrop and Crookham;
 - Thatcham North East;
 - Thatcham West;
 - Theale;
 - Tilehurst Birch Copse;
 - Tilehurst South and Holybrook;
 - Tilehurst and Purley.
- **3.3** The Western Area Committee covers the following Wards:
 - Chieveley and Cold Ash;
 - Downlands;
 - Hungerford and Kintbury;
 - Lambourn;
 - Newbury Central;
 - Newbury Clay Hill;
 - Newbury Greenham;
 - Newbury Speen;

- Newbury Wash Common;
- Ridgeway.

4. Membership

- **4.1** Each Area Planning Committee shall consist of nine Members drawn from the Wards covered by the committee and reflecting the political balance of the Council.
- **4.2** Each Area Planning Committee shall also have Substitute Members drawn from the Wards covered by the committee, but to sit a Substitute Member must be a Member of the same political group as the Member they are substituting for.
- **4.3** The District Planning Committee shall consist of 11 Members reflecting the political balance of the Council - the Portfolio Member responsible for Planning plus five Members from each of the Area Planning Committees.
- **4.4** The District Planning Committee shall also have Substitute Members, but to sit a Substitute Member must be a Member of the same political group and of the same Area Planning Committee as the Member they are substituting for.
- **4.5** Before serving on any Planning Committee, each Committee Member or Substitute Member must receive such formal training (and refresher training) in the planning system as the Service Director with responsibility for Planning shall determine.

5. Scope of Role - Statutory

- **5.1** Section 101 of the Local Government Act 1972 allows an LPA to arrange for the discharge any of its functions by a committee, sub-committee, or an officer or by any other local authority.
- **5.2** The Town and Country Planning Act 1990 is the principal statutory instrument for the determination of planning applications and associated casework. The planning application process is also governed by various other Acts of Parliament, Regulations, Orders, and Directions. Applications for planning permission must be determined in accordance with a with the Town and Country Planning Act 1990, and other associated planning legislation.

6. Scope of Role - Planning Principles

- **6.1** To the extent that Development Plan policies are material to an application for planning permission the decision must be taken in accordance with the Development Plan unless there are material considerations that indicate otherwise (section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 - these provisions also apply to appeals).
- **6.2** The Development Plan is defined in section 38 of the Planning and Compulsory Purchase Act 2004, and includes adopted local plans, neighbourhood plans that have been made and published spatial development

strategies, together with any regional strategy policies that remain in force. Neighbourhood plans that have been approved at referendum are also part of the Development Plan, unless the local planning authority decides that the neighbourhood plan should not be made.

- **6.3** A material planning consideration is one which is relevant to making the planning decision in question. The scope of what can constitute a material consideration is very wide. However, in general planning is concerned with land use in the public interest, so the protection of purely private interests will not normally be material considerations.
- **6.4** Law makes a clear distinction between the question of whether something is a material consideration and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case and is ultimately a decision for the courts. Provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case, and (subject to the test of reasonableness) the courts will not get involved in the question of weight.
- **6.5** Any application which constitutes a departure to the Development Plan, in the terms of the legislation, must be advertised as such. If such an application is to be approved the material considerations leading to this conclusion must be clearly identified.

7. Scope of Role - Area Planning Committee

- **7.1** Each Area Planning Committee will consider applications for planning permission and other Development Management casework where the Scheme of Delegation requires a committee decision and the application site is within the Ward covered by that Committee (refer to Section 3).

8. Scope of Role - District Planning Committee

- **8.1** The District Planning Committee will consider, on behalf of the Council, applications for planning permission and other Development Management casework where:
 - **8.1.1** The Chairman of an Area Planning Committee determines it is appropriate for the decision to be made by the District Planning Committee, rather than the Area Planning Committee.
 - **8.1.2** an Area Planning Committee has referred the application to the District Planning Committee for determination following a majority vote;
 - **8.1.3** an Area Planning Committee has considered the application but the Service Director or Service Lead with responsibility for Planning, or the Development Manager, has determined that the decision:
 - **8.1.3.1** has a possible conflict with a policy that would undermine the Development Plan; or
 - **8.1.3.2** is of a district wide public interest; or
 - **8.1.3.3** there is a possibility for claims for significant costs against the Council.

- **8.2** Where a decision of an Area Planning Committee has been referred to the District Planning Committee as above, that decision shall not take effect until the District Planning Committee has considered it.
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9. Committee Site Visits

- **9.1** Where deemed necessary, by the Chairman of the relevant Planning Committee and Development Manager, Committee Site Visits may be conducted to enable Planning Committee Members to view application proposals in context, and to inform their assessment of the impact of a proposal on the application site and surrounding area. Committee Site Visits are not to be used to debate the merits of the application.
 - **9.2** A Committee site visit is a formal meeting of the relevant committee and the same rules apply to chairing it as apply to a Meeting.
 - **9.3** Committee site visits should be by those Planning Committee Members able to attend, with Officer assistance. Others attending (ward members, town or parish council representatives, applicant/agent, supporters, and objectors) do so at the discretion of the Meeting Chairman. At the direction of the Meeting Chairman, other attendees may ask Members to observe specific aspects of the site and its surroundings, or ask for clarification of factual matters, but must not express opinions or other representations regarding the merits of the application.
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10. Planning Committee Briefings

- **10.1** On occasions it may be appropriate for officers, applicants, or prospective applicants, to give a presentation to Planning Committee at an earlier stage before the application is considered by the Planning Committee for a decision. This gives an opportunity for applicants to explain their development proposals and/or to provide an opportunity for Members to raise questions in connection with the proposals.
- **10.2** When considering a request for a briefing, the complexity of the proposal should be considered. Planning Committee briefings should be restricted to more complex proposals.
- **10.3** The Chairman of the Planning Committee must approve any request for a briefing in consultation with the Development Manager and the Monitoring Officer, or their representatives.
- **10.4** To avoid any perception of influence it is advisable that any briefing must take place at least three weeks before the meeting of the Planning Committee that will hear the application. Briefings should avoid discussion, although questions of clarification are appropriate. The Chairman of the Committee will manage the briefing. Officers will be present to record proceedings and answer any questions of clarification.
- **10.5** Consideration should be given to inviting Ward Members, Parish Council representatives and other interested parties.

11. Discussions before Decision is made

- **11.1** Local Planning Authorities are encouraged to enter into discussions and negotiations which can bring about improvements that can make an application acceptable, and thereby potentially speed up the planning process. Such pre-application discussions will normally take place at Officer level and Members shall wherever possible refer requests by applicants and third parties for such advice to Officers. If Members become involved in such discussions they should make it clear that their views are personal and provisional and they may wish to make a record of the discussion.
- **11.2** All Councillors have a role to play in helping consultation between their constituents and developers. Such consultation can be a huge benefit to all parties but can easily be seen as part of a lobbying process by the applicant if care is not taken. Planning Committee Members in particular must be careful to adhere to the rules regarding predetermination and predisposition.
- **11.3** This section covers any discussions taking place before a decision is made not simply prior to the application being submitted. It does not affect discussions between Councillors and Officers nor does it impact on any pre-application planning advice provided by Officers under the adopted policy.
- **11.5** Planning advice given by Officers should be consistent, based on the Development Plan and material considerations.
- **11.6** The Councillor's role is to feedback responses from the community. If invited to attend pre-committee discussions, all Councillors should speak first to the Planning Officer handling the application.
- **1.7** If such a meeting is held, a written note should be made of the meeting, particularly if contentious. Where the meeting includes a Planning Committee Member, at least one Officer should attend any such meetings and a follow up letter from the Councillor is advisable summarising the discussion.
- **11.8** If an Officer is unable to attend and the meeting has to go ahead the Councillor should make written notes and forward a copy of these to the Development Manager as soon as possible. This is also advisable for all Councillors who are not a member of the relevant planning committee.
- **11.9** All Councillors should also note that potentially contentious telephone discussions should also be recorded in writing, preferably immediately after the conversation so recollection is fresh and should be reported to the Monitoring Officer.
- **11.10** Where a meeting concerns a major development, it is preferable that the meeting takes place on Council premises with Officers present and notes of discussions are made.
- **11.11** At all times Planning Committee Members should be mindful of general rules regarding predetermination.

12. Lobbying

- **12.1** It is recognised that lobbying is a normal and perfectly legitimate element of the process of considering planning applications. If a Councillor, who is not

on the Planning Committee to determine an application, wishes to support a particular viewpoint then that Councillor has a right to appear at the relevant Planning Committee and seek permission to address the meeting provided that they have registered to speak in accordance with paragraph 16 below.

- **12.2** It is, however, important that Councillors protect their impartiality and integrity in planning matters. Planning Committee Members will not breach the Code by listening to or receiving viewpoints from residents or other interested parties provided that they make it clear that they are keeping an open mind. However expressing an intention to vote one way or another before a Planning Committee meeting would prejudice impartiality and potentially open the Council to challenge.
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13. Ward Members

- **13.1** Ward Members have a central role in helping to represent the views of local people and other stakeholders at both pre-application and planning application stage. Ward Members bring strong community leadership, extensive local knowledge and an up-to-date understanding of current issues.
 - **13.2** Planning Officers have to act impartially at all times, but will provide support and advice to Ward Members on planning matters in order for them to play this community leadership role. Ward Members should not direct, or seek to influence, Officers' to make a particular decision.
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14. Only One Forum

- **14.1** Members of the District Council may consider applications at parish level and form a view on the basis of evidence available at that time. At district level they may consider the same application but, with additional information and advice from Officers, may well change their mind.
 - **14.2** At district level, Councillors may also be members of both the Area Planning Committee and the District Planning Committee (DPC). At DPC they may consider the same application but, with additional information and advice from Officers, may well change their mind.
 - **14.3** It is suggested that Councillors who sit at parish or town level, or consider an application at both the Area Planning Committee and DPC, indicate to the meeting that while they have a personal interest by way of their membership of the Parish/Town Council / Area Planning Committee as a Councillor, any comments made at the previous meeting(s) are made in relation to the information before them at that meeting. Councillors are not pre-judging the matter and will want to consider carefully all material likely to be available at whichever level the application is being considered. When the matter is considered by a Planning Committee for the District, the Councillor will weigh up all the information at that time and consider the matter afresh.
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15. Planning Applications by Councillors, Officers or the Council

- **15.1** These can, by their very nature, arouse suspicions of impropriety. It is vital they are handled in a way that ensures there are no grounds for accusations of favouritism.
 - **15.2** If it is a Council application it will be treated in the same way as a private developer. The same administrative process, including consultation, should be carried out in relation to the Council's own planning applications, and that they should be determined against the same policy background. Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating such applications on an equal footing with all other applications as well as actually doing so.
 - **15.3** If the application is made by an Officer within the Planning Service, or another Service or Officer that works closely with Planning, the Planning Service Lead or Development Manager (as appropriate) shall take reasonable steps to ensure there are no grounds for accusation of favouritism. This could include the application being dealt with by a Planning Officer in another team. Where the determination is made under delegated authority, the Officer exercising delegated authority should do so in consultation with the Monitoring Officer.
 - **15.4** If it is a Councillor application they are entitled to speak to Officers both prior to and at Committee in the same way as any member of the public. They will have a Disclosable Pecuniary Interest and should refer Member Code of Conduct [Part 13 Constitution]. However, they shall not seek improperly to influence the decision and shall play no part in the debate itself as a Councillor nor be able to vote.
 - **15.5** The Council's Monitoring Officer shall be informed of all applications by Councillors and Officers and will register such applications.
 - **15.6** The Scheme of Delegation provides stricter terms for applications by Planning or senior staff, or by Councillors to be considered by Committee where recommended for approval.
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16. Meeting Procedure - Registering to Speak

- **16.1** Members of the groups below may address the Committee during consideration of any application (but only provided that they have first registered to speak as set out below):
 - **16.1.1** Parish/Town Council representative(s);
 - **16.1.2** Adjoining Parish/Town Council representative(s);
 - **16.1.3** Objectors;
 - **16.1.4** Supporters;
 - **16.1.5** Applicant or their agent.
- **16.2** Apart from the applicant or their agent, applications to speak must be by persons or on behalf of bodies that have made written representations on an application as part of the consultation process.

- **16.3** The deadline to register to speak at a Meeting is 16:00 on the last working day before the Meeting. Requests must be made to the Planning Service in writing to the given address (preferably by email) and an acknowledgement from the Planning Service received.
 - **16.4** Those registering to speak must provide:
 - the name of the person wishing to speak;
 - a contact telephone number;
 - the application they wish to speak on;
 - the capacity in which they are registering.
 - Whether they are attending in person or remotely via video conferencing
 - **16.5** Persons registering to speak should also confirm if they are willing for the Council to share their contact details with other speakers so that arrangements can be made to nominate a spokesperson if necessary.
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17. Meeting Procedure - Representations and Time Limits

- **17.1** In addition to those listed above, and further to the Meeting Rules of Procedure, the Ward Councillor(s) shall be entitled to speak on any application affecting their Ward.
- **17.2** Further, when the Committee considers an application affecting more than one Ward, the Chairman, with the agreement of the Committee, may allow additional speakers from the relevant Ward(s).
- **17.3** The total time allowed for speeches in respect of each of the groups of speakers shall not exceed five minutes or such longer period as the Meeting Chairman may allow with the consent of the Committee.
- **17.4** Where more than one person is entitled or has registered to speak in any of the groups of speakers, the five minute period shall be shared between them. In such circumstances, speakers are encouraged to appoint a spokesperson, but if no spokesperson is nominated, the speakers will be heard in the order in which they have registered until the five minute period has elapsed.
- **17.5** Where there is more than one Ward Councillor speaking:
 - **17.5.1** where they each seek the same outcome, they will share a speaking time of five minutes;
 - **17.5.2** where they seek a fundamentally different outcome, each speaker or group will be allowed five minutes.
- **17.6** When there is a linked application (for example, in the case of linked applications for planning permission and listed building consent on the same property), they will generally be treated as one agenda item such that speakers may only speak once.
- **17.7** material on the planning file that a speaker wishes to refer to must be highlighted or provided to the Planning Officers at least five clear working days before the Meeting (Local Authorities (Access to Meetings and Documents)

(Period of Notice) (England) Order 2002). Officers will facilitate reasonable requests to display requested plans, photographs, or supporting documents which are on the planning file and have been requested in advance of the meeting, but this will not include presentations slides.

- **17.8** No new material may be produced or referred to at the Meeting unless lodged under 17.7.
- **17.9** The Committee may only ask those speaking for clarification of points raised. Members may not ask any other questions, nor may they elicit information that the speaker may have omitted.

18. Meeting Procedure - Order of Representations etc

- **18.1** The following procedure shall apply in respect of each item as relevant in the circumstances (but the Meeting Chairman may change the order at their discretion, or invite any representative to clarify a factual issue at any time):
 - **18.1.1** introduction of item by Officers;
 - **18.1.2** representations by Parish/Town Council representative(s);
 - **18.1.3** Members' questions to Parish/Town Council representative(s);
 - **18.1.4** representations by Adjoining Parish/Town Council representative(s) (where agreed by the Meeting Chairman);
 - **18.1.5** Members' questions to Adjoining Parish/Town Council representative(s);
 - **18.1.6** representations by objector(s);
 - **18.1.7** Members' questions to objector(s);
 - **18.1.8** representations by supporter(s);
 - **18.1.9** Members' questions to supporter(s);
 - **18.1.10** representations by applicant or agent;
 - **18.1.11** Members' questions to applicant or agent;
 - **18.1.12** representations by Adjoining Ward Councillor(s);
 - **18.1.13** Members' questions to Adjoining Ward Councillor(s);
 - **18.1.14** representations by Ward Councillor(s);
 - **18.1.15** Members' questions to Ward Councillor(s);
 - **18.1.16** Members' questions to Officers.
- **18.2** Questions raised as part of the above process may only seek to clarify a statement made and not to introduce new business.

19. Meeting Procedure - Debate and Decision

- **19.1** Once all submissions and questions have been dealt with, Committee Members shall then debate the application.

- **19.2** For the avoidance of doubt, subject to the Councillors' Code of Conduct, Ward Councillors on Planning Committees may take part in the debate and/or vote on an application affecting their Ward.
- **19.3** After a reasonable period of debate, a Member of the Committee may propose that the Committee approve, refuse, defer or reference up to District Planning Committee an application before it (a "Proposal"), and:
- **19.4** Where the Proposal is for approval, the Proposing Member may adopt the planning conditions and/or obligations suggested by Officers, or they may vary, remove or add conditions (with reasons) which they consider justified on planning grounds. They may also elect to delegate to Officers to determine appropriate conditions/obligations. Where the Proposal to approve is contrary to Officer recommendation, it is advisable that the Proposing Member states their reasons for this.
- **19.5** Refusal reasons suggested by Officers (where in accordance with Officer recommendation), or they may vary, remove or add reasons which they consider justified on planning grounds. Where the Proposal is contrary to, or at variance with, the Officer recommendation, the Proposing Member must give full clear reasons for their Proposal.
- **19.6** Where the Proposal is for deferring or referencing to District Planning Committee, the Proposing Member must give reasons.
- **19.7** Any Proposal must be formally seconded to proceed.
- **19.8** At any stage of the debate any Committee Member (including the Proposer and Seconded) may:
 - **19.8.1** seek Officers' guidance as to the wording of a Proposal or Condition or a reason for refusal or any other issue affecting the matter being considered;
 - **19.8.2** propose an amendment to a Proposal (eg adding a fresh Condition or a fresh reason for refusal) and, if the Proposer and Seconded agree, the Proposal shall be amended accordingly.
- **19.9** The making of a Proposal shall not necessarily halt debate - the Meeting Chairman shall decide when the debate has concluded and when a vote is to be taken.
- **19.10** Once the Meeting Chairman decides that the debate has concluded they will:
 - **19.10.1** seek a Proposal if none has yet been put; and
 - **19.10.2** put the Proposal to the vote; and
 - **19.10.3** if the Proposal is not carried, seek (an) alternative Proposal(s), such that the application before the meeting is determined.
 - **19.10.4** notwithstanding Part 3 Meeting Rules para 11.7, a Proposal may be repeated in a Planning Committee following further debate.

20. The Role of the Chairman

- **20.1** Agenda management is vital to the smooth running of the meetings. The Chairman is key to this. Each Chairman will discuss with the appropriate Democratic, Legal and Planning Officer before the Committee the items on the agenda and will query, where necessary, matters referred up and site visits called.
 - **20.2** The rules of debate as set out in **Part 3** Meeting Rules para 16.1, 16.2 shall apply.
 - **20.3** If there are equal numbers of votes for and against the Chairman will have a second or casting vote. There will be no restriction on how the Chairman exercises their vote.
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21. Implementing Planning Committee Decisions

- **21.1** Where an application has been decided by Planning Committee, Officers will implement the Planning Committee's decision by coordinating the completion of any outstanding tasks (e.g. legal agreements or technical matters delegated to officers) and issuing the decision notice.
 - **21.2** The Development Manager has delegated authority to make minor amendments to committee decisions, in consultation with the Chairman/Vice Chairman of the Committee. This authority can be exercised before or after the decision notice is issued.
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22. Appeals and Legal Challenges

- **22.1** In the event that planning permission is refused, either under delegated powers conferred on the Development Manager or by the Planning Committee, an applicant may exercise their right of appeal. Planning decisions may also be subject to Judicial Review or other legal proceedings.
- **22.2** Officers will organise and generally appear as witnesses at planning appeals and other proceedings on behalf of the Council. In some circumstances (such as where specialist evidence is required) it may be necessary to appoint Counsel or Consultants to appear for the Council.
- **22.3** In giving evidence, Officers will present the best possible case on behalf of the Council while complying with the Royal Town Planning Institute ("RTPI") Code of Professional Conduct. This Code requires that Planning Officers who are members of the Institute do not make statements purporting to be their own, but which are contrary to their bona fide professional opinion.
- **22.4** Members can have an important role to play in appeals and may, within set deadlines, make written representations to the Inspector and may also appear at informal hearings or as a witness at public inquiries. In doing so they should state whether they are acting in their local Ward Member capacity or, representing the Council's case.
- **22.5** From time to time a Planning Committee will disagree with professional advice given by the Officers and may decide to determine an application contrary to that advice. Where there is a subsequent appeal and Planning Officers are unable to defend decisions on appeal (due to requirements of the

professional conduct rules of the RTPI) it may be appropriate for Members of the Committee to attend any subsequent appeal hearing, and if necessary, to give evidence in support of the Council's decision. Planning and Legal Officers will support Members attending or wishing to make representation at appeals and advise them on preparing and delivering evidence on behalf of the Council.

- **22.6** Planning decisions are decisions made by the Council. It is therefore not normally appropriate for an elected Member to support an appellant at Appeal. If Members have concerns about delegated applications, the appropriate course of action is to call in the application to Planning Committee for determination.
- **22.7** If an appeal is lodged before determination by a planning committee (a "non-determination appeal"), the Council is no longer the decision maker, but it will have an opportunity to provide its position on the appeal to the Planning Inspectorate. Where Inspectorate timescales permit, reasonable efforts will be made to bring the application to committee to adopt a position on the appeal. Where Inspectorate timescales do not permit, the Development Manager will exercise delegated authority to adopt a position for the appeal, subject to consultation with the relevant Committee Chairman (or Vice Chairman in their absence)..
- **22.8** During the appeal process, there may be occasions where an immediate decision is required regarding the Council's position (for example, new evidence on a material consideration). Where Inspectorate timescales permit, reasonable efforts will be made to bring the application to committee to adopt a position on the appeal. Where Inspectorate timescales do not permit, the Development Manager will exercise delegated authority on the specific matter, subject to consultation with the relevant Committee Chairman (or Vice Chairman in their absence).

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Part 6.9 - Appendix: Resources and Place Scrutiny Committee

1. Preamble

- **1.1** Part 3 (Meeting Procedure Rules) and Part 6 (Council Bodies) set out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.
 - **1.2** If there is any conflict between the wording of Parts 3 and 6 and this Appendix, this Appendix will prevail.
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2. Scope of Role

- **2.1** The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.
 - **2.2** Additional requirements for Overview and Scrutiny Committees with responsibility for scrutiny of Crime and Disorder Matters are set out in section 19 of the Police and Justice Act 2006.
 - **2.3** The Resources and Place Scrutiny Committee ("the Committee") will be, and will perform the functions of, its overview and scrutiny committee as required by that legislation.
 - **2.4** The role of the Committee in relation to the development of the Council's Budget and Policy Framework is set out within Part 7.
 - **2.5** The role of the Committee in relation to matters outside the development of the Council's Budget and Policy Framework is set out within this Appendix.
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3. Membership

- **3.1** There will be nine Members on this Committee, which shall be politically balanced and its membership will be as set out in the Bodies List and Meetings Rules Table.
 - **3.2** The Committee may appoint non-statutory, co-opted Members to the Committee or to any of its Task and Finish Groups. This may be done at any time to provide specialist input from those with specific expertise in relation to a particular aspect of the Committee's remit. This may be on an ongoing basis or to inform a particular review.
 - **3.3** No Executive Member may be a Member or Substitute Member of the Committee or any of its Sub-Bodies.
 - **3.4** No Member may be involved in scrutinising a decision in which they have been directly involved. Any query about the meaning of "directly involved" will be decided by the Monitoring Officer.
-

4. Terms of Reference

- **4.1** Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities specifies that effective overview and scrutiny should:
 - provide constructive 'critical friend' challenge
 - amplify the voices and concerns of the public
 - be led by independent people who take responsibility for their role
 - drive improvement in public services and strategic decision-making
- **4.2** The Committee shall review and scrutinise how the needs of residents and other service users are met by the Resources and Place Directorates of Council and the Council's partners; and how performance is evaluated and improved.
- **4.3** Its remit shall include the following services:
 - Housing
 - Economic Development
 - Planning
 - Transport Planning
 - Public Transport
 - Parking
 - Highways
 - Flood Risk
 - Countryside (including Parks and PRow)
 - Environment Delivery
 - Waste Management
 - Public Protection
 - Emergency Planning
 - Building Communities Together Partnership
 - Culture
 - Sports and Leisure
 - Commissioning and Procurement
 - Customer Engagement and Transformation
 - Finance and Property (including scrutiny of the budget)
 - People Management
 - Legal and Democratic Services
 - Communications
 - ICT
- **4.4** The Committee shall be designated as the Council's Crime and Disorder Committee established in accordance with s.19, Police and Justice Act 2006 (which requires the Council to have a crime and disorder committee with power

(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions; and (b) to make reports or recommendations to the local authority with respect to the discharge of those functions). It shall ensure that at least one such review is undertaken each year.

- **4.5** The Committee has the power to review or scrutinise decisions taken by the Executive or any other part of the Council (excluding decisions made by Council) in relation to the above services.
- **4.6** The Committee can make reports or recommendations to the Executive or to the Council. It can also make reports or recommendations on any matters that affect the District and Residents. Its role includes both developing and reviewing policy and holding the Executive to account for their decisions and actions.
- **4.7** Although the Committee may make recommendations for changes or improvements in the way that the Council or other bodies enact their business, it does not have any direct decision-making powers, except in the way that it discharges its own responsibilities.
- **4.8** The Committee is responsible for setting its own work programme and in doing so shall take into account the wishes of Councillors.
- **4.9** The Committee has the power to:
 - **4.9.1** co-ordinate and develop the scrutiny function through which relevant decisions taken by the Executive, Bodies or Officers are scrutinised, and their use of resources/the provision of services are reviewed;
 - **4.9.2** undertake pre-decision scrutiny of items on the Executive Forward Plan;
 - **4.9.3** discharge the overview function in terms of policy development activities;
 - **4.9.4** monitor decisions taken by or on behalf of the Executive;
 - **4.9.5** monitor the activities of Directorates;
 - **4.9.6** manage the Call-In process for decisions related to services delivered by the Resources and Place Directorates, and recommend for reconsideration any relevant decisions made but not yet implemented by on or behalf of the Executive, Leader, Executive Members or Officers under delegated powers;
 - **4.9.7** consider requests from Councillors, Officers, residents and organisations for particular topics to be scrutinised and determine the appropriate action;
 - **4.9.8** take responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies (excluding partnerships and external bodies that fall within the remit of the Children and Young People Scrutiny Committee and the Health Adult Social Care Scrutiny Committee);
 - **4.9.9** undertake scrutiny reviews, as deemed appropriate.

- **4.10** The Committee shall coordinate its activities with those of the other Scrutiny Committees.
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5. Proceedings

- **5.1** The Committee shall respond, as soon as its work programme permits, to requests from the Council and Executive to undertake a piece of work on their behalf that is relevant to the remit of the Committee. Where the Committee does so, it shall report its findings and any recommendations back to the Executive or Council, which shall consider the report of the Committee at its first available Meeting unless the Monitoring Officer determines that it should be considered at a later Meeting.
 - **5.2** Any Councillor shall be entitled to give notice to the Monitoring Officer that they wish an item relevant to the functions of the Committee or a Committee Sub Body to be included on the agenda for the next meeting, or referred to the Committee for inclusion in the approved work programme, and:
 - **5.2.1** in deciding whether to pursue the matter, the Committee shall consider representations from the Councillor who referred it;
 - **5.2.2** the Committee is not obliged to pursue such a matter but it must let the Councillor in question know the reasons for its decision;
 - **5.2.3** if the Committee pursues the matter it shall report its findings and any recommendations back to the Councillor who referred it.
 - **5.3** Members of the public are entitled to suggest topics for scrutiny review. Suggestions can be submitted online or in writing (either by post or electronic mail) to the Monitoring Officer and must specify the name, address and contact telephone number of the member of the public (or representative) making the suggestion.
 - **5.4** In order to be considered for the Committee's work programme topics must relate to a topic that falls within the scope of the Committee as set out in Section 4. Submissions that do not meet the above criteria will be rejected by the Monitoring Officer.
 - **5.5** An item may be rejected if the Chairman considered that it is not considered conducive to the Committee's Work Programme.
 - **5.6** The member of the public will be notified as to whether their suggestion has been added to the Committee's Work Programme or has been rejected. The reasons for the rejection will be communicated to the individual.
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6. Evidence - Documents

- **6.1** Committee and Committee Sub-Body Members have the right to access relevant documents as set out in Part 10 (Access to Information Rules).
- **6.2** To facilitate effective scrutiny, more detailed liaison between the Executive and the Committee or a Committee Sub-Body may take place depending on the particular matter under consideration.

- **6.3** The Committee will be entitled to copies of any document which is in the possession or control of the Executive that relates to a matter under review and which contains material relating to:
 - **6.3.1** any business transacted at a meeting of the Executive or its Bodies; or
 - **6.3.2** any decision taken by an individual Member of the Executive; or
 - **6.3.3** any decision made by an Officer under the Executive arrangements
- **6.4** But the Committee will not be entitled to:
 - **6.4.1** any document that is in draft form;
 - **6.4.2** any part of a document that contains Exempt or Confidential Information, unless:
 - **6.4.3** that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; and
 - **6.4.3.1** the Monitoring Officer decides that it is appropriate for such Exempt or Confidential Information to be provided (in which event Committee Members shall respect the confidentiality of the information); or
 - **6.4.3.2** the advice of a political adviser or Group Executive that would be exempt under a Freedom of Information Act request.

7. Evidence - Testimony

- **7.1** Committee or a Committee Sub-Body may require the attendance of the relevant Executive Member, or Officer at the level of Service Lead/Service Director or above, to attend a meeting in order to provide advice and evidence in pursuit of a review being undertaken.
- **7.2** The Committee or a Committee Sub-Body may invite other persons relevant to an item of business or matter under review to address it and/or answer questions on a voluntary basis.
- **7.3** The Committee may consider evidence in open or confidential session as the Chairman thinks appropriate following advice from the Monitoring Officer.
- **7.4** Where the Committee or a Committee Sub-Body conducts a scrutiny review, the Committee will ask people to attend to give evidence at meetings which will be conducted in accordance with the following principles:
 - **7.4.1** that the meeting is conducted fairly and all Members of the Committee or the Committee Sub-Body are given an opportunity to ask questions of attendees and speak;
 - **7.4.2** that those assisting the Committee by giving evidence are treated with respect and courtesy; and
 - **7.4.3** that the meeting is conducted so as to maximise the efficiency of the review.

- **7.5** Where a petition to Hold an Officer to Account is referred to the Committee under the Council's Meeting Rules:
 - **7.5.1** it will be reported to the next convenient meeting of the Committee unless the matter is deemed urgent, in which case an extraordinary meeting may be convened;
 - **7.5.2** in advance of the Committee meeting, the Petition Organiser will be invited to submit a list of questions they would like to put to the Officer at the meeting, and:
 - **7.5.2.1** the questions will be provided to the Chairman and Vice Chairman of the Committee, who will decide whether they are appropriate, and
 - **7.5.2.2** (if they are deemed appropriate) they will be provided to the Officer concerned in advance of the meeting.
 - **7.5.3** the Officer named in the petition and any other relevant Officers will be required to attend the Committee;
 - **7.5.4** the Officer will be provided with the petition and any questions submitted by the petition organiser;
- **7.6** Where any Member or Officer is required or requested to attend the Committee or a Committee Sub-Body under this provision:
 - **7.6.1** the Chairman of the Committee will inform the Monitoring Officer;
 - **7.6.2** the Monitoring Officer shall inform the Member or Officer in writing giving at least five Clear Working Days' notice of the meeting at which they are required to attend;
 - **7.6.3** the notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee or Committee Sub-Body; and
 - **7.6.4** where the account to be given to the Committee or Committee Sub-Body will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that documentation.
- **7.7** Where Officers below the level of Service Lead/Service Director attend the Committee or a sub-Body, they will usually be accompanied by a senior manager.
- **7.8** At the meeting of the Committee, the Chairman will invite the Petition Organiser to address the Committee for a maximum of five minutes on the issue. The relevant Officer will then be asked to respond to the Committee on the subject matter of the petition. The Committee may question the Officer and the Chairman may invite questions from the Petition Organiser to be put to the Officer through the Chairman.

8. Reports

- **8.1** Following any review, the scrutinising body shall prepare a draft report, with recommendations as appropriate, for publication and submission to the

Committee. The Committee will agree or amend the report and direct it to the Monitoring Officer. In cases where the Scrutiny Committee is the scrutinising body, the agreed report will be directed to the Monitoring Officer. The Monitoring Officer will then refer the report, via the Chief Executive and S151 Officer, to check for factual errors and consideration of any financial implications, to:

- **8.1.1** the Council (if the recommendations would require a departure from, or a change to, the agreed Budget or Policy Framework);
 - **8.1.2** the Executive (if the proposals are consistent with the Budget and Policy Framework) or other Body as they deem appropriate for a formal response to the report's recommendations.
 - **8.2** Reports with implications for outside bodies shall be passed to the appropriate person at those outside bodies.
 - **8.3** The body receiving the report will be requested to consider and respond within eight weeks of it being submitted to the Monitoring Officer, or such longer timescale as the Chairman of the Body may agree.
 - **8.4** The response to a recommendation from a decision-maker should consist of:
 - a clear commitment to delivering the measure within a timescale set out;
 - a commitment to be held to account on that delivery;
 - where it is not proposed that a recommendation be accepted, the provision of detailed, substantive reasons why not.
 - **8.5** It is the Committee's responsibility to monitor and evaluate recommendations once they are implemented.
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9. Minority Report

- **9.1** If the Committee or a Committee Sub-Body cannot agree on one single report to the Executive or to Council or to a named external organisation as appropriate, then up to one minority report may be prepared and submitted for consideration with the majority report.
-

10. Report to Council - Key Decision

- **10.1** Scrutiny Committee can require a report if it thinks that a Key Decision has been taken which was not:
 - **10.1.1** treated as being a Key Decision; or
 - **10.1.2** included in the Forward Plan; or
 - **10.1.3** the subject of the general exception procedure; or
 - **10.1.4** the subject of an agreement with the Scrutiny Committee Chairman, or the Chairman/Vice-Chairman of the Council.
- **10.2** The Scrutiny Committee may then require the Executive to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies.

The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Scrutiny Committee when so requested by the Chairman or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee

11. Decisions of the Executive

- **11.1** The Monitoring Officer shall publish all decisions taken by the Executive, Individual Executive Members or Officers under delegated powers to all Members of Council normally within three Clear Working Days of the decision, but generally by 17:00 on the day after the meeting.
 - **11.2** Where a decision taken is one to which the Call-In procedure does not apply (see below), the reasons shall be stated in the notice of decision.
-

12. Non-Implementation of Decisions pending possible Call-In

- **12.1** Except where the Call-In procedure does not apply (see above and below), Executive Decisions shall not be capable of implementation until either:
 - **12.1.1** the time for a Call-In request has expired without such a request being made; or
 - **12.1.2** the Call-In procedure in the following rules has been followed.
-

13. Call-In - Application and Process

- **13.1** By 17:00 on the fifth Clear Working Day following the publication of the decision, any five Councillors (excluding any Councillor involved in making the original decision) may give notice in writing to the Monitoring Officer requesting that the decision be Called-In to be reviewed by the Committee.
- **13.2** The Call-In notice shall give reasons for the request together with a proposal for an alternative course of action and stating whether or not those Councillors believe that the decision is contrary to the Budget and Policy Framework or contrary to or not wholly in accordance with the budget.
- **13.3** The Call-In procedure shall not apply if any of the following applies:
 - **13.3.1** the item is due to be referred to Council for final approval (eg, the budget);
 - **13.3.2** the S.151 Officer or Monitoring Officer has certified that if there were a delay in implementing the decision it could have serious financial implications for the Council or could compromise the Council's position;
 - **13.3.3** the item has been considered by the Committee, or has been the subject of a review undertaken by another Body, within the preceding six months;
 - **13.3.4** the item in question was a report that did not require a decision and was for information only;
 - **13.3.5** the item is classed as an Urgent Key Decision.

- **13.4** In the event of a dispute over whether a decision is capable of Call-In or not, a decision of the Monitoring Officer or S.151 Officer (as the case may be) shall be final.
-

14. Call-In - Review

- **14.1** There are three options available to the Committee when considering a Call-In:
 - **14.1.1** to let the decision stand;
 - **14.1.2** to state its views on the matter and refer the decision back to the decision-maker;
 - **14.1.3** to refer the decision to Council if the Committee considers that the decision is contrary to the Budget and Policy Framework.
 - **14.2** The Commission may make other recommendations as a result of the Call-In to relevant bodies, which shall be considered after a decision has been reached on the Call-In.
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15. Call-In - Procedure

- **15.1** When a notice requesting that a decision be reviewed is made, the Monitoring Officer shall inform the Leader and the Committee Chairman and shall, in consultation with the Chairman, convene a special meeting of the Committee as soon as reasonably practicable for the purpose of reviewing the decision, unless the matter can conveniently be reviewed at the next scheduled meeting of the Committee.
 - **15.2** If a notice requesting that a decision be reviewed states that the reason for it being called in is that the decision is outside the Budget or Policy Framework it will be referred to the Monitoring Officer and S.151 Officer who shall decide if this is the case.
-

16. Review of Decision

- **16.1** Any Councillor who has signed a notice requesting that a decision be reviewed may attend the meeting of the Committee when the decision is reviewed and may speak to that item of business.
- **16.2** The Committee may not overturn the decision which it is reviewing but may either concur with the decision (in which case it will take immediate effect) or refer it back to the next scheduled or a Special Meeting of the Executive for further consideration.
- **16.3** If the Committee is of the opinion, having taken advice from the Council's Monitoring Officer and S.151 Officer, that a decision is outside the Budget and Policy Framework approved by the Council, the Committee may refer the decision to the Council.
- **16.4** In the case of a Called-In decision being referred to Council:

- **16.4.1** if Council decides that the Called-In decision was contrary to the Budget and Policy Framework it shall decide on the issue in question;
 - **16.4.2** if the Council decides that the Called-In decision was not contrary to the Budget and Policy Framework then no further action is necessary and the decision will take effect on the date of the Council meeting.
-

17. Referral Back to Executive

- **17.1** The Committee will produce a report with its findings to the next meeting of the Executive (for example, the meeting following the Call-In request) unless there are exceptional circumstances why this cannot be achieved. In these circumstances the Chairman of the Committee and the Leader of the Council will agree a revised timetable.
- **17.2** The report will either confirm the original decision or propose amendments to it in any way it thinks fit and shall give reasons for its final decision.
- **17.3** If the Committee upholds the Executive decision, the original decision of the Executive shall take immediate effect.
- **17.4** If the Committee does not uphold the Executive decision, it is for the Executive to decide how it wishes to proceed (provided the decision is within the Budget and Policy Framework) having had regard to the recommendations of the Committee.
- **17.5** Any matter which has been the subject of a Call-In request may not be the subject of a further Call-In request.

Part 6.10 - Appendix Children and Young People Scrutiny Committee

1. Preamble

1.1 Part 3 (Meeting Procedure Rules) sets out the rules and procedures that apply to all of the Council's Bodies and Sub-Bodies.

1.2 If there is any conflict between the wording of Part 3 and this Appendix, this Appendix will prevail.

2. Scope of Role

2.1 The requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011.

2.2 Additional requirements for Overview and Scrutiny Committees with responsibility for reviewing education functions are set out in Schedule 1 of the Local Government Act 2000.

2.3 The Children's Scrutiny Committee ("the Committee") will be, and will perform the functions of, the Council's overview and scrutiny committee in relation to all universal, targeted and specialist services for children and young people in west Berkshire as required by that legislation

3. Membership

3.1 There will be nine Members on this Committee, which shall be politically balanced and its membership will be as set out in the Bodies List and Meetings Rules Table.

3.2 Membership of the Committee shall include the following statutory co-opted Members:

- two parent governor representatives (one each for local authority maintained primary and secondary schools);
- one Church of England representative; and
- one Roman Catholic diocesan representative.

3.3 As statutory co-opted Members, the above shall be entitled to vote on any matters considered by the Committee that relate to schools or education. They shall also be entitled to speak on any other matters considered by the Committee, but they shall not be permitted to vote on such matters.

3.4 In addition, two non-statutory co-opted Members shall be appointed to the Committee, who shall be age 25 or under and living in West Berkshire or working for an organisation in West Berkshire supporting or representing children and young people. The non-statutory co-opted Members shall not be permitted to vote on any matters.

3.5 The above statutory and non-statutory co-opted members will not be taken into account when determining the political balance of the Committee.

3.6 The Committee may also appoint non-statutory, co-opted Members to the Committee or to any of its Task and Finish Groups. This may be done at any time to provide specialist input from those with specific expertise in relation to a particular aspect of the Committee's remit. This may be on an ongoing basis or to inform a particular review.

3.7 No Executive Member may be a Member or Substitute Member of this Committee.

3.8 No Member may be involved in scrutinising a decision in which they have been directly involved. Any query about the meaning of "directly involved" will be decided by the Monitoring Officer.

4. Terms of Reference

4.1 Overview and scrutiny: statutory guidance for councils, combined authorities and combined county authorities specifies that effective overview and scrutiny should:

- provide constructive 'critical friend' challenge
- amplify the voices and concerns of the public
- be led by independent people who take responsibility for their role
- drive improvement in public services and strategic decision-making

4.2 The Children and Young People Scrutiny Committee shall review and scrutinise how the needs and interests of children and young people in West Berkshire are met by the Council and its partners; and how performance is evaluated and improved.

4.3 Its remit shall include the following universal, targeted and specialist services for children and young people:

- Children's centred/family hubs;
- Early years education;
- School support services;
- School improvement;
- Special educational needs and disabilities (SEND);
- Home to school/college transport;
- 14-19 education, training and apprenticeship;
- Careers service;
- Youth services;
- Supported accommodation and lodgings;
- Supported employment for young people;
- Leaving care service;
- Youth offending service;
- Child protection;
- Children in Care;
- Targeted support - young people;

- Fostering and adoption;
- Residential homes for children;
- Family support.

4.4 The Committee shall maintain an overview of the activity and performance of maintained schools, and academy schools and colleges within the District.

4.5 It shall also scrutinise the effectiveness of the Berkshire West Safeguarding Children Partnership's arrangements for ensuring agencies work together to:

- protect children from maltreatment and prevent impairment of children's health and development
- ensure that children grow up in circumstances consistent with the provision of safe and effective care
- promote community involvement in safeguarding children and promoting their welfare by raising awareness through publicity and training
- develop and review policies and procedures
- have the safest possible practices in relation to the recruitment and selection of all those who work with children in a statutory and voluntary capacity
- ensure systems are in place to monitor the implementation of the lessons learnt from serious case reviews
- ensure the multi-agency and independent sector workforce is trained to safeguard children and improve safety

4.6 The Committee will also review and scrutinise the Berkshire West Safeguarding Children Partnership's, including its strategy, business plan and annual reports, as well as the outcomes of any external inspection or peer review of the Partnership, and any action plans arising from those inspections or peer reviews.

4.7 Scrutiny of services that support the physical health and mental wellbeing of children and young people in West Berkshire shall be the responsibility of the Health and Adult Social Care Scrutiny Committee, including, but not limited to, School Nursing, Health Visiting, Teenage Pregnancy Services, and Children and Adolescent Mental Health Services (CAMHS).

4.8 The Committee has the power to review or scrutinise decisions taken by the Executive or any other part of the Council (excluding decisions made by Council) in relation to services for children and young people.

4.9 The Committee can make reports or recommendations to the Executive or to the Council. Its role includes developing and reviewing policy and holding the Executive to account for their decisions and actions.

4.10 Although the Committee may make recommendations for changes or improvements in the way that the Council or other bodies enact their business, it does not have any direct decision making powers, except in the way that it discharges its own responsibilities.

4.11 The Committee is responsible for setting its own work programme and in doing so shall take into account the wishes of Councillors.

4.12 The Committee has the power to:

- **4.12.1** co-ordinate and develop the scrutiny function through which relevant decisions taken by the Executive, Bodies or Officers are scrutinised, and their use of resources/the provision of services are reviewed;
- **4.12.2** undertake pre-decision scrutiny of relevant items on the Executive Forward Plan;
- **4.12.3** discharge the overview function in terms of relevant policy development activities;
- **4.12.4** monitor relevant decisions taken by or on behalf of the Executive;
- **4.12.5** monitor relevant activities of Directorates;
- **4.12.6** manage the Call-In process for decisions related to services for children and young people, and recommend reconsideration of any decisions made but not yet implemented by on or behalf of the Executive, Leader, Executive Members or Officers under delegated powers;
- **4.12.7** consider requests from Councillors, Officers, residents and organisations for particular topics to be scrutinised and determine the appropriate action;
- **4.12.8** take responsibility for the development and co-ordination of the overview and scrutiny of partnerships and external bodies (excluding those partnerships and external bodies that fall within the remit of the Resources and Place Scrutiny Committee and the Health and Adult Social Care Scrutiny Committee);
- **4.12.9** undertake scrutiny reviews, as deemed appropriate.

4.13 The Committee shall coordinate its activities with those of the Resources and Place Scrutiny Committee and the Health and Adult Social Care Scrutiny Committee.

5. Proceedings

5.1 The Committee shall respond, as soon as its work programme permits, to requests from the Council and Executive to undertake a piece of work on their behalf that is relevant to the remit of the Committee. Where the Committee does so, it shall report its findings and any recommendations back to the Executive or Council, which shall consider the report of the Committee at its first available Meeting unless the Monitoring Officer determines that it should be considered at a later Meeting.

5.2 Any Councillor shall be entitled to give notice to the Monitoring Officer that they wish an item relevant to the remit of a Scrutiny Committee or a Committee Sub Body to be included on the agenda for the next meeting, or referred to that Committee for inclusion in the approved work programme, and:

- **5.2.1** in deciding whether to pursue the matter, the Committee shall consider representations from the Councillor who referred it;
- **5.2.2** the Committee is not obliged to pursue such a matter, but it must let the Councillor in question know the reasons for its decision;
- **5.2.3** if the Committee pursues the matter, it shall report its findings and any recommendations back to the Councillor who referred it.

5.3 Members of the public are entitled to suggest topics for scrutiny review. Suggestions can be submitted online or in writing (either by post or electronic mail) to

the Monitoring Officer and must specify the name, address and contact telephone number of the member of the public (or representative) making the suggestion.

5.4 In order to be considered for the Committee's work programme topics must relate to a topic that falls within the scope of the Committee as set out in Section 4. Submissions that do not meet this criterion will be rejected by the Monitoring Officer.

5.5 An item may be rejected if the Chairman considers that it is not conducive to the Committee's Work Programme. **5.6** The member of the public will be notified as to whether their suggestion has been added to the Committee's Work Programme or has been rejected. The reasons for the rejection will be communicated to the individual

6. Evidence - Documents

6.1 Committee and CommitteeSub-Body Members have the right to access relevant documents as set out in Part 10 (Access to Information Rules).

6.2 To facilitate effective scrutiny, more detailed liaison between the Executive and the Committee or a Committee Sub-Body may take place depending on the particular matter under consideration.

6.3 The Committee will be entitled to copies of any document which is in the possession or control of the Executive that relates to a matter under review, and which contains material relating to:

- **6.3.1** any business transacted at a meeting of the Executive or its Bodies; or
- **6.3.2** any decision taken by an individual Member of the Executive; or
- **6.3.3** any decision made by an Officer under the Executive arrangements

6.4 But the Committee will not be entitled to:

- **6.4.1** any document that is in draft form;
- **6.4.2** any part of a document that contains Exempt or Confidential Information, unless:
- **6.4.3** that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; and
 - **6.4.3.1** the Monitoring Officer decides that it is appropriate for such Exempt or Confidential Information to be provided (in which event Committee Members shall respect the confidentiality of the information); or
 - **6.4.3.2** the advice of a political adviser or Group Executive that would be exempt under a Freedom of Information Act request.

7. Evidence - Testimony

7.1 The Committee or a Committee Sub-Body may require the attendance of the relevant Executive Member, or Officer at the level of Service Lead/Service Director or above, to attend a meeting in order to provide advice and evidence in pursuit of a review being undertaken.

7.2 The Committee or a Committee Sub-Body may invite other persons relevant to an item of business or matter under review to address it and/or answer questions on a voluntary basis.

7.3 The Committee may consider evidence in open or confidential session as the Chairman thinks appropriate following advice from the Monitoring Officer.

7.4 Where the Committee or a Committee Sub-Body conducts a scrutiny review, the Committee will ask people to attend to give evidence at meetings which will be conducted in accordance with the following principles:

- **7.4.1** that the meeting is conducted fairly and all Members of the Committee or the Committee Sub-Body are given an opportunity to ask questions of attendees and speak;
- **7.4.2** that those assisting the Committee by giving evidence are treated with respect and courtesy; and
- **7.4.3** that the meeting is conducted so as to maximise the efficiency of the review.

7.5 Where a petition to Hold an Officer to Account is referred to the Committee under the Council's Meeting Rules:

- **7.5.1** it will be reported to the next convenient meeting of the Committee unless the matter is deemed urgent, in which case an extraordinary meeting may be convened;
- **7.5.2** in advance of the Committee meeting, the Petition Organiser will be invited to submit a list of questions they would like to put to the Officer at the meeting, and:
 - **7.5.2.1** the questions will be provided to the Chairman and Vice Chairman of the Committee, who will decide whether they are appropriate, and
 - **7.5.2.2** (if they are deemed appropriate) they will be provided to the Officer concerned in advance of the meeting.
- **7.5.3** the Officer named in the petition and any other relevant Officers will be required to attend the Committee;
- **7.5.4** the Officer will be provided with the petition and any questions submitted by the petition organiser;

7.6 Where any Member or Officer is required or requested to attend the Committee or a Committee Sub-Body under this provision:

- **7.6.1** the Chairman of the Committee will inform the Monitoring Officer;
- **7.6.2** the Monitoring Officer shall inform the Member or Officer in writing giving at least five Clear Working Days' notice of the meeting at which they are required to attend;
- **7.6.3** the notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the Committee or Committee Sub-Body; and

- **7.6.4** where the account to be given to the Committee or Committee Sub-Body will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for the preparation of that documentation.

7.7 Where Officers below the level of Service Director attend the Committee or a sub-Body, they will usually be accompanied by a senior manager.

7.8 At the meeting of the Committee, the Chairman will invite the Petition Organiser to address the Committee for a maximum of five minutes on the issue. The relevant Officer will then be asked to respond to the Committee on the subject matter of the petition. The Committee may question the Officer and the Chairman may invite questions from the Petition Organiser to be put to the Officer through the Chairman.

8. Reports

8.1 Following any review, the scrutinising body shall prepare a draft report, with recommendations as appropriate, for publication and submission to the Committee. The Committee will agree or amend the report and direct it to the Monitoring Officer. In cases where the Scrutiny Committee is the scrutinising body, the agreed report will be directed to the Monitoring Officer. The Monitoring Officer will then refer the report, via the Chief Executive and S151 Officer, to check for factual errors and consideration of any financial implications, to:

- **8.1.1** the Council (if the recommendations would require a departure from, or a change to, the agreed Budget or Policy Framework);
- **8.1.2** the Executive (if the proposals are consistent with the Budget and Policy Framework) or other Body as they deem appropriate for a formal response to the report's recommendations.

8.2 Reports with implications for outside bodies shall be passed to the appropriate person at those outside bodies.

8.3 The body receiving the report will be requested to consider and respond within eight weeks of it being submitted to the Monitoring Officer, or such longer timescale as the Chairman of the Body may agree.

8.4 The response to a recommendation from a decision-maker should consist of:

- a clear commitment to delivering the measure within a timescale set out;
- a commitment to be held to account on that delivery;
- where it is not proposed that a recommendation be accepted, the provision of detailed, substantive reasons why not.

8.5 It is the Committee's responsibility to monitor and evaluate recommendations once they are implemented.

9. Minority Report

9.1 If the Committee or a Committee Sub-Body cannot agree on one single report to the Executive or to Council or to a named external organisation as appropriate, then up to one minority report may be prepared and submitted for consideration with the majority report.

10. Report to Council - Key Decision

10.1 The Committee can require a report if it thinks that a Key Decision relevant to the scope of the Committee has been taken which was not:

- **10.1.1** treated as being a Key Decision; or
- **10.1.2** included in the Forward Plan; or
- **10.1.3** the subject of the general exception procedure; or
- **10.1.4** the subject of an agreement with the Scrutiny Committee Chairman, or the Chairman/ViceChairman of the Council.

10.2 The Committee may then require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

11. Decisions of the Executive

11.1 The Monitoring Officer shall publish all decisions taken by the Executive, Individual Executive Members or Officers under delegated powers to all Members of Council normally within three Clear Working Days of the decision, but generally by 17:00 on the day after the meeting.

11.2 Where a decision taken is one to which the Call-In procedure does not apply (see below), the reasons shall be stated in the notice of decision.

12 . Non-Implementation of Decisions Pending Possible Call-In

12.1 Except where the Call-In procedure does not apply (see above and below), Executive decisions shall not be capable of implementation until either:

- **12.1.1** the time for a Call-In request has expired without such a request being made; or
- **12.1.2** the Call-In procedure in the following rules has been followed.

13. Call-In - Application and Process

13.1 By 17:00 on the fifth Clear Working Day following the publication of the decision, any five Councillors (excluding any Councillor involved in making the original decision) may give notice in writing to the Monitoring Officer requesting that the decision be Called-In to be reviewed by the relevant Scrutiny Committee.

13.2 The Call-In notice shall give reasons for the request together with a proposal for an alternative course of action and stating whether or not those Councillors believe that the decision is contrary to the Budget and Policy Framework or contrary to or not wholly in accordance with the budget.

13.3 The Call-In procedure shall not apply if any of the following applies:

13.3.1 the item is due to be referred to Council for final approval;

13.3.2 the S.151 Officer or Monitoring Officer has certified that if there were a delay in implementing the decision it could have serious financial implications for the Council or could compromise the Council's position;

13.3.3 the item has been considered by a Scrutiny Committee, or has been the subject of a review undertaken by another Body, within the preceding six months;

13.3.4 the item in question was a report that did not require a decision and was for information only;

13.3.5 the item is classed as an Urgent Key Decision.

13.4 In the event of a dispute over whether a decision is capable of Call-In or not, a decision of the Monitoring Officer or S.151 Officer (as the case may be) shall be final

14. Call-In - Review

14.1 There are three options available to the Committee when considering a Call-In:

14.1.1 to let the decision stand;

14.1.2 to state its views on the matter and refer the decision back to the decision maker;

14.1.3 to refer the decision to Council if the Committee considers that the decision is contrary to the Budget and Policy Framework.

15. Call-In - Procedure

15.1 When a notice requesting that a decision be reviewed is made, the Monitoring Officer shall inform the Leader and the Committee Chairman and shall, in consultation with the Chairman, convene a special meeting of the Committees soon as reasonably practicable for the purpose of reviewing the decision, unless the matter can conveniently be reviewed at the next scheduled meeting of the Committee.

15.2 If a notice requesting that a decision be reviewed states that the reason for it being called in is that the decision is outside the Budget or Policy Framework it will be referred to the Monitoring Officer and S.151 Officer who shall decide if this is the case.

16. Review of Decision

16.1 Any Councillor who has signed a notice requesting that a decision be reviewed may attend the meeting of the Committee when the decision is reviewed and may speak to that item of business.

16.2 The Committee may not overturn the decision which it is reviewing but may either concur with the decision (in which case it will take immediate effect) or refer it back to the next scheduled or an Extraordinary Meeting of the Executive for further consideration.

16.3 If the Committee is of the opinion, having taken advice from the Council's Monitoring Officer and S.151 Officer, that a decision is outside the Budget and Policy Framework approved by the Council, the Committee may refer the decision to the Council.

16.4 In the case of a Called-In decision being referred to the Council:

- **16.4.1** if the Council decides that the Called-In decision was contrary to the Budget and Policy Framework, then it shall decide on the issue in question;
 - **16.4.2** if the Council decides that the Called-In decision was not contrary to the Budget and Policy Framework, then no further action is necessary, and the decision will take effect on the date of the Council meeting.
-

17. Referral Back to Executive

17.1 The Committee will produce a report with its findings to the next meeting of the Executive (ie the meeting following the Call-In request) unless there are exceptional circumstances why this cannot be achieved. In these circumstances, the Chairman of the Committee and the Leader of the Council will agree a revised timetable.

17.2 The report will either confirm the original decision or propose amendments to it in any way the Committee thinks fit and shall give reasons for its final decision.

17.3 If the Committee upholds the Executive decision, then the original decision of the Executive shall take immediate effect.

17.4 If the Committee does not uphold the Executive decision, then it is for the Executive to decide how it wishes to proceed (provided the decision is within the Budget and Policy Framework) having had regard to the recommendations of the Committee.

17.5 Any matter which has been the subject of a Call-In request may not be the subject of a further Call-In request.

Part 7 - Budget and Policy Framework

1. Introduction

- **1.1** The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, set out (amongst other things) functions that may or may not be the responsibility (or sole responsibility) of the Executive.
 - **1.2** The Council's Budget and Policy Framework (the "**Framework**") sets out the budget, plans, policies and strategies (each a "**Framework Component**") that are reserved to Council for determination.
 - **1.3** Other plans, policies and strategies requiring approval that are not included in the Framework and are not otherwise reserved by law to the Council will be the responsibility of the Executive in accordance with the Local Government Act 2000.
 - **1.4** The Council, usually at its Annual Meeting, will be responsible for the adoption of the Framework.
 - **1.5** The Executive is responsible for the implementation of the Framework.
 - **1.6** The Appendix to this Part contains a list of the current Framework Components.
-

2. Process of Developing the Framework

Preparation of Timetable

- **2.1** The Executive will publicise, by inclusion in the Forward Plan, a timetable for making proposals to the Council for the adoption of any Framework Component (the "**Proposals**").
- **2.2** With regard to setting a timetable so as to comply with the requirement to set a balanced budget, consideration will be given to:
 - **2.2.1** an early assessment of assumptions that will be used in the drafting of the budget, taking account of financial issues that may have a significant impact on the medium term financial position of the Council;
 - **2.2.2** an overview of the financial position in the coming financial year following publication of the settlement details regarding the anticipated funding from the Government; and
 - **2.2.3** a detailed consideration of items of growth or potential savings.

Role of the Scrutiny Committees

- **2.3** As Scrutiny Committees and Scrutiny Sub-Committees have responsibility for fixing their own work programme, it is for them to decide whether and how to investigate, research or report in detail regarding Framework Components.
- **2.4** The Executive will take any response from any Scrutiny Committee or Scrutiny Sub-Committee into account in drawing up the Proposals.

Role of Council

- **2.5** The Council shall consider the Proposals and:

- **2.5.1** adopt them without amendment;
- **2.5.2** refer them back to the Executive for further consideration; or
- **2.5.3** amend them or substitute its own Proposals.

Result of Council Decision

- **2.6** The Council's decision will be publicised and the notice of decision shall confirm that:
 - **2.6.1** (adoption) - the Proposals will be effective immediately;
 - **2.6.2** (reference back to Executive) - the matter shall be referred back to the Executive;
 - **2.6.3** (amendment or substitution) - the amended/substituted Proposals will become effective on the expiry of five Clear Working Days after the publication of the notice of decision unless the Leader formally objects in writing in that period, in which event:
 - **2.6.3.1** a further, Extraordinary, Council Meeting shall take place within ten Clear Working Days of the receipt of the Leader's written objection; and
 - **2.6.3.2** at that Meeting, the decision of the Council shall be reconsidered in the light of the objection; and
 - **2.6.3.3** the Council shall make a final decision on the Proposals which shall be given effect to immediately.

Extent of Virement by Executive

- **2.7** In approving the Framework, the Council will also confirm the extent of virement permitted within the Budget and degree of in-year changes to the Framework which may be undertaken by the Executive. Any other changes to the Framework are reserved to the Council.
- **2.8** The Council policy in respect of virement/Supplementary Estimates is contained in the Financial Rules (Part 9).

3. Decisions Outside the Framework

Scope

- **3.1** Only the Council may agree the Framework and decisions by Executive Decision Makers must comply with it.

Advice on Decisions

- **3.2** Executive Decision Makers shall take appropriate advice from the Monitoring Officer and/or the S.151 Officer as to whether the decision they want to make is in accordance with the Framework.
- **3.3** If the advice of such Officer is that a decision would not be in accordance with the Framework, then the decision must be referred to the Council for decision, unless the decision is a matter of urgency, in which case the provisions relating to urgent decisions outside the Framework shall apply.

Urgent Decisions Outside the Framework

- **3.4** An Executive Decision Maker may take a decision which is contrary to, or not wholly in accordance with, the Framework if the decision is a matter of urgency and:
 - **3.4.1** it is not practical to convene a Meeting of the Council; and
 - **3.4.2** the Chairman of the relevant Scrutiny Committee, or in their absence the Chairman of Council, or in the absence of both the Vice-Chairman of Council, certifies that the decision is a matter of urgency.
 - **3.5** The reasons why it is not practical to convene a Meeting of the Council and the relevant certification of urgency must be noted on the record of the decision.
 - **3.6** Following the decision, the Executive Decision Maker must provide a report to the next appropriate Meeting of Council explaining the decision, the reasons for it, and why the decision was treated as a matter of urgency.
-

4. In-Year Changes to Framework

- **4.1** Changes to any Framework Component may only be made where the Executive, having taken the advice of the Monitoring Officer and S.151 Officer, is satisfied that the departure is permitted by law, and where it:
 - **4.1.1** will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint; or
 - **4.1.2** is necessary to ensure compliance with the law, ministerial direction or Government guidance; or
 - **4.1.3** is in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.
-

5. Call-in of Decisions Outside the Framework

Officer Advice on Decisions

- **5.1** Where a Scrutiny Committee is considering whether an Executive Decision is, or proposed Executive Decision would be, contrary to the Framework, it shall seek advice from the Monitoring Officer and/or S.151 Officer.

Referring Decisions to Council

- **5.2** If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or s.151 Officer is that the decision is or would be contrary to or not wholly in accordance with the Framework, the relevant Scrutiny Committee must:
 - **5.2.1** commission a report regarding the decision and the advice of the Monitoring Officer and/or the Section 151 Officer (the "**Report**");
 - **5.2.2** refer the matter to Council.
- **5.3** No further action may be taken in respect of the decision or its implementation until the Council has met and considered the matter.
- **5.4** The Council shall:

- **5.4.1** meet within ten Clear Working Days of the request by the relevant Scrutiny Committee;
 - **5.4.2** consider the Report and either:
 - **5.4.2.1** endorse the decision as falling within the existing Framework, in which case no further action is required; or
 - **5.4.2.2** amend the Council's Financial Rules or the Framework Component concerned to encompass the decision and then endorse the decision with immediate effect, in which case no further action is required; or
 - **5.4.2.3** require the Executive to reconsider the matter in accordance with the advice of the Monitoring Officer and/or S.151 Officer.
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Budget and Policy Framework - Appendix

Current Framework - 2022/23

The Framework Components reserved to Council for the municipal year above are:

- The Council's Budget;
- Council Strategy;
- Local Transport Plan;
- Licensing Policy;
- Gambling Policy;
- Plans and strategies which together comprise the Development Plan;
- Statutory Pay Policy Statement;
- Property Investment Strategy.

Part 8 - Contract Rules

1. Introduction

- **1.1** S.135, LGA 1972 ("**s.135**") includes as follows:
 - (1) "A local authority may make standing orders with respect to the making of contracts by them or on their behalf";
 - (2) "A local authority shall make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods or materials or for the execution of works".
- **1.2** These Contract Rules ("**Rules**") are the Council's Contract Standing Orders made in accordance with s.135.
- **1.3** The Procurement Legislation ("**the Procurement Legislation**") referred to in these Rules include the following:
 - **1.3.1** The EU Directives, as follows:
 - Directive 2014/24/EU on public procurement, replacing Directive 2004/18/EC, for Public Sector Contracts;
 - Directive 2014/25/EU procurement by entities operating in water, energy, transport and postal services sectors, replacing Directive 2004/17/EC; and
 - Directive 2014/23/EU on award of concession contracts, which does not directly replace any previous directive.
 - **1.3.2** The Regulations (as amended from time to time and all implementing the above EU Directives), as follows:
 - Public Contracts Regulations 2015 ("PCR");
 - Utilities Contracts Regulations 2016 ("UCR");
 - Concessions Contracts Regulations 2016 ("CCR").

2. Purpose of the Rules

- **2.1** These Rules do not provide guidelines on the best way to purchase works, supplies and services but, rather, they set out minimum requirements to be followed.
 - **2.2** These Rules provide a structure within which procurement decisions are made and implemented to ensure that the Council furthers its corporate objectives in an efficient manner leading to procurement of quality supplies, services and works.
 - **2.3** These Rules protect the legal position of the Council in respect of compliance with the law and in its contractual dealings with external suppliers and contractors. They protect the interests of Members, Officers and the citizens of West Berkshire.
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3. Application

- **3.1** These Rules apply to:
 - **3.1.1** purchases by or on behalf of the Council of works, supplies and services;
 - **3.1.2** all contracts, including (but not limited to) purchase orders, consultancy agreements, service level agreements, software licenses, concessions and contractual arrangements entered into by or on behalf of the Council, except for contracts and purchasing methods expressly excluded under Procurement Legislation.
 - **3.2** The Monitoring Officer (or any officer nominated by the Monitoring Officer for the purpose) shall be responsible for interpreting these Rules.
 - **3.3** If a Governing Body of a school under the control of the Council as Local Education Authority intends to enter into a contract for works, supplies or services, the Headteacher or such persons delegated for the purpose by them must follow these Rules.
 - **3.4** Every purchase, contract or official order for works, supplies or services made by the Council shall be for the purpose of implementing the Council's policies and must be made in accordance with the Council's duties of Best Value, Equality, Sustainable Commissioning and its Social Value Policy.
 - **3.5** When proposing to procure or make arrangements for procuring a service contract where the estimated value exceeds the Threshold (for Services), consideration must be given as to how the procurement or contract might improve the economic, social and environmental wellbeing of West Berkshire, as required by the Public Services (Social Value) Act 2012, and the Council's Social Value Policy.
 - **3.6** Annexed are Appendices comprising Tables referred to.
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4. Authority

- **4.1** All contracts must be in accordance with a decision:
 - **4.1.1** of the Council; or
 - **4.1.2** of the Executive; or
 - **4.1.3** within the Council's Scheme of Delegation by:
 - **4.1.3.1** an Executive Decision-Maker;
 - **4.1.3.2** a Council Committee or Sub-Committee; or
 - **4.1.3.3** an officer or their delegate for the purpose.
- **4.2** No contract shall be entered into unless it is in accordance with an existing budgetary provision within the Budget approved by the Council.
- **4.3** Any contract award with a value over £500,000 is a **Key Decision** of the Council.

- **4.4** Where a Service Director / Head of Service does not have delegated authority to enter into a contract, approval in accordance with Appendix A is required before the contract can be awarded.
- **4.5** All contracts over £50,000 in Total Contract Value will be reported to Procurement Board on at least a quarterly basis by the Service Director / Heads of Services for review and scrutiny.

5. Tendering

Preliminaries

- **5.1** It is the responsibility of the Chief Executive, Executive Directors, Service Directors / Heads of Service, and Budget Holders to ensure all purchases of supplies and services and works comply with:
 - **5.1.1** all relevant statutory requirements;
 - **5.1.2** the relevant Procurement Legislation;
 - **5.1.3** the Council Constitution including these Rules, the Financial Rules and Scheme of Delegation;
 - **5.1.4** any code, guidance or conditions approved by the Governance Committee and/or the Executive and/or the Council and/or the Health and Wellbeing Board to the exercise of powers delegated by them;
 - **5.1.5** any conditions attached by the Executive or the Council to the exercise of powers delegated by them;
 - **5.1.6** the guidance and updates (available from time to time) on the Legal intranet pages (to include Consultancy Guides) and other policies and procedures of the Council as appropriate.
- **5.2** In the event of conflict between the above, the Procurement Legislation will take precedence, followed by the requirements detailed in 5.1 above.

Financial Thresholds & Procedures

- **5.3** Officers undertaking procurement are responsible for ensuring that all persons awarded contracts for the supplies, services or works to the Council meet the Council's minimum standards of suitability, capability, legal status and financial standing.
- **5.4** Where the contract is below the Find a Tender Service ("**FTS**") threshold for goods and services, officers are not required to include a pre- qualification stage. However, questions relating to a supplier's suitability assessment may be included provided such questions are relevant to the subject matter of the procurement and proportionate.
- **5.5** The financial value thresholds (inclusive of Value Added Tax) at which processes become mandatory are set out in Appendix B.

Advertising

- **5.6** There is a general presumption in favour of competition.
- **5.7** All contract opportunities being advertised by the relevant Service Director / Head of Service should be done so electronically on the Council's

Procurement Portal to ensure that such opportunities also appear on the Contracts Finder database. For opportunities relating to works, services and supplies which fall below the FTS threshold a UK Government Certified national database can be used to select tenderers.

- **5.8** All contract opportunities which are:
 - above the FTS thresholds and
 - subject to the full application of EU Rules,

must be advertised by 'FTS notice' and via the Contracts Finder database (a web-based portal provided by the Cabinet Office) prior to such advertisement appearing on any other advertising medium (such as a trade journal etc).

- **5.9** However, under the principles detailed in the Procurement Legislation, where the contract is of potential cross border interest then it must be publicised to ensure that tenderers from other member states have an opportunity to participate and the process is conducted in a fair and transparent manner.
- **5.10** Where a contract is above the FTS financial threshold there are five main types of procedure available:
 - Open Procedure;
 - Restricted Procedure;
 - Competitive Procedure With Negotiation;
 - Competitive Dialogue; and
 - Innovation Partnership.
- **5.11** Care must be taken to ensure that the correct and most appropriate procedure is used and advice is sought from Legal Services and/or Commissioning as necessary on the choice and use of procedures detailed in the Procurement Legislation.
- **5.12** FTS notices must be approved and issued by Legal Services and/or Commissioning as appropriate, who will also assist in the conduct of the procurement

Contract Value & Aggregation

- **5.13** The contract value shall be the total cost of the supply, service or work to be procured over the contract term. The starting point for calculating the contract value for the purposes of these Rules is that the contract value shall be the genuine pre-estimate of the value of the entire contract including Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions, variations and options).
- **5.14** There shall be no artificial splitting or disaggregation of a contract to avoid the application of the provisions of the Procurement Legislation and/or these Rules.
- **5.15** The Procurement Legislation can cover contracts which are below the stated FTS threshold where they constitute repeat purchases and/or purchases of a similar type in a specified period. Officers responsible for such procurement

should therefore seek advice on the application of the Procurement Legislation where they envisage that they may be required to make such purchases.

Principles and Evaluation

- **5.16** All tendering procedures (including obtaining quotes), from planning to contract award and execution (seal or signature), shall be undertaken in a manner so as to ensure:
 - sufficient time is given to plan and run the process;
 - equal opportunity and equal treatment;
 - openness and transparency;
 - proportionality;
 - probity;
 - outcomes that deliver sustainability, efficiency and cost savings (where appropriate).

Submission and Opening of Tenders

- **5.17** An electronic Invitation to Tender shall be issued by the Council for all contracts with an estimated value of £100,000 or more and tenders shall be submitted electronically via the Council's Procurement Portal.
- **5.18** The Council Procurement Portal and the Invitation to Tender must specify the format in which an electronic tender is submitted by tenderers and such tenders shall be stored in a secure portal account which is locked until the date and time specified for its opening.
- **5.19** No tender received after the time and date specified for its opening shall be accepted or considered by the Council unless the Monitoring Officer is satisfied that there are exceptional circumstances and the other tenders have not been opened.
- **5.20** The electronic opening of tenders submitted on the Procurement Portal shall be conducted by a Procurement or Legal Officer and the relevant Service Director / Head of Service or their nominated representative.
- **5.21** Only in limited circumstances should a tender process be undertaken by hard copy submissions. In such cases, the written approval of the Monitoring Officer is required and the following circumstances shall apply:
 - **5.21.1** the Invitation to Tender shall specify that such tenders should be returned to the relevant Head of Service in an unmarked, plain and sealed envelope marked "Tender" followed by the subject matter to which it relates;
 - **5.21.2** tenders shall be kept unopened in a secured cabinet until the tender opening date; and
 - **5.21.3** the relevant Service Director / Head of Services shall invite the appropriate Portfolio Holder and an officer from Legal Services and/or Commissioning to undertake the tender opening and shall complete a standard tender opening form (available on the intranet) in order to avoid risk of challenge.

Evaluations of Quotes and Tenders

- **5.22** All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenders.
 - **5.23** Tenders subject to the provisions of the Procurement Legislation shall be evaluated in accordance with the legislative provisions. Advice from Legal Services should be sought on the selection and evaluation criteria.
 - **5.24** Save in exceptional circumstances approved in advance by the relevant Service Director / Head of Service all contracts shall be awarded on the basis of the quote or tender which is most economically advantageous and represents best value for money to the Council having regard to the provisions of the Social Value Policy, and not only on the basis of lowest price.
-

6. Exclusions and Exceptions to Contract Rules

Exclusions

- **6.1** The requirement to conduct a competitive procurement process is excluded in the circumstances detailed in Appendix C.
- **6.2** In the interests of clarity, where an exemption is applied all contracts with an annual or total value of more than £50,000 must be approved by Procurement Board. Please refer to 5.3.

Exceptions

- **6.3** Subject to **5.4** the requirement for the Council to conduct a competitive purchasing process for contracts in excess of £9,999.99, may be excepted or waived in the following circumstance:
 - **6.3.1** for contracts which are not subject to the FTS Rules, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or
 - **6.3.2** at the discretion of the relevant Executive Director and/or the Chief Executive, acting lawfully, who may proceed in a manner most expedient for the efficient management of the Council with reasons recorded in writing.
- **6.4** Only the Monitoring Officer and/or the S.151 Officer may grant a waiver or an exception to these Rules, subject to exception values and delegation thresholds detailed in these Rules. An officer who seeks a waiver of these Rules shall do so only in advance and only in exceptional circumstances.
- **6.5** Exception values and delegations:
 - **6.5.1** for all contracts up to £50,000 the S.151 Officer must approve the exception;
 - **6.5.2** for contracts above £50,000 and up to £500,000, the S.151 Officer will consult with the Monitoring Officer and the appropriate Executive Director provided an exception report has been approved by Procurement Board;

- **6.5.3** for contracts over £500,000 the S.151 Officer and the Monitoring Officer will make a recommendation to the Executive provided an exception report has been prepared and approved by Procurement Board and Corporate Board.
 - **6.6** All exceptions or waivers to these Rules must:
 - **6.6.1** be fully documented;
 - **6.6.2** for any contract where the requirement to hold a competitive process is not excluded by the Procurement Legislation, be subject to a written exception report to be submitted in advance to Procurement Board by the relevant Head of Service, Service Director or Executive Director (which shall include reasons for the exception or waiver which demonstrate that the exception or waiver is genuinely required);
 - **6.6.3** be subject to approval by the S.151 Officer who shall record they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional (applications for waivers which are a result of poor contract planning will rarely be considered genuinely exceptional);
 - **6.6.4** have had relevant approval sought under these Rules.
 - **6.7** For contracts subject to the Procurement Legislation, any waiver or an exception from the requirement for competition must meet the conditions set out in the Procurement Legislation in addition to the general requirements above.
 - **6.8** The exclusions that apply to the competitive procurement process are set out at Appendix C.
-

7. Purchasing Schemes

- **7.1** A "Purchasing Scheme" may include:
 - **7.1.1** contractor prequalification lists/select lists;
 - **7.1.2** framework arrangements (including those set up by the Government Procurement Service);
 - **7.1.3** purchasing arrangements set up by central purchasing bodies and commercial organizations;
 - **7.1.4** consortium purchasing;
 - **7.1.5** collaborative working arrangements;
 - **7.1.6** formal agency arrangements;
 - **7.1.7** e-procurement / purchasing schemes and methods;
 - **7.1.8** other similar arrangements.
- **7.2** An officer responsible for a procurement exercise may use a Purchasing Scheme provided that they have sought advice to confirm that:
 - **7.2.1** the Council is legally entitled to use the Purchasing Scheme;

- **7.2.2** the purchases to be made do properly fall within the coverage of the Purchasing Scheme;
 - **7.2.3** the establishment and operation of the Purchasing Scheme is in compliance with the Procurement Legislation (where such applies) and meets the Council's own requirements.
 - **7.3** Where a Purchasing Scheme is used, there shall be a whole or partial exemption from the obligations under these Rules in respect of the choice and conduct of procedures. Advice should be sought from Legal Services prior to entering to such arrangements.
-

8. Reporting Requirements

- **8.1** A written report in accordance with the Procurement Legislation shall be produced by the relevant Service Director / Head of Service for each contract that is awarded which is above the FTS threshold and subject to the Procurement Legislation (the Procurement Legislation places an obligation on the Council to document, for each procurement, key decisions and steps taken and stages leading to the award of contracts).
 - **8.2** This report may be requested by the Cabinet Office and shall be kept for three years.
 - **8.3** A guidance note and template for such report is available on the Legal Services intranet pages which accompany these Rules.
 - **8.4** In addition to the above, the relevant Service Director / Head of Service should document the progress of all procurement procedures including ensuring sufficient information is kept to justify decisions such as communications with contractors and internal deliberations, preparation of procurement documents, any dialogue and negotiation, selection and award. Such documentation must be kept for three years from the award of the contract.
-

9. Entering into a Contract

- **9.1** There should be written evidence of all purchases (which shall include electronic evidence).
- **9.2** All contracts entered into by the Council as detailed in Appendix B must be in writing in a form approved by the Monitoring Officer or their delegated officer.
- **9.3** Legal Services shall retain all contract documents that are sealed on behalf of the Council.
- **9.4** The relevant Service Director / Head of Service must formally notify the Head of Commissioning and Procurement (or nominated officer) of the award of all contracts for the purpose of it being recorded on the Council Contract Register.
- **9.5** Every contract shall include the standard clauses set out in the relevant Standard Form of Agreement issued and updated from time to time by the Monitoring Officer or their nominated officer and available from Legal Services.

- **9.6** Where a Standard Form of Agreement is to be amended, the form of contract shall be prepared/amended by the Monitoring Officer or their delegated officer.
- **9.7** As a minimum, where appropriate, all contracts shall include clauses setting out:
 - **9.7.1** the works, supplies/goods, services, material, matters or things to be carried out or supplied;
 - **9.7.2** the time within which the contract is to be performed;
 - **9.7.3** the quality requirements and/or standards that must be met;
 - **9.7.4** requirements on the contractor to hold and maintain appropriate insurance;
 - **9.7.5** the consequences of the contractor failing to comply with contractual obligations in whole or in part;
 - **9.7.6** requirements on the contractor to comply with all relevant legislation, including (but not limited to) equalities and health and safety legislation;
 - **9.7.7** the entitlement of the Council to cancel the contract and recover losses in the event that the contractor acted improperly (eg seeking to influence the Council to give the contractor any contract) or committed an offence under the Bribery Act 2010.
 - **9.7.8** payment obligations requiring that:
 - **9.7.8.1** any payment due from the Council is made no sooner than 30 days from the date on which the relevant invoice is regarded as valid and undisputed; and
 - **9.7.8.2** any subcontract imposes the same obligations upon the subcontractor, and requires that the subcontractor imposes such obligations in any further subcontract.
 - **9.7.9** All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate).

10. Legal Consideration

Indemnities

- **10.1** No relaxation of full indemnities releasing the Council from all liability whether provided by public liability insurance or other instrument shall be allowed unless authorised in writing by the Monitoring Officer and the S.151 Officer or their nominated officers.

Risk Assessment & Performance Bond

- **10.2** Where a contract is estimated to exceed £500,000, in value or amount and is for the execution of works (or for the supplies or services by a particular date or series of dates) the relevant Service Director / Head of Service should

consider requiring a performance bond (for an amount equal to at least 10% of the value of the contract) from the contractor (to provide sufficient security for the due performance of the contract).

- **10.3** The bond must be in a form approved by Legal Services and must be included in the Invitation to Tender.
- **10.4** If a performance bond is not considered to be necessary, the relevant Service Director / Head of Service must:
 - **10.4.1** undertake a risk assessment in writing; and
 - **10.4.2** seek approval from the Head of Finance and Property; and
 - **10.4.3** keep a copy the risk assessment on the contract file for inspection.

Insurances

- **10.5** Every contract should be assessed for risk. If the risk assessment identifies the need for insurance the Service Director / Head of Service must:
 - **10.5.1** in consultation with the Head of Finance and Property or nominated officer set adequate levels of insurance cover (including employer's liability, public liability and any other as determined by the needs of the particular contract);
 - **10.5.2** in consultation with the Head of Finance and Property or nominated officer ensure that such insurances are held by the contractor and that the policies concerned are up to date (and/or renewed, as necessary, during the relevant period);
 - **10.5.3** in consultation with the Head of Finance and Property or nominated officer who must ensure the contractor's status under the Inland Revenue Construction Industry Tax Deduction Scheme (for construction contracts);
 - **10.5.4** in consultation with the Head of Finance and Property set an appropriate level of professional indemnity insurance for each specific contract that require professional and/or design services (this should not be a standard level but be assessed on a case by case basis).

Sealing

- **10.6** The Common Seal of the Council (the "**Seal**") shall be in the Custody of the Monitoring Officer and kept in a safe place at their discretion.
- **10.7** The Seal may be affixed, physically or electronically, to any document or proposal that has been approved by a resolution of the Council or Executive, or of an appropriate Committee, or by an officer with delegated powers.
- **10.8** The affixing of the Seal shall be attested and witnessed in writing by the Monitoring Officer or an officer duly designated by them in accordance with the delegated powers conferred by the Council.
- **10.9** An entry of every sealing of a document shall be made and consecutively numbered in a book or electronic record to be provided for the purpose and shall be signed (including a digital signature) by the person attesting the sealing.

- **10.10** The Seal shall be affixed, physically or electronically, to any document required to be sealed, including but not limited to:
 - **10.10.1** a petition to be presented to Parliament against the promotion of any Bill or confirmation of any Provisional Order which the Council opposes;
 - **10.10.2** a mortgage;
 - **10.10.3** an incomplete form of transfer for the duly authorised sale of securities by the Council as necessary for the purposes of dealing with stocks and shares in accordance with the Stock Transfer Act 1963.
- **10.11** All contracts above the value of £49,999 shall be sealed.

Signature of Documents

- **10.12** Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Monitoring Officer or duly authorised officer.
- **10.13** Where it becomes necessary to execute any document on behalf of the Council not required by law to be under seal, the Monitoring Officer or an officer designated by them in accordance with the delegated powers conferred by the Council shall be deemed to have authority to sign such a document accordingly. A register of such documents shall be kept by the Monitoring Officer or officer duly designated by them.

Counsel:

Only the Monitoring Officer (or nominated officer) shall have discretion to select and instruct Counsel.

Contract Rules - Appendix A

Delegated authority to enter into contracts - limits and thresholds

Total Contract Value*	Delegated decision or Resolution of:
£100,000 or less	Relevant Service Director / Head of Service (or such officers as nominated by the Service Director / Head of Service in writing) shall have delegated authority to award the contract.
£100,000 or more and less than £500,000	Relevant Service Director / Head of Service (following recommendation of the S151 officer and Monitoring Officer) shall have delegated authority to award the contract provided a written report by the relevant Service Director / Head of

	Service (or such officers as nominated by them in writing) has been provided and approved by Procurement Board.
£500,000 or more and less than £2.5million	The award of these contracts shall be a Key Decision delegated to the relevant Service Director / Head of Service in consultation with the relevant Portfolio Holder (following recommendation by the relevant Executive Director, S151 officer and Monitoring Officer) to award the contract provided: a) a written report by the relevant Service Director / Head of Service (or such officers as nominated by them in writing) has been provided and approved by Procurement Board; and b) such decision have been made in accordance with Parts 6.9 (Call-In) and 5 (Forward Plan).
£2.5million or more	Contracts with a value in excess of £2.5million shall require Executive approval, which may be given as below. The Executive shall receive quarterly reports detailing contracts being procured and seeking delegated authority from Executive for the relevant Head of Service or Service Director to award the contract following the procurement process in consultation with the relevant Portfolio Holder, S.151 Officer and the Monitoring Officer.
* Total Contract Value is the calculation of the estimated value of procurement based on the total amount payable, inclusive of VAT, including any renewals, extensions, any form of option and variation calculated in accordance with the Procurement Legislation. Please also refer to Paragraph 11.7.	

Contract Rules - Appendix B

Financial thresholds and mandatory processes

Table showing the financial value thresholds at which processes become mandatory. The thresholds apply to contracts for works, supplies and services.

	Total Value inclusive of VAT	Award Procedure	Advertising requirements

A	£1,000 or more and less than £10,000	At least one quote must be sought from an appropriate source via the Procurement Portal.	None mandated.
B	£10,000 or more and less than £100,000	Invitations to quote must be sent via the Procurement Portal to at least three appropriate sources, including at least one SME* or VCSE* organisation (where appropriate and possible**).	Procurement opportunities and awards in excess of £25,000 must be published on Contracts Finder
C	£100,000 or more and less than relevant FTS threshold***	Full competitive tender process applies and at least five written tenders must be sought via the Procurement Portal.	An advert should be placed on the Portal together with information on the Contracts Finder database
D	Relevant FTS threshold*** or more	Procurement Legislation Procedures apply- full competitive tender process with at least five written tenders sought (where appropriate) via the Procurement portal.	An advert should be placed on the Find a Tender portal together with information on the Contracts Finder database.

*SME (means an enterprise falling within the category of micro, small and medium-sized enterprises) or *VCSE (means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives).

**The Council cannot give preference to SME/ VCSE or local contractors/suppliers, as there are legislative constraints and such a policy would be incompatible with Best Value. However, the Council recognises that there can be barriers limiting or restricting the ability of such smaller suppliers to compete for Council business. The Council will seek to reduce the impact of such barriers, where it can do so legally, without discrimination, and without placing unacceptable levels of risk on the Council.

***There are three different FTS thresholds for Works; Supply and Services; Social and Other Specific Services. The latest values are published on Legal intranet page as updated from time to time.

Contract Rules - Appendix C

Exclusion of competitive procurement process

The requirement to conduct a competitive procurement process is excluded in the circumstances detailed below.

	Circumstance	Written record and approval
A	The proposed contract is excluded under the Procurement Legislation.	Prior written approval from the Monitoring Officer is required.
B	The proposed contract is being awarded under a Purchasing Scheme (refer to 11.12) of a type where a competition has already been undertaken on behalf of the Council or other public sector organisation; or	Prior written approval from the Monitoring Officer is required.
C	The proposed contract is an extension to or a variation of the scope of an existing contract where the existing contract provides for such extension or a variation or where the variation is a modification permitted under the Procurement Legislation.	For contract value below £50,000 prior written approval from the Monitoring Officer and S151 Officer is required. For contract value greater than £50,000, approval of the Procurement Board, following the submission of an extension report to Procurement Board with recommendation from Monitoring Officer and S151 Officer
D	The contract is for the following social care services:	Service Directors / Heads of Service must ensure that a record of the reasons for the choice of provider is maintained on the individual's case notes.

	a) residential placements sought for an individual with a registered care provider of their choice; b) supported living services sought for an individual with an appropriate care and support provider of their choice under the National Health Service and Community Care Act 1990; c) individual school placements sought for a child with Special Educational Needs (SEN); d) social care packages managed by or on behalf of individual clients under the personalisation agenda; e) where certain needs of an individual (either an adult or a child) require a particular social care package, which is only available from a specific provider; f) residential placements sought for an individual under the Shared Lives scheme (or any equivalent scheme).	
In the interests of clarity where an exemption is applied all contracts with an annual or total value of more than £50,000 must be approved by Procurement Board.		

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Part 9 - Financial Rules

1. Introduction

Introduction

- **1.1** The Council is a body corporate which derives its powers from statute. Any organisation with a large financial turnover needs to lay down the procedures to be observed in its financial dealings.
- **1.2** Such procedures are especially necessary in the case of a local authority which is subject to statutory controls, statutory audit, and must account for its actions and stewardship to the general public.
- **1.3** The purpose of these Financial Rules of Procedure ("**Rules**") is therefore to set down basic financial rules and guidance to ensure that there is an approved common standard that is adhered to in the financial dealings of the Council. They do not over-ride the requirement to observe any legislative provisions.
- **1.4** These Rules apply to all areas of the Council and should be read in conjunction with the rest of the Council's Constitution.
- **1.5** These Rules seek to ensure that:
 - **1.5.1** Budget Holders:
 - remain within their budget and only spend what they have in their budget;
 - maintain adequate commitment records;
 - monitor their budgets;
 - report at the earliest opportunity any potential overspend;
 - have effective reporting arrangements from their Budget Holders;
 - report to the Executive Directors details of any problems with budgets.
 - **1.5.2** Executive Directors have in place effective reporting arrangements to ensure that they are advised of any problems with budgets at the earliest opportunity.

Non-Compliance with Rules

- **1.6** The S.151 Officer must, after consultation with the relevant Head of Service/Service Director, report to the Executive any relevant non-compliance with these Rules that come to their attention.

Approval of Head of Finance and Property or Nominated Officer

- **1.7** Where matters are to be considered by the Executive that in any way affect the finances of the Council or that require the supply of financial information by the S.151 Officer, the Head of Service/Service Director concerned must raise this with the S.151 Officer in sufficient time to enable them to report.

- **1.8** The S.151 Officer must approve all financial implications on all committee reports and the relevant implications section of the report template must be completed, in consultation with the relevant officer in Finance.

Interpretation

- **1.9** Any doubt as to the interpretation of these Rules will be a matter for the S.151 Officer in consultation with the Monitoring Officer.

Appendices

- **1.10** These Rules are supported by a number of Appendices, which provide detailed guidance on the following matters (and are to be followed in accordance with these Rules):
 - Treasury Management
 - Revenue Expenditure Controls
 - Capital Expenditure Controls
 - Contract Finance Rules
 - Local Bank Accounts (Imprest/Petty Cash/Procurement cards)
 - Income
 - Salaries and Wages
 - Estates and Inventories
 - Insurance
 - Trust Funds
 - Financial Rules for Schools

2. The Legal Framework

- **2.1** Local authority finance is subject to statutory controls, such as the Accounts and Audit Regulations 2015 (the "**2015 Regulations**"), and the Local Government Finance Acts 1982, 1988 (the "**LGFA 1988**") and 1992.
- **2.2** Regulation 4 of the 2015 Regulations requires:
 - **2.2.1** that the accounting records required by the S.151 Officer are sufficient to show the Council's transactions and to enable the responsible Financial Officer to ensure that any statement of accounts, incoming expenditure account, balance sheet or record of receipts and payments, and additional information to be provided by way of notes to the accounts, comply with the 2015 Regulations and in particular the accounting records contain:
 - **2.2.1.1** entries from day to day of all sums of money received and expended by the Council and the matters to which the incoming expenditure or receipts and payments account relate;
 - **2.2.1.2** a record of the assets and liabilities of the Council; and
 - **2.2.1.3** a record of incoming expenditure of the Council in relation to claims made or to be made by them for contribution grant or

subsidy from any Minister of the Crown, a body to whom such a Minister may pay sums out of monies provided by Parliament, or a European Union Institution.

- **2.2.2** that the accounting controls systems ensure that the financial transactions of the Council are recorded as soon and as accurately as reasonably possible, that there are measures in place to enable the prevention and detection of inaccuracies and fraud and there is the ability to reconstitute any lost records and
- **2.2.3** that the duties of officers dealing with financial transactions are identified and the division of responsibilities of those officers are identified in relation to significant transactions and that procedures for uncollectable amounts including bad Debts will not be written off except with the approval of the S.151 Officer or a member of staff nominated by the S.151 Officer.
- **2.3** In accordance with ss.114 and 114A, LGFA 1988 the S.151 Officer will report to the Council or Executive as relevant if they have reason to believe that:
 - **2.3.1** the Council or Executive, or any part of the Council or Executive:
 - **2.3.1.1** has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful;
 - **2.3.1.2** has taken or is about to take a course of action which if pursued to its conclusion would be unlawful and likely to cause loss or deficiency on the part of the Council; or
 - **2.3.1.3** is about to enter an item of account the entry of which is unlawful.
 - **2.3.2** the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

3. Responsibilities

- **3.1** The S.151 Officer:
 - **3.1.1** shall be responsible for the compilation of the main accounting records for the Council;
 - **3.1.2** may from time to time, after consultation with the Heads of Service/Service Directors affected, issue written "financial instructions" dealing with detailed procedures to be followed in certain matters;
 - **3.1.3** shall be responsible for the maintenance of a management information system, the General Ledger (and no feeder computer system shall be linked into any corporate financial system without prior consent of the S.151 Officer);
 - **3.1.4** shall be consulted at an early stage on any proposals to introduce financial systems (and no such system shall go live without the specific authorisation of the S.151 Officer);

- **3.1.5** has a statutory responsibility for ensuring that adequate systems and procedures exist to account for all Income due to, and expenditure made on behalf of, the Council and that controls operate to protect the Council's assets from loss, waste, fraud or other impropriety, and shall discharge that responsibility in part by the maintenance of these Rules.
 - **3.2** The Council is responsible for the adoption of its Budget and Policy Framework (see Part []), with the Executive responsible for implementing the Framework (which includes regulating and controlling the finances of the Council).
 - **3.3** Heads of Service/Service Directors:
 - **3.3.1** are individually responsible for the proper financial management of resources allocated to their operational areas through the budget setting process, and in accordance with these Rules;
 - **3.3.2** are also responsible for the identification of all Income arising from the activities within their areas - this responsibility includes the accountability for and control of staff, and the security, custody and management of assets including plant, equipment, buildings, materials, cash and stores.
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4. Allocation of Accounting Duties

- **4.1** The following principles shall be observed in the allocation of accounting duties by all employees or consultants engaged by the Council:
 - **4.1.1** the duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
 - **4.1.2** officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
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5. Financial Planning and the Budget Process

Financial Strategy

- **5.1** The S.151 Officer shall prepare annually a financial strategy for the Council for a short (one year), and medium term (three to four year) period.
- **5.2** This will be reported to Corporate Board and the Executive and will set out the parameters for the budget build process for the coming year in the light of likely grant settlement, service pressures, available balances, and consultation with clients and partners of the Council.

Asset Management Strategy

- **5.3** The Service Director with responsibility for Property Services or their nominated officer will produce and maintain an Asset Management Strategy that includes the current accounting period.

Capital and Revenues Budgets

- **5.4** The detailed form of Capital and Revenue budgets shall be determined by the S.151 Officer consistent with the general directions of the Executive and after consultation with Corporate Board.
- **5.5** Heads of Service/Service Directors and their nominated Budget Holders, in consultation with the S.151 Officer, shall jointly prepare for consideration by Corporate Board and the Executive, in accordance with the policies and timescales determined by the Executive:
 - **5.5.1** a draft Capital Programme; and
 - **5.5.2** Revenue Income and expenditure budgets

Submission to Executive

- **5.6** Corporate Board and the Executive must consider the strategic effect of these estimates and programmes upon the Council's financial and other resources.
- **5.7** After any necessary amendments they must be submitted by the Executive to the Council for approval within the required legislative timetable, and with a recommendation of the overall general fund budget requirement and the Council Tax to be levied for the coming financial year.

Approval of Estimates

- **5.8** The estimates, once approved by the Council shall become the Council's Revenue Budget and Capital Programme for the next financial year.
- **5.9** Approval of the annual estimates by the Council will confer authority on the Executive, Committees, and Budget Holders to incur expenditure so provided for the next financial year subject to compliance with the relevant provisions of the Constitution.

6. Internal Audit

- **6.1** In accordance with the 2015 Regulations the S.151 Officer shall arrange for a continuous and current internal audit of all activities of the Council.
- **6.2** Internal Audit will assist Heads of Service/Service Directors and Senior Managers in the effective discharge of their responsibilities by:
 - giving assurance on financial and management control systems;
 - identifying weaknesses;
 - giving advice on how to resolve financial and management problems and improve control;
 - investigating suspected irregularities
 - undertaking advisory/consultancy work; and
 - undertaking Value for Money (VFM) reviews.
- **6.3** Any Member or Officer shall make available documents relating to financial or other records of the Council which relate to their accounting.

- **6.4** Other records, as appear to the S.151 Officer necessary for the purpose of Internal Audit, will be supplied together with any such information and explanation as the S.151 Officer considers necessary for that purpose.
- **6.5** Internal Audit staff are authorised to enter at reasonable times any premises or land owned by or in the control of the Council, if appropriate, and require employees to produce Council property and records under their control.
- **6.6** The Role and Responsibilities of Internal Audit are as follows:
 - **6.6.1** Internal Auditors will at all times respect confidentiality;
 - **6.6.2** Internal Audit will be carried out in accordance with the Public Sector Internal Audit Standards (as revised) issued by [CIPFA](#);
 - **6.6.3** on the conclusion of each internal audit review, Internal Audit will submit a report and recommendations (if any) to relevant Portfolio Holders, Executive Directors, the S.151 Officer, Monitoring Officer (as line management for Internal Audit), Head of Service/Service Director and the Service Manager concerned, and:
 - **6.6.3.1** the Head of Service/Service Director is responsible for agreeing an action plan to implement any recommendations;
 - **6.6.3.2** Executive Directors and the Chief Executive will, through the performance management process, monitor progress on implementation of agreed recommendations;
 - **6.6.4** Internal Audit will report to Corporate Board, and the Governance Committee on the outcome of audit work and progress in implementing audit recommendations;
 - **6.6.5** Internal Audit will confirm whether the policies and procedures approved by the Council are in place and being maintained throughout the Council's operations;
 - **6.6.6** the Audit Manager will produce an annual report for the Governance Committee that will give an opinion on the effectiveness on the Council's system of internal control, risk management and governance.

7. Financial Irregularities

- **7.1** Where matters arise which involve or are thought to involve financial irregularities, the Executive Director and Head of Service/Service Director concerned must ensure that the matter is notified immediately to the S.151 Officer/Monitoring Officer.
- **7.2** Where there is a possibility of criminal proceedings any interviews should be conducted following advice from the Monitoring Officer or the Chief Internal Auditor in consultation with the Service Lead for HR.
- **7.3** A decision to refer matters to the Police will be taken by either the S.151 Officer or Monitoring Officer or Audit Manager.

- **7.4** Should any Member fail to disclose a Disclosable Pecuniary Interest and the matter was referred to the Monitoring Officer they shall refer such breach to the Police in accordance with the Code of Conduct and related procedures.
 - **7.5** Internal Audit shall log details of any financial irregularities they are made aware of, instigate an appropriate investigation (liaising with HR where appropriate), and keep the S.151 Officer and Monitoring Officer up to date regarding progress with the investigation. The S.151 Officer in consultation with the Monitoring Officer will decide if a report is needed to the Governance Committee.
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8. Emergency Provisions

- **8.1** The provision of these Rules does not prevent the Council acting through the Chief Executive, Executive Directors or a Senior Officer from incurring expenditure which is essential to meet any immediate needs created by a sudden emergency or situation in accordance with s. 138, LGA 72.
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Appendix A - Treasury Management

1. Activities of Treasury management

- **1.1** All Treasury Management activities will be carried out in accordance with the CIPFA "Treasury Management in the Public Services Code of Practice and Cross-Sectoral Guidance Notes (the Treasury Management Code) and through the Investment and Borrowing Strategy as currently approved by the Full Council.
 - **1.2** All money in the hands of the Council shall be aggregated for the purposes of Treasury Management.
-

2. Executive Decisions Involving Finance

- **2.1** All Executive decisions on borrowing, investment or financing are delegated to the S.151 Officer who is required to act in accordance with the Prudential Code for Capital Finance 2021 and the Council's Investment and Borrowing Strategy.
-

3. Banking Arrangements

- **3.1** All arrangements with the Council's bankers must be made by or under arrangements approved by the S.151 Officer, who is authorised to operate such banking accounts and other electronic transactions as they may consider necessary.
 - **3.2** No other officer has authority to open a bank account without prior specific written delegation of that authority by the S.151 Officer
-

Appendix B - Revenue Expenditure Controls

1. Budgetary Control

- **1.1** Executive Directors must ensure, through the performance management scheme, that their Service Directors/Heads of Service are managing their budgets, including commitments, appropriately by requiring regular reports from their Service Directors/Heads of Service.

2. Role of Service Directors and Heads of Service

- **2.1** Budgets are allocated to Service Directors/Heads of Service to enable them to deliver services approved by Members through the relevant Service or Department Plan. It is the responsibility of each Service Director/Head of Service to ensure that the budgets for which they are responsible are used to deliver the Service Plan and are not overspent. Where budget pressures indicate that overspending may occur, then the Service Director/Head of Service must apply the rules set out under cash limited budgets below.
- **2.2** Service Directors/Heads of Service are responsible for allocating responsibility for managing each cost centre within their service. They must inform the S.151 Officer or their nominated representative of the allocation and any changes as soon as they occur.
- **2.3** Service Directors/Heads of Service must ensure, through the Performance Management Scheme that their managers who are Budget Holders are properly trained in budget management and apply adequate budgetary control through local commitment accounting.

3. Moving Budgets and Cost Centres

- **3.1** The rules for moving budgets between revenue cost centres (virement) are shown in the table below:

Amount to be moved	Who can approve it?
Within Directorate	
Up to £100k	Relevant Service Director/Head of Service in consultation with Budget Holders and Finance Manager
Over £100k and up to £250k	Executive Director and Finance Manager
Over £250k and up to £500k	Section 151 Officer in consultation with Portfolio Holder, reported to Executive

Amount to be moved	Who can approve it?
Over £500k	Executive
Between Directorates	
Up to £100k	Relevant Executive Directors and Finance Manager
Over £100k and up to £250k	Section 151 Officer in consultation with Portfolio Holder, reported to Executive
Over £250k	Executive
New/additional Government Grant funding	
All values	Section 151 Officer in consultation with Portfolio Holder, reported to Executive

- **3.2** The following transfers will not count as virement for these purposes:
 - **3.2.1** budget movements which occur as a result of year end procedures;
 - **3.2.2** transfers of budgets when a whole service transfers from one Directorate to another;
 - **3.2.3** Income and expenditure budgets related to additional grants not included in the Council's approved budget;
 - **3.2.4** transfers arising from changes in legislation;
 - **3.2.5** any support service recharges (allocation of overheads) for accounting purposes.
- **3.3** Any in year unplanned contributions from reserves will need to be reported to the Executive; those at year end are considered by the Governance Committee as part of approving the Council's financial statements.
- **3.4** Rules on use of funds in an emergency are set out in these Rules.
- **3.5** Any in-year amendments from central government to the Council's net approved budget of 1% or more will require the sign off of the S.151 Officer in

consultation with the Portfolio Holder for Finance, followed by a report to the Executive.

4. Unauthorised Overspend

- **4.1** The unauthorised overspend of a budget may lead to disciplinary action being taken against either or both:
 - **4.1.1** the Budget Holder; and
 - **4.1.2** the Service Director/Head of Service.
-

5. Monthly Statements

- **5.1** The S.151 Officer will provide each Head of Service/Service Director and each Budget Holder with monthly statements of receipts and payments under each cost centre.
 - **5.2** Budget Holders must provide the S.151 Officer with written confirmation at intervals specified by the S.151 Officer that this information is correct, as this information forms the basis of reporting to the Executive.
-

6. Cash Limited Budgets

- **6.1** Budgets are limited to the net annual budget for the relevant service. The Council maintains a general reserve which is to be used in exceptional circumstances where there is an uncontrollable overspend position at the end of the financial year. Therefore, Service Directors/Heads of Service must ensure that they and their Budget Holders do not overspend their service budgets.
 - **6.2** Revenue Expenditure may not be incurred which cannot be met from the amount provided in the revenue budget under the Service for that Service Director/Head of Service to which the expenditure would be charged.
 - **6.3** The Service Director/Head of Service can present an overspend to the relevant Executive Director who can, subject to the delegated limits, consider whether the overspend can be contained within the overall service grouping.
 - **6.4** The S.151 Officer in consultation with the Chief Executive will need to take a view on what is a significant overspend in terms of the overall budget for the Council and anything which they consider significant should be reported to the Executive. In all cases the Rules must be complied with. The approval of the additional expenditure budget may include provision for the repayment of the overspend.
-

7. Exceeding Cost Centre Estimate

- **7.1** Service Directors/Heads of Service may authorise expenditure which would otherwise exceed the estimate for a cost centre, provided that the expenditure:

- **7.1.1** can be met from savings or under spending on other cost centres within the same service with the exception of windfall increases in Income or decreases in expenditure;
 - **7.1.2** will not constitute Capital Expenditure or result in:
 - **7.1.2.1** a change in the level of service provision; or
 - **7.1.2.2** a commitment to incur expenditure in future years; or
 - **7.1.2.3** a change in policy; or
 - **7.1.2.4** a breach of the Council's Workforce Strategy;
 - **7.1.3** is not a virement from a support service recharge code; and
 - **7.1.4** is notified in the prescribed form to the S.151 Officer who may require a report to be submitted to the Executive.
-

8. Carry Forward of Under and Overspends

- **8.1** Genuine provisions for liability, as recognised by the CIPFA Code of Practice in force, must be accounted for in accordance with this guidance. Where Budget Holders wish to carry forward any unspent monies into the next financial year, then they must provide a business case to the Head of Finance and Property. These cases will be assessed against the relevant accounting guidance and the explanations provided in the case. The final decision for the carry forward of under spends is for the Head of Finance and Property. These requests are to be considered by the Finance and Governance Group
 - **8.2** Overspends are not permitted to be carried forward; all known overspends where no action can take place to rebalance budgets should be corrected via service investments and approved by the Council when setting the next financial year's budget.
-

9 . Coding of Expenditure and Income

- **9.1** All expenditure and Income must be charged/credited to the cost centre and appropriate account code to which it relates.
 - **9.2** Miscoding expenditure/Income distorts the Council's financial information and, therefore, may result in disciplinary action being taken against the officer responsible.
 - **9.3** The detailed form of Capital and Revenue budgets shall be determined by the Head of Finance and Property or nominated officer consistent with the general directions of the Executive and after consultation with Corporate Board.
 - **9.4** Journal transfers may only be made if they have been approved by the Budget Holder or accountant in the respective area charged with the expenditure.
 - **9.5** Budget Holders may only charge expenditure against budgets for which they are responsible.
-

Appendix C - Capital Expenditure Controls

1. Council Approval of Capital Strategy and Programme

- **1.1** The Council's approval of the Capital Budget - within the Budget and Policy Framework - constitutes authority for:
 - **1.1.1** capital expenditure to be incurred in the budget year and for commitments to be made on capital schemes included for the budget year and for the previous years to the extent that provision has already been made;

expenditure to be incurred or commitments to be made for advance site acquisition, design fees and other associated preliminary expenditure, but only if an appropriate budget allocation has been approved in the relevant year within the Capital Strategy and Programme.

2. Variations to the Approved Capital Strategy and Programme

- **2.1** The Council's five year Capital Strategy and Programme, which forms an integral part of the Council's Budget and Policy Framework, is generally agreed in March by Council.
- **2.2** Amendments to the approved Capital Programme may only be made in the following ways:

Type of Amendment	Who can approve it
Virements (ie transfers of expenditure budgets between different cost centres)	
Up to £100k per cost centre per transaction within a service	Head of Service/Service Director and Finance Manager
Up to £100k per cost centre per transaction across services within a Directorate	Executive Director and Finance Manager
Up to £100k across Directorates and between £100k and £250k per cost centre per transaction	S151 Officer (or nominated officer) in consultation with the Portfolio Holder for Finance

Type of Amendment	Who can approve it
Over £250k per cost centre per transaction	S151 Officer (or nominated officer) in consultation with the Portfolio Holder for Finance, with the change being subsequently reported to the Executive
New Invest to Save Schemes to be Added to the Budget (ie new schemes, or additions to existing schemes, where the capital financing cost is met from revenue savings)	
Up to £100k per scheme	S151 Officer (or nominated officer) in consultation with the Portfolio Holder for Finance
Over £100k per scheme	Executive
Additions to Expenditure Budgets Funded from Government Grants, Developers Contributions or other sources of external funding	
Up to £100k per cost centre or per source of funding (excluding s106 contributions or CIL	Head of Service/Service Director and Finance Manager
Up to £100k per cost centre per transaction from s106 contributions	Head of Service/Service Director and Chief Accountant in consultation with the Portfolio Holder for the relevant service
All additions from CIL up to £250k and any other additions between £100k and £250k per cost centre per source of funding	S.151 Officer (or nominated officer) in consultation with the Portfolio Holder for Finance
Over £250k per cost centre or per source of funding	S.151 Officer (or nominated officer) in consultation with the Portfolio Holder for

Type of Amendment	Who can approve it
(excluding s106 contributions)	Finance, with the change being subsequently reported to the Executive
Over £250k per cost centre per transaction from s106 contributions	S.151 Officer (or nominated officer) in consultation with the Portfolio Holders for Finance and for the relevant service, with the change being subsequently reported to the Executive
Movement of Capital Budget between Programme Years	
Less than £250k approved budget per cost centre to be brought forward from a future year of the programme	S.151 Officer (or nominated officer) in consultation with the Portfolio Holder for Finance
More than £250k approved budget per cost centre to be brought forward from a future year of the programme	Executive
Any approved capital budget to be reprofiled to later years of the programme	S.151 Officer (or nominated officer) in consultation with the Portfolio Holder for Finance, with the change being subsequently reported to the Executive

3. Other Additional Expenditure Requests

- **3.1** Any other additions to capital budgets (excluding the items in the Table above) outside the agreed budget must be in accordance with the Council's Budget and Policy Framework and approved by the Executive.

4. Moving Expenditure Between Years Within the Capital and Strategy Programme

- **4.1** In general, expenditure on capital schemes can only occur during the year for which approval was given by Council as part of the Capital Strategy and Programme.

- **4.2** In exceptional circumstances and with the endorsement of the relevant Portfolio Holder (relevant Shadow Portfolio Member to be advised for information), following consideration by the Capital Strategy Group, a scheme which has been approved in a later year(s) of the Capital Strategy and Programme may be brought forward, provided that:
 - **4.2.1** sound reasons for so doing are accepted by Capital Strategy Group or
 - **4.2.2** future viability or delivery of the scheme is in question.
 - **4.3** No more than £250,000 of such individual schemes may be brought forward in any financial year.
-

Appendix D - Contract Finance Rules

1. Rules of Procedure

- **1.1** All officers must adhere to the Council's Contract Rules and these Rules before they enter into any contract.
-

2. Official Orders

- **2.1** Official orders shall be issued for all work, goods or services to be supplied to the Council except for supplies of public utility services, for periodical payments (eg rent and rates), petty cash purchases, or such exceptions as the S.151 Officer may approve (included on the Approved List of Payment not Requiring a Purchase Order).
 - **2.2** Orders must clearly state the quantity of the goods and nature of the work or services and whether covered by contract or an agreed price and discounts specified therein or an estimated value.
 - **2.3** No payment shall be made to suppliers without a purchase order having been raised.
-

3. Raising a Purchase Recognition

- **3.1** The/Service Director shall nominate those Officers eligible to raise Purchase Requisitions on the Council's financial system.
 - **3.2** The Finance system converts the Purchase Requisition into a Purchase Order upon the approval of the Budget Holder or nominated Authorising Officer.
-

4. Placing an Order

- **4.1** Unless the service has a budget an order cannot be placed since placing an order commits the Council to the expenditure.
- **4.2** All official orders for goods and services must be raised using the Council's Financial System. Exceptions to this requirement require written approval from the S.151 Officer.

- **4.3** The Council's Finance system will generate the appropriate commitment accounting record of outstanding orders. Verbal orders must not be made except as a matter of genuine urgency and must be confirmed immediately with a written order produced through the Council's Finance System.
 - **4.4** Other than in cases of genuine emergency, no supplier shall be asked to provide goods or services before a purchase order has been issued to them.
-

5. Regular Periodic Payments

- **5.1** Any circumstances causing the cessation or variation of a regular periodical payment must be notified immediately to the Head of Finance and Property or nominated officer.
-

6. Approval of Order

- **6.1** The ability to raise a requisition for goods or services and the subsequent approval and creation of the Order must only be undertaken by Officers nominated by the Head of Service/Service Director. Nominations shall be notified in writing to the Head of Finance and Property or nominated Officer.
 - **6.2** Goods properly supplied or work done without an official order due to a genuine emergency must be covered as soon as possible by a confirmation order.
 - **6.3** The duties of requisitioning goods or services and the subsequent confirmation of their receipt (goods received note process) shall not be performed by the same officer authorising the Order.
 - **6.4** Each Head of Service/Service Director shall be responsible for all orders issued from their Service.
-

7. Goods Received Process

- **7.1** The Head of Service/Service Director or Delegated Officer shall ensure that the Corporate Finance System is promptly updated when goods or services are received.
 - **7.2** Before completing the Goods Received Note process the verifying officer shall, save to the extent that the S.151 Officer may otherwise determine, be satisfied where relevant that the:
 - **7.2.1** goods have been duly received examined and approved as being in accordance with the specification or match the official order and are satisfactory; and/or
 - **7.2.2** works done or services rendered have been satisfactorily carried out and that, the materials used were of the requisite standard; and
 - **7.2.3** proper entries have been made in the inventories or stores records, where appropriate; and
 - **7.2.4** Council's purchasing guidance has been followed.
-

8. Payment of Accounts

Processing of Invoices

- **8.1** It is the Council's policy to pay all invoices within 30 days of invoice date.
- **8.2** It is therefore the responsibility of all staff to assist the Central Payments Team in ensuring invoices can be processed for payment as soon as possible through full compliance with all the relevant financial procedures.

Other Payment Requests

- **8.3** Payment requests shall be prepared in accordance with the format determined by the S.151 Officer who, if satisfied, shall process and pay in accordance with a timetable prepared by them.

Destination of Invoices

- **8.4** Invoices for payment must be sent in the first instance to the Central Payments Team.
- **8.5** Such invoices must be made out by creditors themselves and must not be made out by any officer.

Amendments and Deletions

- **8.6** Amendments to or deletions from an invoice must only be made in exceptional circumstances and must be authorised by the S.151 Officer.
- **8.7** Where changes are required they must be made in ink of a distinctive colour and initialled by, or on behalf of the Head of Service/Service Director, and the reasons, if not obvious, briefly stated on the invoice.
- **8.8** No alterations to a Value Added Tax invoice may be made but a new invoice or credit note must be sought from the supplier.
- **8.9** To avoid the possibility of duplicate payments photocopies or faxes are not accepted as valid invoices except in an emergency.

Payment of Invoices

- **8.10** The S.151 Officer or their nominated officer shall pay all invoices and other payment requests which they are satisfied are in order.
- **8.11** The S.151 Officer shall ensure that appropriate arrangements are in place for ensuring that invoices received in the Central Payments Team are matched against official orders.
- **8.12** Payment of invoices shall only be made when:
 - **8.12.1** the ordering Service has confirmed that the goods have been duly received, examined and approved;
 - **8.12.2** the prices are in accordance with the order;
 - **8.12.3** the payment is in accordance with Council Policy and legally payable;
 - **8.12.4** the account is correct, and that VAT is properly accounted for where appropriate;
 - **8.12.5** the item has not been previously passed for payment and is a proper liability of the Council.

- **8.13** The normal method of payment of money due from the Council shall be by electronic transfer or other instrument drawn on the Council's bank account by the S.151 Officer.

Examination of Accounts

- **8.14** The S.151 Officer may at their discretion examine the verified accounts passed for payment, as to their compliance with Council regulations, contracts, accepted tenders or other authorities and for this purpose shall be entitled to receive such information and explanation as may be required.
-

Appendix E - Local Arrangements

1. Imprest/Petty Cash Advances

- **1.1** The S.151 Officer will provide imprests and petty cash advances, where appropriate, to officers for the purpose of defraying expenses.
 - **1.2** A receipt shall be signed in respect of each advance by the officer concerned, who shall be responsible for accounting for monies.
 - **1.3** A receipt should be signed in respect of sub-floats issued to officers.
-

2. Changes to Officers

- **2.1** Any changes to officers responsible must be immediately notified to the S.151 Officer.
 - **2.2** An outgoing imprest holder must reconcile the imprest to the total amount held.
 - **2.3** An incoming responsible officer should satisfy themselves that all is in order before accepting responsibility for the imprest.
-

3. Disbursements

- **3.1** Vouchers for disbursements must be obtained, and attached to claims for reimbursement.
 - **3.2** Claims must be properly certified and forwarded for payment to the S.151 Officer at specified intervals, normally not exceeding one month.
 - **3.3** Nil returns will be forwarded to the S.151 Officer if no reimbursement is required.
-

4. Security of Cash

- **4.1** Heads of Service/Service Directors are responsible for ensuring that all cash is kept in a safe and secure place and that bank accounts are reconciled on a regular basis, not less than monthly.
- **4.2** A bank statement must be received at least monthly for all imprest bank accounts.

- **4.3** Heads of Service/Service Directors are advised for reasons of security that cash balances of greater than £250 must be kept in a bank account.
-

5. Use of Imprest Accounts

- **5.1** Imprest accounts can be used for amounts up to £250:
 - **5.1.1** to pay for local purchases by cheque at the time of collection or delivery;
 - **5.1.2** to secure discounts or take advantage of special offers;
 - **5.1.3** to reimburse staff who have purchased small value items directly;
 - **5.2** All such payments must be supported by VAT invoices or receipts.
-

6. Use of Imprest Funds

- **6.1** Imprest funds must never be used to pay salaries, wages, or other employee expenses, ie travel/subsistence and removal/relocation expenses, without the specific approval of the S.151 Officer (such payments may attract liability to Income Tax or National Insurance contributions and must therefore be made via the payroll system).
-

7. Examination of Local Bank Accounts

- **7.1** The Head of Finance and Property or nominated officer may at their discretion examine and reconcile Local Bank Accounts and for this purpose shall be entitled to receive such information and explanation as may be required.
-

8. Use of Procurements Cards

- **8.1** A standard template application form must be submitted to Accountancy in Finance and Property before any request for a new card will be considered.
 - **8.2** Card applications will be reviewed and approved by the Finance Governance Group.
 - **8.3** Cards must only be used as per the corporate guidance (provided when a card is issued/readily available from Accountancy).
-

Appendix F - Income

1. Local Collection of Monies

- **1.1** The framework and regulation of the collection of all monies due to the Council shall be subject to the approval of the S.151 Officer and shall comply with these Rules.
- **1.2** The S.151 Officer shall be notified promptly of all monies due to the Council and of contracts, leases and other agreements and arrangements entered into

which involve the receipt of money by the Council - the S.151 Officer or officer nominated by them shall have the right to inspect any documents or other evidence in this connection as they may decide.

- **1.3 "Income"** includes any money paid or due to the Council as a result of sales, fees, and/or charges.
 - **1.4 "Debt"** shall refer to any Income due to the Council.
-

2. Invoicing for Sums Due

- **2.1** Each Head of Service/Service Director shall establish procedures to ensure that invoices are raised on the Council's Finance System in respect of work done, goods supplied, services rendered and all other amounts due to the Council.
 - **2.2** These procedures must ensure that all invoices due are raised promptly in order to assist recovery of Debts.
-

3. Payment of Amounts Due

- **3.1** All accounts rendered in respect of amounts due to the Council shall contain a statement that payment must be made to the Council.
-

4. Payments made to Service Units

- **4.1** Each Head of Service/Service Director shall be responsible for the prompt collection of such Income as may be due to the Council from activities within their service area and must make proper arrangements for receipting, holding and banking of this Income.
-

5. Payment into Council Accounts

- **5.1** All monies received by an officer on behalf of the Council shall be banked without delay.
-

6. Issue of Receipts

- **6.1** Every sum received by a cashier or other officer of the Council shall be immediately acknowledged by the issue of an official receipt, ticket or voucher except in the case of cheques other arrangements may only be established with the express approval of the Head of Finance and Property or nominated officer.
 - **6.2** All official receipts, tickets, books and other cash tokens shall, except by special arrangements approved by the S.151 Officer, be controlled and issued to Service Units by the S.151 Officer or their nominated officer, who shall keep a register of their receipt and issue. Departments shall keep proper records of the issue and use of all receipts, tickets and cash tokens.
-

7. Recording Receipt of Movies

- **7.1** Each officer who receives monies on behalf of the Council, or for which they are accountable to the Council, shall keep records in a form approved by the S.151 Officer or nominated officer.
-

8. Transfer of Monies

- **8.1** Every transfer of official money from one member of staff to another will be evidenced in the records of the departments concerned by the signature of the receiving officer.
-

9. Write-Offs - Income

- **9.1** No Debt shall be discharged otherwise than by payment in full or by the writing-off of the Debt or the unpaid portion of it.

Write-off of Debts

- **9.2** A Debt may only be written off on the authority of the S.151 Officer:
 - **9.2.1** where the Debt does not exceed £25,000 and:
 - **9.2.1.1** the Debt is not enforceable; or
 - **9.2.1.2** attempted recovery is likely to involve expensive litigation with limited hope of success; or
 - **9.2.1.3** the cost of recovery would be disproportionate to the amount involved;
 - **9.2.2** with the agreement of the Portfolio Holder for Finance where the Debtor is formally insolvent and the Debt is between £25,000 and £100,000.
 - **9.3** All other Debts may only be written off following approval by the Executive.
 - **9.4** Any Debt written off shall be properly recorded on the Council's Financial System.
 - **9.5** Written off Debts will be charged back to the originating budget.
 - **9.6** Budget Holders will be provided with details of those Debts where write off is appropriate, and such details are to include information on recovery action already taken.
 - **9.7** In exceptional circumstances officers, having consulted Corporate Board, may recommend to the Executive that a Debt should not be written off to the service budget but written off corporately.
-

10. Charging for Services

Review of Service Charges

- **10.1** All Heads of Service/Service Directors shall review their charges for services at least annually with the object of ensuring that the Income is increased by not less than the rate of inflation experienced by that service. Such review must be carried out as part of the Council's budget build process (the timetable for this is published each year).

Unmet Estimates

- **10.2** Where it appears that Income targets as set out in the Council's estimates will not be met then the Head of Service/Service Director shall either meet the shortfall from within the service budgets or apply for an additional expenditure budget.
-

Appendix G - Salaries and Wages

1. Responsibility for Payments to Employees

- **1.1** The Service Director Strategy and Governance or nominated officer shall be responsible for making arrangements for the payment of all salaries, wages, pensions, compensation and other payments to all current and former employees of the Council.
-

2. Notification of Relevant Matters

- **2.1** Heads of Service/Service Directors shall notify Human Resources/Payroll as soon as possible and in the approved form, of all matters affecting the payment of salaries and wages, and in particular regarding:
 - **2.1.1** appointments, resignations, dismissals, suspensions, secondments and transfers;
 - **2.1.2** absences from duty for sickness or other reason apart from approved leave;
 - **2.1.3** changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - **2.1.4** information necessary to maintain records for compliance with Inland Revenue reporting on benefits provided to staff.
-

3. Appointment of Employees

- **3.1** Appointments of all employees shall be made in accordance with the Constitution and the approved grades and rates of pay.
-

4. Externally Funded Posts

- **4.1** Before confirming an appointment to a fixed term contract, the recruiting manager must seek advice from HR to ensure the funding source from which the post is being funded is sufficient to cover the exit costs liability in the event of non-renewal by reason of redundancy.
 - **4.2** The Council must not become liable to pay redundancy payments arising from externally funded appointments except in exceptional circumstances and where the relevant Executive Director and Portfolio Holder have confirmed that the directorate has the budget to cover the exit costs liability.
-

5. Timesheets & Overtime Claims

- **5.1** The Head of Service/Service Director, or other authorised officer, shall be responsible for the authorisation of all staff timesheets and overtime claims.
-

6. Travelling and Subsistence

- **6.1** All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be made in a form approved by the S.151 Officer and shall be submitted to the payroll section, duly authorised.
 - **6.2** The Service Director, Strategy & Governance or nominated officer shall make payments in accordance with Statute, Regulations, Schemes and Conditions of Service and any resolutions of the Council.
 - **6.3** The authorisation by or on behalf of the Head of Service/Service Director shall be taken to mean that the authorising officer is satisfied that:
 - **6.3.1** the journeys were authorised;
 - **6.3.2** the expenses were properly and necessarily incurred;
 - **6.3.3** the most economical method of travelling was undertaken; and
 - **6.3.4** the allowances are properly payable by the Council.
 - **6.4** Officer's claims should be submitted promptly at the end of each month in which the journeys were made or the expenses incurred. The Service Director, Strategy & Governance or nominated officer may refuse to make payment of claims over two months old.
-

7. Members Allowances

- **7.1** Members Allowances will be dealt with in accordance with Part 14 (Members' Allowances Scheme).
-

Appendix H - Estates and Inventories

1. Responsibility of Service Directors/Heads of Service in Relation to Asset Register

- **1.1** The Head of Finance and Property or their nominated officer will maintain an asset register of all land and properties owned by the Council, recording:
 - **1.1.1** the purpose for which the property is held;
 - **1.1.2** the location, extent and plan reference(s);
 - **1.1.3** purchase details where available; and
 - **1.1.4** details of interest and rents payable and particulars of tenancies or other interests granted.
- **1.2** This register will also be updated by the assets team as appropriate.
- **1.3** The Service Director responsible for Education or nominated officer must notify all changes to the asset register to the nominated officer responsible for Risk Management for updating of the insurance database.

- **1.4** The S.151 Officer is responsible for producing an Asset Management Plan which is approved at Full Council as part of the Capital Strategy.
-

2. Custody of Deeds

- **2.1** The Monitoring officer has custody of all title deeds under secure arrangements.
-

3. Valuation of Assets

- **3.1** The S.151 Officer shall ensure that all assets are valued (reinstatement and open market valuation) for capital accounting purposes in accordance with the latest CIPFA code.
-

4. Notification of Purchase or Disposal

- **4.1** Any purchases or disposals of property for which responsibilities are assumed under any contract must be notified to the S.151 Officer. Additionally, the nominated officer responsible for insurance must be notified to ensure that the Council's databases are fully up to date and accurate.
-

5. Preparation of Inventories

- **5.1** Inventories in a form approved by the S.151 Officer shall be prepared and kept up to date by each Head of Service/Service Director for all moveable plant, machinery, or items which are considered to be portable and desirable belonging to the Council.
 - **5.2** Details of make model and serial numbers should be recorded where relevant so items can be individually identified.
 - **5.3** Inventories should be updated in a timely fashion to reflect acquisitions or disposals. Disposals should be approved by the relevant manager.
-

6. Checking and Maintenance of Inventories

- **6.1** The S.151 Officer shall be entitled to check stores and equipment and be supplied with such information relating to the accounting, costing and financial records of the Council.
 - **6.2** Heads of Service/Service Directors shall arrange in respect of their inventories for an annual check. Evidence of the annual check should be recorded. Where possible the roles of maintaining the inventory and checking the inventory for completeness and accuracy should be undertaken by two separate officers.
 - **6.3** All items belonging to the Council which are required to be included on the inventory shall be marked as the property of the Council.
-

7. Stocks/Stores

- **7.1** Each Head of Service/Service Director shall ensure so far as relevant:
 - **7.1.1** the proper custody of their stocks and stores in their Service Unit and shall ensure that they are subject to an effective system of stock recording and control;
 - **7.1.2** that stores are held in reasonable quantities and that consideration has been given to turnover, value, delivery quantities and delivery periods;
 - **7.1.3** that practicable steps are taken to ensure that a delivery note is submitted by a supplier for every delivery at the time of delivery;
 - **7.1.4** as soon as practicable after the delivery has been made that goods are checked to ensure that the correct quantity has been delivered and that they meet the appropriate quality standard;
 - **7.1.5** that no articles or goods are removed from stock without proper authority;
 - **7.1.6** that stocktakes are carried out in accordance with the procedures laid down by the S.151 Officer;
 - **7.1.7** that an annual review of stocks held is undertaken with a view to reducing the number of slow moving items and disposing of obsolete stock items;
 - **7.1.8** that obsolete or other stocks no longer required for the purpose acquired are disposed of under arrangements approved by the S.151 Officer;
 - **7.1.9** that accounts and records are maintained in connection with the receipt and issue of stores in such form and timetable as the S.151 Officer may approve after consultation with the Statutory officers;
 - **7.1.10** that on 31 March each year the value of stocks held is certified and reported to the S.151 Officer.
-

8. Surplus or Deficiency

- **8.1** Where any surplus or deficiency is revealed in excess of £5,000 in any item of stock the Chief Internal Auditor shall be advised.
 - **8.2** The appropriate form should be completed for any deficiency and sent to the nominated officer responsible for Risk Management.
 - **8.3** A report shall be presented to the Statutory Officers in order that authority to write off deficiencies or bring surpluses into charge may be obtained.
-

9. Checking of Stock

- **9.1** The S151 Officer is entitled to check stores and be supplied with any information relating to the accounting, costing, and financial records of the Council.
-

10. Disposal of Surplus or Obsolete Goods, Plant and Stocks

- **10.1** Surplus or obsolete goods or plant, whether held in store, on inventories must not be disposed of either by sale or destruction except upon the authorisation of:
 - **10.1.1** the relevant Executive Director where the value of the item or group of items is up to £10,000;
 - **10.1.2** the S.151 Officer in consultation with the relevant Portfolio Holder where the value is £10,000 or above.
 - **10.2** In relation to inventory items (eg IT equipment) all items surplus to requirements should, in the first instance, be offered to other Council departments, schools etc prior to being disposed of.
 - **10.3** Sale must be effected by public tender except when, in the opinion of the appropriate Executive Director and the S.151 Officer or Chief Executive (if the Executive Director is the S.151 Officer), the financial interest of the Council is better served by disposal by any other means. This could be by public auction.
 - **10.4** A record of each disposal should be maintained (for example, the approval, the price obtained and if appropriate the alternative method of disposal used). Inventories or stock records should be up-dated in a timely fashion to reflect the disposal.
 - **10.5** Income from disposals shall be credited to the holding service unit.
 - **10.6** Value Added Tax shall be accounted for on the sale proceeds if appropriate and the amount identified when banking the Income. The S.151 Officer or their nominated officer should be contacted if clarification of the VAT position is required.
-

Appendix I - Insurance

1. Responsibility for Insurance

- **1.1** The S.151 Officer is responsible for the arrangement of risk funding on advice from the Chief Financial Accountant.
 - **1.2** The administration and resolution of all losses is the responsibility of the nominated officer in consultation with other officers where necessary by reporting to the S.151 Officer.
-

2. Record of Insurances

- **2.1** The S.151 Officer will keep a permanent record of all insurances, risks covered, premiums paid and of all self-funded risks and losses paid. This includes third parties arranging insurance where the Council has an insurable interest.
 - **2.2** Documents to be permanently retained must include policy schedules and all liability insurance certificates for every period of insurance. Such responsibilities may be delegated to the nominated officer.
-

3. Incident/Accident Reporting

- **3.1** Every event with the potential to give rise to a financial loss, or involving injury to a member of staff, an elected Councillor or client of the Council, must be reported via the Council's incident reporting system.
 - **3.2** It is the responsibility of the Head of Service/Service Director to ensure that there are nominated staff trained to input information on the Council's reporting systems.
 - **3.3** Any serious incidents covered by Reporting of Injuries, Diseases or Dangerous Occurrences Regulations (RIDDOR) will be automatically reported to the Health and Safety Executive, once inputted onto the system by nominated staff.
-

4. Review of Risk Financing Arrangements

- **4.1** The S.151 Officer and the Chief Financial Accountant shall annually review the Council's risk financing arrangements and look at adequacy of provision in the light of changes in the environment including new legislation, imposed or contractual responsibilities, legal precedent, newly-identified and quantified risks, or other concerns identified.
-

5. Consultation

- **5.1** Before any indemnity requested from the Council is provided, the Head of Service/Service Director responsible shall obtain written agreement from the S.151 Officer.
 - **5.2** Generally Heads of Service/Service Directors should not allow burdens or responsibilities to be imposed on the Council through contract that would not otherwise be imposed by common law or statute.
-

6. Hiring of Professional Services

- **6.1** Heads of Service/Service Directors must provide, on a quarterly basis, through the budget monitoring process, full details of all professional services hired or sold to others and the estimated fee Income for the twelve month period ahead.
 - **6.2** The S.151 Officer will ensure that appropriate professional indemnity insurance is in place for the exposure notified.
-

7. Security - Responsibility for Security

- **7.1** All Heads of Service/Service Directors are responsible for maintaining proper security at all times for all information, buildings, stocks, stores, furniture, equipment and cash under their control and shall consult via the Head of Service/Service Director chairing the Security Group or nominated officer (such as the Information Security officer or Facilities Manager) where they consider security is thought to be defective or where they consider special arrangements are needed.

- **7.2** Appropriate security controls for all assets shall be identified by the risk assessment process and by referring to security standards and procedures. Arrangements shall be agreed as above.
 - **7.3** Maximum limits for cash holdings shall be identified by the risk assessment process and agreed with the S.151 Officer and shall not be exceeded without permission.
 - **7.4** Key holders for safes and similar security receptacles are to be agreed by each Head of Service/Service Director in conjunction with the S.151 Officer. The loss of keys shall be reported immediately using the security incident reporting procedures.
-

Appendix J - Trust Funds and Private Funds

1. Responsibility of officers

- **1.1** Officers administering any funds (Trust or Private) on behalf of others shall declare all such funds to the S.151 or nominated officer and shall deposit all securities etc., relating to such funds, with the S.151 or nominated officer unless the deeds otherwise provide.
-

2. Funds Held by Schools

- **2.1** All funds held by Schools shall be declared to the Board of Governors.
-

3. Funds Held on Behalf of Others

- **3.1** All funds held on behalf of others (Trust or Private) shall be subject to an annual audit, which shall be undertaken by a suitably qualified person. A copy of all audit reports and the final accounts shall be made available, on request, to Internal Audit for information. In respect of Schools, the audit report and the findings shall be presented to their School Governors.
-

4. Value Added Tax

- **4.1** Officers who are responsible for the administration of Trust or Private funds shall be responsible for ensuring that all Value Added Tax is correctly accounted for, and shall have due regard to the treatment of Value Added Tax on donated funds (as detailed in Section 15 of the Local Government Act 1972).
-

5. Investment

- **5.1** Officers shall be responsible for ensuring that Trust and Private Funds are appropriately invested for the benefit of the fund. Advice as to the most appropriate method of investment will be obtained from the Head of Finance and Property or nominated officer.
-

Appendix K - Schools

1. Financial Rules Applying to Schools (Fair Funding Scheme)

- **1.1** In relation to Schools operating under the Council's Fair Funding Scheme the basis for advice and guidance to governors and head teachers is contained in these Rules and in the Council's Contract Rules.
- **1.2** Under West Berkshire's Scheme of Local Management for Schools (Fair Funding), governors will be required to observe certain financial conditions relating to:
 - **1.2.1** arrangements for the management of delegated expenditure, in particular for authorising expenditure, or transactions involving commitments to expenditure;
 - **1.2.2** the keeping and auditing of accounts and records (including school funds);
 - **1.2.3** the provision to the Local Education Authority (LEA) of copies of accounts and records (including school funds) and any other relevant documents and information that the LEA may, from time to time, require from the governing body.
- **1.3** Entering into a finance lease is prohibited without the consideration and permission of the Head of Finance and Property.

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Part 10 - Access to Information Rules

1. Terms of Rules

Terms used in these Rules have the meaning given to them in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

2. Application of Rules

These Rules apply to all meetings of the Council, its Committees, Sub-Committees, Commissions, the Governance and Ethics Committee, and public meetings of the Executive (together called "meetings").

3. Additional Rights to Information

These Rules do not affect more specific rights to information contained elsewhere in this Constitution or the law.

4 Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these Rules.

5 Notices of Meeting

The Council will normally give at least five clear working days notice of any ordinary meeting by posting details of the meeting at Council Offices, Market Street, Newbury, and on its website.

6 Access to Agenda and Reports before the Meeting

The Council will make copies of the agenda and those reports that are available open to the public for inspection at the designated office and on its website at least five clear working days before the meeting. 'To follow' reports will be open to inspection from the time the item is published.

7 Supply of Copies of Information

The Council will supply copies of:

- any agenda and reports which are open to public inspection on payment of a charge for postage and any other costs;
- any further statements or particulars necessary to indicate the nature of the items in the agenda on payment of a charge for postage and any other costs; and

- if the Head of Strategic Support thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs.

8 Access to Agendas, Reports and Minutes after the Meeting

The Council will make available copies of the following for six years after a meeting:

- the Minutes of the meeting or records of decisions taken, (together with reasons), for all meetings of the Executive - excluding any part of the Minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- a summary of any proceedings not open to the public where the Minutes open to inspection would not provide a reasonably fair and coherent record;
- the agenda for the meeting; and
- reports relating to items when the meeting was open to the public.

9 Background Papers

9.1 List of Background Papers

The Head of Strategic Support will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- disclose any facts or matters on which the report or an important part of the report is based; and
- which have been relied on to a material extent in preparing the report;

but does not include published works or those which disclose exempt or confidential information (as defined in **Rules 10.1 (Requirement to Exclude Public) to 10.4 (Meaning of Exempt Information)** and in respect of Executive reports and the advice of a political advisor.

9.2 Public Inspection of Background Papers

The Council will make available for inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9.3 Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices at Market Street, Newbury.

10 Exclusion of Access by the Public to Meetings

10.1 Requirement to Exclude Public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Meaning of Confidential Information

'Confidential information' means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.3 Exempt Information

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Meaning of Exempt Information

'Exempt information' means information for the time being defined in Section 100I of the Local Government Act 1972 and specified in Part 1 of Schedule 12A of the Local Government Act 1972 subject to any qualifications contained in Part 2 of the Schedule and as amended by the Local Government (Access to Information) (Variation) Order 2006. The categories of exempt information are set out in the table below:

	Category	Condition (Qualification) (if any)
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).	Information falling within Paragraph 3 is not exempt information by virtue of that Paragraph if it is required to be registered under: • the Companies Acts (as defined in section 2 of the Companies Act 2006) • the Friendly Societies Act 1974

	Category	Condition (Qualification) (if any)
		- the Friendly Societies Act 1992 - the Co-operative and Community Benefit Societies Act 2014 - the Building Societies Act 1986 - the Charities Act 2011
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 - to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or 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.	

Information falling within any of the above Rules is not exempt by virtue of that Rule if it relates to proposed development for which the local planning authority may grant

itself planning permission or permission in principle pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

Information which:

(a) falls within any of paragraphs 1 to 7; and

(b) is not prevented from being exempt by virtue of Paragraph 8 or 9 above is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.5 Exclusion of Access by the Public to Reports

If the Head of Strategic Support thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with **Rules 10.1 (Requirement to Exclude Public) to 10.4 (Meaning of Exempt Information)** the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

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Part 11 - Scheme of Delegation

1. Delegation of Functions

1.1 Introduction

This section of the Constitution summarises which part of the decision making process is responsible for which function. Further detail is set out in paragraph 3.2 (Officer's Scheme of Delegation) of this Constitution.

The aim is to show which functions are the responsibility of the Council, the Area Planning Committees, Licensing Committee/Sub-Committee, the Governance and Ethics Committee and the Personnel Committee and which are the responsibility of the Executive. This section also clarifies which functions are the responsibilities of the Executive to a specified extent. Delegation to Partners is also included in this section.

The allocation of functions follows the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, and as subsequently amended, referred to in the tables that follow as 'The Function Regulations'. The information is set out in tabular form as follows:

Table 1 - Responsibility for Local Choice Functions

Table 2 - Council Functions

Table 3 - Licensing Authority Functions

Table 4 - Executive Functions

Table 5 - Partners

1.2 Table 1- Responsibility for Local Choice Functions

Function	Decision-Making Body	Delegation of Function
Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Regulations 2000	Executive	Some highway-related functions under the Berkshire Act 1986 are delegated to the Head of Transport and Countryside or other Heads of Service, depending on the function concerned. See Scheme of Delegation

Function	Decision-Making Body	Delegation of Function
The determination of an appeal against any decision in relation to employment matter made by or on behalf of the Authority	Employment Appeals Panel	These functions will not be further delegated.
The determination of Appeals relating to council tax, home-to-school transport and Tourist Information Signs or any other appeal which is not otherwise specified but which must be determined by Members of the Council	Appropriate Appeal panel	These functions will not be further delegated
The appointment of Review Boards under regulations under Subsection (4) of Section 34 (Determination of Claims and Reviews) of the Social Security Act 1998	Council	These functions will not be further delegated.
The making of arrangements pursuant to Sub-section (1) of Section 67 of, and Schedule 18 to, the 1998 Act (Appeals against the Exclusion of Pupils)	School Appeals Panel	These functions will not be further delegated.
The making of arrangements pursuant to Section 94(1) and (4) of, and	Appeals Panel	These functions will not be further delegated.

Function	Decision-Making Body	Delegation of Function
Schedule 24 to, the 1998 Act (Admissions Appeals)		
The making of arrangements pursuant to Section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom Section 87 applies: appeals by Governing Bodies)	School Appeals Panel	These functions will not be further delegated.
The making of arrangements under Section 20 (Questions on Police Matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a Police Authority	Council	These functions will not be further delegated.
The making of appointments under paragraphs 2 to 4 (Appointment of Members by Relevant Councils) of Schedule 2 (Police Authorities established under Section 3) to the Police Act 1996	Leader of the Council	These functions will not be further delegated.
Any function related to contaminated land	Licensing Committee	Functions delegated to the Head of Public Protection and Culture, in accordance

Function	Decision-Making Body	Delegation of Function
		with the Scheme of Delegation
The discharge of any function relating to control of pollution or the management of air quality	Licensing Committee	Functions delegated to the Head of Public Protection and Culture in accordance with the Scheme of Delegation
The serving of an Abatement Notice in respect of a statutory nuisance	Licensing Committee	Functions delegated to the Head of Public Protection and Culture in accordance with the Scheme of Delegation
The passing of a resolution to which Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area	Licensing Committee	Functions delegated to the Head of Public Protection and Culture in accordance with the Scheme of Delegation
The inspection of the Authority's area to detect any statutory nuisance	Licensing Committee	Functions delegated to the Head of Public Protection and Culture in accordance with the Scheme of Delegation
The investigation of any complaint as to the existence of a statutory nuisance	Licensing Committee	Functions delegated to the Head of Public Protection and Culture in accordance with the Scheme of Delegation
The obtaining of information under Section 330 of the Town	District/Area Planning Committees	Functions delegated to the Head of Development and Planning in

Function	Decision-Making Body	Delegation of Function
and Country Planning Act 1990		accordance with the Scheme of Delegation
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	District/Area Planning Committees	Functions delegated to the Head of Development and Planning in accordance with the Scheme of Delegation
Functions delegated to the Head of Development and Planning in accordance with the Scheme of Delegation	District/Area Planning Committees	Functions delegated to the Head of Development and Planning in accordance with the Scheme of Delegation
The appointment of any individual: a) to any office other than an office in which they are employed by the Authority; b) to any other body than: i) the Authority; ii) a Joint Committee or Sub Committee of two or more Authorities; or c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment	Executive (for specified appointments) Council for Council functions	These functions will not be delegated further.
The making of agreements with other Local Authorities for the placing of staff at the	Executive	Function delegated to Chief Executive where

Function	Decision-Making Body	Delegation of Function
disposal of those other Authorities		an emergency situation exists

1.3 Table 2 - Responsibility for Council Functions (Schedule 1 of the Functions Regulations)

Functions	Functions	Functions
Functions relating to elections	Council	Some of these functions are delegated to the Returning Officer as set out in the Scheme of Delegation
Functions relating to the name and status of areas and individuals	Council	These functions will not be further delegated
Power to make, amend, revoke or reenact bylaws	Council	These functions will not be further delegated
Power to promote or approve local or personal Bills	Council	These functions will not be further delegated
Functions relating to pensions, severance payments and premature retirements	Council	These functions will not be delegated further except for requests for the early release of pensions. (Where the total cost to the Council of a termination will exceed £10,000, the costs must first be approved by the Executive. Below £10,000, the costs must be approved by the Chief Executive in consultation

Functions	Functions	Functions
		with the Leader and Shadow Leader of the Council) which are delegated to the Personnel Committee
Miscellaneous functions. Duty to approve Authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be)	Governance and Ethics	These functions will not be further delegated
Duty to make arrangements for proper administration of financial affairs, etc.	Council	Function delegated to Head of Finance and Property as set out in the Scheme of Delegation
Power to amend the Council's Constitution	Council	These functions will not be further delegated - although the Head of Legal Services may make minor amendments to the Constitution in order to ensure that legislative provisions are current and any typographical or other errors are corrected
Power to appoint Officers for particular purposes (appointment of 'Proper Officers')	Personnel Committee	These functions will not be further delegated
Duty to designate an Officer as the Head of the Authority's Paid	Personnel Committee	These functions will not be further delegated

Functions	Functions	Functions
Service and to provide staff		
Duty to designate an Officer as the Monitoring Officer, and to provide staff	Personnel Committee	These functions will not be further delegated
Duty to designate an Officer as the Council's section 151 officer	Personnel Committee	These functions will not be further delegated
Duty to designate an Officer as the Director of Adult Social Services	Personnel Committee	These functions will not be further delegated
Duty to designate an Officer as the Director of Children's Services	Personnel Committee	These functions will not be further delegated
Power to make Standing Orders as to contracts	Council	Function delegated to the Head of Finance and Property and to the Head of Legal Services as set out in the Scheme of Delegation
Power to make payments or provide other benefits in cases of maladministration, etc.	Council	This function is delegated to the appropriate Head of Service for payments / benefits up to the value of £2,500
Functions relating to Town and Country Planning and Development Control	District/Area Planning Committees	Functions are delegated to the appropriate Area Planning Committee (Eastern and Western). Where their proposed

Functions	Functions	Functions
		resolutions are deemed by the Development Control Manager to have a significant impact on the implementation of the policies and proposals in the Local Development Plan, these will be referred to the District Planning Committee. Functions delegated to the Head of Development and Planning as set out in the Scheme of Delegation. Some functions are delegated to the Head of Development and Planning in consultation with the Head of Legal Services as set out in the Scheme of Delegation.
Powers relating to the Planning and Compulsory Purchase Act 2004	Area Planning Committees	Functions delegated to the Head of Development and Planning as set out in the Scheme of Delegation
Licensing and registration functions	Licensing Committee	Functions delegated to the Head of Public Protection and Culture as set out in the Scheme of Delegation
Power to make closing order in respect of take-away shops	Licensing Committee	Functions delegated to the Head of Public Protection and Culture as set out in the Scheme of Delegation
Functions relating to health and safety (except those relating to	Licensing Committee	Functions delegated to the Chief Executive and / or the Head of Public Protection and Culture as

Functions	Functions	Functions
the Council as an employer)		set out in the Scheme of Delegation
Duty to keep and maintain a register of commons	Area Planning Committees	Functions delegated to the Head of Legal Services as set out in the Scheme of Delegation
Duty to keep definitive maps and statement under review	Area Planning Committees	Functions delegated to the Head of Transport and Countryside as set out in the Scheme of Delegation
Powers relating to the preservation of important hedgerows	Area Planning Committees	Functions delegated to the Head of Transport and Countryside as set out in the Scheme of Delegation
Functions relating to public rights of way	Individual Decision Scheme	Functions delegated to the Head of Transport and Countryside in consultation with Head of Legal Services as set out in the Scheme of Delegation
Powers relating to the preservation of trees	Area Planning Committees	Functions delegated to Head of Transport and Countryside as set out in the Scheme of Delegation
Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Council	Powers to appoint staff at Head of Service level and above delegated to the Personnel Committee by means of an Appointments Panel. Appointments below Head of Service level are

Functions	Functions	Functions
		delegated to the Chief Executive or the relevant Head of Service
As set out in Article 8 of this Constitution	Governance and Ethics Committee	These functions will not be further delegated

1.4 Table 3 - Summary of Licensing Authority functions in accordance with the Licensing Act 2003 (except where delegated below)

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for a Premises Licence (Section 18(3))		If a representation is made	If no representation is made
Application for a Personal Licence (Section 120(7))		If a representation is made	If no representation is made
Application for a Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate (Section 18(3) and 72(3))		If a representation is made	If no representation is made

Application for provisional statement (Section 31(3))		If a representation is made	If no representation is made
Application to vary Premises Licence/Club Premises Certificate (Sections 35(3) and 85(3))		If a representation is made	If no representation is made
Application to vary designated Personal Licence (Section 39(3))	If Police representation is made	If Police representation is made	All other cases
Request to be removed as a designated Personal Licence holder			All cases
Application for transfer of Premises Licence (Section 44(5))	If Police representation is made	If Police representation is made	All other cases
Application for interim Authorities (Section 48(3))	If Police representation is made	If Police representation is made	All other cases
Application to review Premises Licences/Club		All cases	

Premises Licence (Sections 52(2) or (3) and 88(2) or (3))			
Decision on whether a complaint is irrelevant, frivolous or vexatious			Officer in consultation with the Chairman and Vice-Chairman of the Licensing Committee or other appropriate appointed Members for this purpose.
Decision to object when Local Authority is a consultee and not the lead Authority			All cases
Determination of a Police representation to a temporary event notice (Section 105(2))		All cases	
Rights of Entry to investigate Licensable activities (Section 179)			Licensing Officers

1.5 Table 4 - Summary of Executive Functions

Responsibility	Delegation of Functions	Onward limits on delegations
Executive	The formulation, review and monitoring of the Budget and Policy Framework, including consultation with relevant Committees, members of the public and interested parties, and the submission of recommendations for amending the Budget and Policy Framework of the Council	This function will not be delegated
Executive	The implementation of the approved Budget and Policy Framework, except in relation to those functions set out in Tables 1 and 2 of Part 3 of this Constitution which are shown as the responsibility of the Council or its Committees. This will include the management, control and supervision of : measures to promote the economic, environmental and social wellbeing of the District the development and review of plans and strategies to support the Council's Budget and Policy Framework and statutory responsibilities the Council's own financial and property resources Revenue Services and Benefits administration Support Services Library and Information Services Education Services and the promotion of Lifelong Learning Social Services and Health Environmental Services including planning,	Functions will be delegated to the Chief Executive, Corporate Directors and Heads of Service in accordance with the Scheme of Delegation Functions delegated to the Head of Paid Service (Chief Executive in accordance with Scheme of Delegation and in consultation with Members of the Joint Consultative Panel)

Responsibility	Delegation of Functions	Onward limits on delegations
	countryside, public protection and highway services	
Executive	Representing the Council and the District to the public, other organisations and agencies, both within the District and at a regional / national level	This function will, in part, be delegated to the Chief Executive under the Scheme of Delegation

1.6 Table 5 - Summary of Partner Functions

Responsibility	Delegation of Functions	Onward limits on delegations
Registered Social Landlords	Serving of Community Protection Notices in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.	
Police Community Support Officers	Serving of Community Protection Notices and Fixed Penalty Notices in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.	

2. Officers' Scheme of Delegation

2.1 Scope of Scheme

2.1.1

This Scheme sets out the extent to which the powers and duties of the Council shall be delegated to Officers. It encompasses both existing legislation (to include but not limited to primary and secondary legislation, Orders and regulations etc.) and shall be deemed to include references to amending, substituted or extending legislation in force from time to time.

2.1.2

Powers designated to a Head of Service under this Scheme of Delegation shall

immediately transfer to a successor Head of Service following a transfer of any functions as a result of a restructuring of Council Services.

2.1.3

The Scheme operates under Sections 101 and 151 of the Local Government Act 1972, Section 9E of the Local Government Act 2000 and all other powers under which the Council exercises its functions.

2.1.4

The Scheme places an obligation on Officers to keep Members properly informed of action arising within the scope of these delegations.

2.1.5

For the purposes of Section 101 of the Local Government Act 1972 the Council may authorise an Officer of the Authority to commission and monitor work for and on behalf of the Council by people who are not Officers of the Authority. Such people will be bound by this Scheme and the obligations contained in it at all times when they are engaged on Council business.

2.1.6

The term "Officer" means any employee of the Council and includes any person engaged as a contractor, consultant or otherwise to perform the functions of an employee of the Council (and includes statutory officers, directors and managers).

2.2 Consultation

2.2.1

In exercising delegated powers, Officers shall consult other Officers as appropriate and shall have regard to any advice given. Consultation in areas of financial, legal, personnel and property will be of paramount importance which includes the Council's strategic partners.

2.2.2

Officers shall liaise closely with the Executive on executive functions and the Chairmen of the Area Planning Committees and District Planning Committee or Chairman of the Licensing Committee on regulatory functions and Group Spokesmen before exercising delegated powers in relation to any matter which is likely to be regarded as politically sensitive or contentious.

2.2.3

Officers shall inform the local Ward Member(s) when they exercise any delegated powers affecting their Ward and when the matter is likely to be regarded as politically sensitive or contentious.

2.2.4

It shall always be open to an Officer to consult the Executive, the Area Planning Committees, the Licensing Committee, Personnel Committee or the Leader before the exercise of delegated powers; or not to exercise delegated powers but to refer the matter to the Executive, the relevant Committee or to Council for decision.

2.3 Conditions of Delegation

By this Scheme, and subject to the limitations and reservations contained in it:

- (a) Council authorises the Officers identified personally to exercise the powers specified herein; and
- (b) powers delegated to Directors and Heads of Service may be exercised by any

other duly authorised Officer on their behalf.
(c) Powers delegated to Heads of Service may be exercised by the appropriate Corporate Director or the Chief Executive.

If any case where the Officer given general authorisation to act considers that a new departure in policy is likely to be involved or if the implications are such that they consider, after consulting the Chief Executive, that reference should be made to Members, the matter shall be referred to the Executive or the relevant Area Planning Committee for consideration.

Exercise of delegated powers by Sub-Committees or Officers does not, by virtue of Section 101(4) Local Government Act 1972, prevent the Executive the Council or its Committees from exercising those functions or powers.

(Note: Directors and Heads of Service need to ensure that substantial matters dealt with under delegation are recorded.)

2.4 Overall Limitations

2.4.1 Matters not Delegated

The Scheme does not delegate to Officers any matter:

- reserved to full Council by Standing Orders;
- reserved to the Executive or a Committee by the Scheme;
- withdrawn from delegation by the Scheme; and
- which may not by law be delegated to an Officer.

2.4.2 General Requirements

Any exercise of delegated powers shall comply with:

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

2.4.3 Exercising Delegated Powers

In exercising delegated powers, Officers shall have regard to any report by the Head of the Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or Section 66 of the Local Government Act 2000 or a report of the Section 151 Officer which is produced under Section 114 of the Local Government Finance Act 1988.

2.4.4 Financial Powers

Any decision taken under this Scheme must be made within the approved Revenue and Capital Budgets, subject to any discretion allowed by the Financial Rules of Procedure.

Acceptance of quotations and tenders and entering into contracts must be in accordance with the Finance Rules of Procedure and the Contract Rules of Procedure, detailed at Parts 10 and 11 of the Constitution.

2.4.5 Legal Powers

Any reference to the power to administer or enforce the provisions of any Act, Order or Regulation etc., shall include the power to decide whether to administer or otherwise enforce those provisions. Any reference to the power to commence or institute legal proceedings shall include the decision to commence proceedings or prosecute, as well as all other action in the matter (including in appropriate cases, the power to reach a settlement, withdraw or discontinue proceedings).

3. General Delegation to Corporate Directors/Heads of Service

All Corporate Directors and Heads of Service shall be authorised to exercise the following powers and functions of the Council to the extent that they fall within the remit of their Service (or in the case of Directors, within the Directorate):

3.1 Legal Matters

3.1.1

Service of requisitions for information as to ownership of any property under statutory powers.

3.1.2

Authority to apply for planning permission in respect of projects and minor modifications to projects subject to a report on the action taken being submitted to the Executive.

3.1.3

To grant, renew, refuse or cancel any authorisation that may be required under the Provisions of the Regulation of Investigatory Powers Act 2000 insofar as it affects their service area. This function may be delegated to third tier Officers but may not be delegated further.

3.2 Human Resources

3.2.1

To agree temporary posts provided costs are contained within service staffing budgets (in accordance with West Berkshire Council's Conditions of Service).

3.2.2

Employment of consultants to advise on specialist aspects of work within the relevant Service Area

3.2.3

Advertisement of staff vacancies within establishment (in accordance with the Council's recruitment procedures).

3.2.4

To fill a post without advertisement (in consultation with the Service Head, Human Resources and appropriate Trade Unions).

3.2.5

Appointment of staff to posts below second tier.

3.2.6

Determination of starting point within grade.

3.2.7

To sign job offers and/or contract of employment for:

- Corporate Director appointments (by Chief Executive)
- Heads of Service appointments (by Chief Executive or responsible Corporate Director)
- Other employee appointments (Corporate Director, Head of Service or Officer delegated by one of these)

3.2.8

To agree flexible contracts, including job share, home working and term-time working (in consultation with Corporate Director, Head of Human Resources and appropriate Trade Unions).

3.2.9

Confirmation of appointments on completion of probationary period.

3.2.10

Exercise of the discretion contained within the National Conditions for sick payment entitlements.

3.2.11

Approval of car purchases and car leases in accordance with West Berkshire Council's Conditions of Service and the Council's relevant policies (in consultation with the Head of Finance and Property).

3.2.12

Extension of industrial accident pay (in consultation with the Head of Finance and Property).

3.2.13

Approval of application of West Berkshire Council Service Related Additional Payments Scheme (in consultation with the Head of Human Resources).

3.2.14

Approval of variations to Council payment schemes (in consultation with the Head of Human Resources and where appropriate with employees representatives).

3.2.15

To implement the Council's disciplinary and grievance procedures in accordance with West Berkshire Council's Conditions of Service.

3.2.16

To sign contracts for external employment services within approved budgets (with agreement of Corporate Director or Officer delegated by one of these).

3.2.17

Authorising attendance of Officers at professional, administrative and educational meetings, conferences and courses.

3.2.18

To determine new organisation structures below Head of Service level provided that:

- there are no resultant redundancies;
- the change is following consultation with relevant staff, existing staff; and
- the change can be contained within service budgets.

3.2.19

In consultation with the Head of Finance and the Head of Legal Services, to make ex-gratia payments in respect of claims not exceeding £1,000 in respect of damage or injury resulting from the actions of clients looked after by the District Council both in relation to young people and adults.

3.2.20

General organisation of services within policy laid down by Council.

3.2.21

To determine whether a post falls within the definition of a 'sensitive post' under the Local Government and Housing Act 1989 and should therefore be included on the list of sensitive posts within the Council, which are subject to political restriction.

3.3 Tenders/Contracts

No Officer shall place orders or authorise contracts to be awarded, otherwise than in accordance with the Council's Financial Rules of Procedure and Contract Rules of Procedure, as set out in this Constitution.

3.4 Emergencies

If the Council needs to act urgently in any matter including, without limitation, complying with the Major Incident Plan or taking any action under new legislation of powers, the Chief Executive may authorise any action taken or expenditure occurred as necessary. A Corporate Director may act in the place of the Chief Executive where the Chief Executive is unwell, unobtainable or where there is no Chief Executive in post. The Chief Executive, or Corporate Director as appropriate, may delegate responsibility to a Head of Service or other nominated Officer where it is considered appropriate.

3.5 Delegation to Specific Directors

(a) The Corporate Director Communities:

3.5.1 .

3.5.2

Is authorised to give consent to the marriage of a young person in care pursuant to Section 3 of the Marriage Act 1949 as amended by the Family Law Reform Act 1969.

3.5.3

Is authorised to exercise the powers of the Council under paragraph 20 of Schedule 2 of the Children Act 1989 in relation to the death of children looked after by local authorities.

3.5.4

Is authorised to exercise the functions of the Council under Part VII of the Children Act 1989 in relation to the provision of accommodation by voluntary organisations.

3.5.5

Is authorised to approve the registration of children's homes under Part VIII of the Children Act 1989.

3.5.6

Is authorised to agree Service Level Agreements/Joint Arrangements with other agencies in respect of the provision of joint leisure, cultural and information services

3.5.7

Is authorised to appoint Officers to act as Approved Mental Health Professionals under the Mental Health Act 1983.

(b) The Corporate Director Economy and Environment:

3.5.8

Is authorised to make changes to the Integrated Waste Management contract regarding operational matters in order to achieve improvements to the quality and efficiency of the service provided by the Contractor in consultation with the Section 151 Officer and Monitoring Officer and the Portfolio Holder for Waste.

3.5.9

Any such decision shall be recorded in writing on an agreed Decision Form signed by all consultees in order to provide a recognised audit trail of all such decisions and to ensure Member consultation.

3.5.10

The financial limits set out in the constitution will provide the basis of any financial assessment of the benefit or otherwise of any amendment to the operational requirements of the contract and under the above process will require approval by the Section 151 Officer.

3.5.11

The Corporate Director (Economy and Environment) retains the option to refer any matter to the Executive having assessed the potential risk to the Council and impact on service provision to the public.

(c) The Chief Executive:

3.5.12

Is authorised to approve new and revised HR policies and procedures. The Chief Executive may decide to refer particular HR policies and procedures to the Personnel Committee rather than exercise the delegation.

3.6 Schedule of Proper Officer Appointments

The following Officers have been appointed Proper Officer for the purposes of exercising the functions under the legislation referred to below:

Section	Function	Exercised by
Local Government Act 1972		
83	Witness and receipt of declarations of acceptance of office	The Chief Executive or Head of Legal Services
84	Receipt of declarations of resignation of office	The Chief Executive or Head of Legal Services

Section	Function	Exercised by
86	Declaration of a vacancy	The Chief Executive or Head of Legal Services
88(2)	Convening of meeting of Council to fill a casual vacancy in the office of Chairman	Head of Strategic Support
89(1)(b)	Receipt of notice of casual vacancy from two local government electors	The Chief Executive or Head of Legal Services
100B-F	Circulation of Reports and Agendas Supply of Papers to the Press Summaries of Minutes Members' Right to Papers Compilation of Lists Background Papers and Identification of Background papers	The Head of Strategic Support
115(2)	Receipt of money due from Officers	Head of Finance and Property
146 (1)	Declarations and certificates with and regards to securities	Head of Finance and Property
151	Officers having responsibility for the administration of the Council's financial matters	Head of Finance and Property or deputy appointed in writing
191	Functions with respect of Ordnance Survey	Head of Development and Planning
210(6) & (7)	Charity functions of holders of offices with existing	Head of Legal Services

Section	Function	Exercised by
	authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to Proper Officers	
212(1) & (2)	Proper Officer to act as local registrar for Land Charges Act 1925	Head of Strategic Support
225(1)	Proper Officer for the depositing with the Independent Adjudicator the list of politically restricted posts under Section 2(4) of the Local Government & Housing Act 1989	Chief Executive
225(1)	Deposit of Documents	Head of Legal Services
228(3)	Accounts of 'any Proper Officer' to be open to inspection by any Member of the authority	Head of Finance and Property
229(5)	Certification of photographic copies of documents	Appropriate Director or Head of Service from which the document originates
234	Authentication of all documents on behalf of the Council	Appropriate Director or Head of Service from which the document originates
	Sealing of all documents on behalf of the Council	Head of Legal Services or their deputy authorised in writing.

Section	Function	Exercised by
236(9)	To send copies of byelaws for Parish records	Head of Legal Services
	To receive copies of byelaws and deposit them with public documents of Parish or community	Head of Legal Services
238	Certification of Byelaws	Head of Legal Services
248	Keeping a Roll of Freeman	Head of Strategic Support
Sch. 12 Para 4(2)(b) & 4(3)	Signature of summonses to Council meetings	Head of Strategic Support
	Schedule 12 Receipt of notices regarding Para 4(3) address to which summons to meetings is to be sent	Head of Strategic Support
Sch. 14 Para 25(7)	Certification of resolutions under Para 25 of Schedule 14	Head of Strategic Support
Sch. 16 Para 28	Receipt on deposit of lists of protected buildings (Sections 146(6) and (7) of the Town & Country Planning Act 1990	Head of Development and Planning
Local Government (Miscellaneous Provisions) Act 1976		
Section 41	Certification of minutes and resolutions	Head of Strategic Support

Section	Function	Exercised by
Representation of the People Act 1983		
Section 8	Registration Officer and the Deputy Registration Officer	Chief Executive Elections and Land Charges Manager
Section 35	Returning Officer for elections	Chief Executive
General		
To ensure that the Council's policies on Data Protection and Freedom of Information are complied with.		Head of Strategic Support
Any reference to any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any Instrument made before 26th October 1972, which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.		Chief Executive Corporate Directors
Any reference in any enactment passed before or during the 1971/72 session of Parliament, other than the Local Government Act 1972, or in any Instrument made before 26th October 1972, to the Public Health Inspector of a District or Borough Council which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.		Head of Public Protection and Culture

Section	Function	Exercised by
	For the purpose of: - Marriage Act 1949 - Registration Services Act 1953 - Local Registration Scheme - Provisions relating to new governance of the Registration Services	Head of Public Protection and Culture with Superintendent Registrar as deputy
	Designated Officer as 'Head of Paid Service' under the provisions of the Local Government and Housing Act 1989	Chief Executive
	Designated Officer as 'Monitoring Officer' under the provisions of the Local Government and Housing Act 1989	Head of Legal Services or deputy appointed in writing.
	Signing and authorising all property valuations on behalf of the Council	Head of Finance and Property
	Carrying out the various statutory duties required under the Weights and Measures Acts 1963 and 1985 and/or any regulations or amendments made there-under on behalf of the Council.	The most senior qualified Trading Standards Officer as approved and appointed by the Head of Public Protection and Culture
	Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997.	Head of Finance and Property
	Neighbourhood Planning (Referendums) Regulations 2012	Head of Development and Planning
	Any proper officer post not specified in the above list.	The Chief Executive

Section	Function	Exercised by
In the event of any Officers appointed as Proper Officer being absent or otherwise unable to act, the following Officers have been authorised to act as Proper Officers in their place:		
	For the Chief Executive	Appropriate Corporate Director or other officer authorised in writing by the Chief Executive.
	For the Head of Legal Services	Legal Services Managers within Legal Services with relevant knowledge
	For the Head of Finance and Property	Appropriate Corporate Director or deputy authorised in writing by the Head of Finance and Property.
	Others	Appropriate Corporate Director

3.7 Delegations to Heads of Service

Specific delegations are granted to Heads of Service as set out in section 4 to 21 below.

4. Head of Adult Social Care

Subject to the reservations and exceptions set out in this Scheme, the Head of Adult Social Care shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to Adult Social Care, which shall include but not be limited to the following:

- The Care Act 2014
- Mental Health Act 1983
- Mental Capacity Act 2005

4.1 Residential and Nursing Home Accommodation

4.1.1

Subject to the Council's Contract Rules of Procedure and Financial Rules of Procedure, to authorise and approve the maintenance costs for the admission of any person to any residential or nursing home accommodation and enter into such contracts.

4.1.2

To authorise applications to the Court of Protection for the Council to act as Financial and Property Affairs Deputy (Authorisation for Health and Welfare applications to remain with the Head of Legal Services).

4.1.3

To act as Financial Deputy in all matters in which it is appropriate for the Council to act and in accordance with any Court Orders made by the Court of Protection.

4.1.4

Better Care Fund

4.1.5

Quarterly Performance Reporting

4.1.6

To approve performance reporting for the Better Care Fund Programme.

4.2 Home Care Services: Financial Matters

4.2.1

In accordance with procedures approved in advance by the Head of Finance and Property to waive the assessment charges for any services to clients in circumstances where it is essential for the family for social and/or medical reasons and to record every case requiring such action in a register to be provided for this purpose.

4.2.2

In accordance with procedures agreed in writing in advance, with the Head of Finance and Property, to vary or waive the charges for any service provided by the Council under Part III of the Children Act 1989 and Community Care legislation where failure to do so would adversely affect the welfare of the child/ or adult in question.

4.2.3

Within the provisions of community care legislation, to arrange for the purchase and provision of appropriate care services to those persons assessed as having needs that fall within the Council's agreed priorities, subject always to appropriate Contract and Financial regulations, the approved policies and estimates of the Council and the proper identification of appropriate suppliers including carers.

Mental Health Act 1983

4.2.4

To accept a guardianship application and to exercise the powers of guardianship under the Mental Health Act 1983

4.2.5

To exercise the functions of the Nearest Relative under the powers contained in the Mental Health Act 1983 and the Mental Health Act 2007 in all matters in which it is appropriate for an Officer of the Council so to act.

Deprivations of Liberty

4.2.6

To authorise deprivations of liberty in accordance with Schedule A1 of the Mental Capacity Act 2005.

4.2.7

To authorise applications to the Court of Protection in conjunction with the Head of Legal Services for those being deprived of their liberty falling outside Schedule A1 of the Mental Capacity Act 2005.

5. Head of Children and Family Services

Subject to the reservations and exceptions set out in this Scheme, the Head of Children and Family Services shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to Children and Family Services, which shall include but not be limited to the following:

- Children Act 1989
- National Health Service and Community Care Act 1990
- Children Act 2004
- Children and Young Persons Act 2008
- Children and Families Act 2014
- Children and Social Work Act 2017

In accordance with procedures agreed in writing in advance with the Head of Finance and Property, to vary the assessment scale in respect of financial contribution by a parent or young person to any service provided by the Council under Part III of the Children Act 1989 to the child in question.

5.1 Child Protection

5.1.1

To exercise the functions of the Council in relation to the duty to make investigations as necessary to decide whether action should be taken to safeguard or promote the welfare of children.

5.1.2

To take such action as is necessary to bring a child or young person before a Court where it is considered that there are grounds for bringing care proceedings.

5.1.3

To present an application to a Court for the variation or discharge of any care order or supervision order.

5.1.4

To present an application to a Court for a Child Assessment Order, an Emergency Protection Order or a Recovery Order.

5.2 Accommodation, Care, Fostering and Adoption

To provide accommodation, care, fostering and adoption services for children in need, including by the arrangement of interest free loans to foster parents.

5.3 Home Care Services: Financial Matters

5.3.1

In accordance with procedures approved in advance by the Head of Finance and Property to waive the assessment charges for any services to clients in circumstances where it is essential for the family for social and/or medical reasons and to record every case requiring such action in a register to be provided for this purpose.

5.3.2

In accordance with procedures agreed in writing in advance, with the Head of Finance and Property, to vary or waive the charges for any service provided by the Council under Part III of the Children Act 1989 where failure to do so would adversely affect the welfare of the child in question.

6. Head of Commissioning

Subject to the reservations and exceptions set out in this Scheme, the Head of Commissioning shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to commissioning, which shall include but not be limited to the following:

6.1

Specifically in relation to Care Act 2014: market shaping, promoting quality & supporting sustainability places statutory duty on LA for Market Shaping and the need to commission effective appropriate commissioned services as well as managing market failure and market interruptions.

6.2

Through the function of Care Quality the Care Quality Commission (Registration Regulations) 2009 (SI 2009/3112) to provide Care Quality Commission with access to information to inform the assessment of quality of care provided to people who use services, the Commissioning Service meets the duty to provide explanation of a relevant matter where so requested by Care Quality Commission.

6.3

Health & Social Care Act 2008: to ensure failing services are improved and to support improvement of services - by ensuring Care Quality Commission views are fed in.

6.4

to make arrangements to secure a range of services as set out in The Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2012.

6.5

In the delegated function of commissioning services on behalf of CCGs the Commissioning Service meets the NHS Act 2006 (Supply of goods and services by the local authority and the duty to cooperate with the National Health Service.

6.6

commissioning and providing direct support for schools catering in line with the School

Standards and Framework Act 1998 Secondary - Education (Nutritional Standards and Requirements for School Food) (England) Regulations Supports statutory function.

7. Head of Customer Services and ICT

Local Government (Miscellaneous Provisions) Act 1982 - Section 38 - Use of spare capacity of computers of Local Authorities.

8. Head of Development and Planning

8.1 General

8.1.1

Subject to the reservations and exceptions set out in this Scheme, the Head of Development and Planning shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to town and country planning and housing, which shall include but not be limited to the following:

- Town and Country Planning Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning (Hazardous Substances) Act 1990
- Planning and Compulsory Purchase Act 2004
- Planning Act 2008
- Housing and Planning Act 2016
- Localism Act 2011
- Housing Grants, Construction & Regeneration Act 1996
- Caravan Act 1968
- Local Government and Housing Act 1989
- Housing Act 1985
- Housing Act 1996
- Housing Act 1988
- Housing Act 2004
- Homelessness Reduction Act 2017

8.1.2

Subject to the conditions set out below, the determination, granting or refusal of Notifications and Applications for permission, certification approval or consent relating to developments and works.

8.1.3

Subject to the conditions set out below, the approval or refusal of items reserved or conditioned by any permission, approval or consent.

8.1.4

Subject to the conditions set out below, the determination of applications for advertisement consent.

8.1.5

In respect of applications determined by the District Planning Committee or relevant Area Planning Committees and subject to the conditions set out below and consultation with the Ward Members, the acceptance of minor amendments to schemes already permitted, approved or consented to.

8.1.6

Prior to determination of submitted application, the acceptance of amendments to submitted application for permission approval or consent.

8.2 Conditions

8.2.1

The delegations set out above shall be exercised subject to the following:

The Area Planning Committees shall reserve the authority to determine any type or class of application.

8.2.2

The Council may modify or revoke the scheme of delegation at any time.

8.2.3

An application may be referred to the appropriate Area Planning Committee for determination by:

- (a) the relevant Area Planning Committee Chairman; or
- (b) a Member for the Ward to which the application relates;
- (c) a Member for a Ward adjoining the Ward to which the application relates.
- (d) the Head of Development and Planning or the Development Control Manager

8.2.4

Members who wish to 'call-in' an item to be discussed at an Area Planning Committee will be required to complete the agreed pro forma which must be submitted either in hard copy by letter or fax or electronic copy via e-mail. The consent of the Chairman of the appropriate Area Planning Committee, or if unavailable, the Vice-Chairman, is required.

(Note: If the Chairman or, if unavailable, the Vice-Chairman, does not give consent then the application will not be referred to a Planning Committee.)

The Officers will refer for determination to the appropriate Area Committee any application, including:

8.2.5

Where the application is a major one or there are five or more objections and it is submitted by, or on behalf of West Berkshire Council, or where the land in question is owned by the Council if there are five or more objections or if the application is a major one:

8.2.5.1 those submitted by or on behalf of a member of staff of Planning,

8.2.5.2 those submitted by or on behalf of a West Berkshire Council Member, if there are five or more objections or if the application is a major one;

8.2.5.3 those recommended for approval, for which a petition of objection has been received of at least 20 signatories;

8.2.5.4 those recommended for approval, for which at least 10 letters of objection have been received;

8.2.5.5 those applications not considered prudent by the Development Control Manager to be determined under delegated authority.

8.3 Traveller Sites

8.3.1

To commission professional services in relation to traveller and gypsy sites

8.3.2

To undertake an assessment of the accommodation needs of Gypsies and Travellers residing in or resorting to the district and to prepare a strategy in respect of meeting those needs, in accordance with the Housing Act 2004

8.3.3

To apply annual increases to charges on gypsy sites in line with the rent increases applied by West Berkshire Council managing the site to its own tenants.

8.4 Housing

8.4.1

To publish an allocations scheme and develop policies to offer choice to applicants in the allocation of housing

8.4.2

To exercise the duties conferred on the Council in relation to homelessness.

8.4.3

To promote energy efficient homes including administering grants for energy efficiency

8.4.4

To give grants and loans for the repair / improvement of housing in accordance with national guidance and locally published policies.

8.4.5

To award mandatory, and where appropriate discretionary, Disabled Facilities Grants for the purpose of aids and adaptations for eligible people, in accordance with national guidance and local published policies.

8.4.6

To act as a Director of the Flexible Homes Improvement Limited, on behalf of West Berkshire Council, for the purpose of administering loans for the repair / improvement of housing within the Flexible Home Improvement Loans sub-region

8.4.7

To approve discretionary grants and loans as exceptions to the adopted Housing Grants & Loans Policy

8.4.8

To offer grants for the improvement and/or repair of housing.

8.4.9

To determine applications for Housing Association Grant with regard to the purchase of properties in the second-hand market for occupation by homeless families in accordance with the special homelessness initiative subject to the contribution on any one unit not exceeding £50,000.

8.4.10

Determination of application for individual DIYSO Housing Association Grant.

8.4.11

Implementing rent reviews in accordance with valuers' instructions.

8.4.12

Carry out repairs to units of temporary accommodation.

8.4.13

Repurchase of ex-Council House Stock in Rural Areas

8.4.14

To approve exceptions to the application of the local connection criteria for homes subject to s.19 of the Housing Act 1980 and s.157 of the Housing Act 1985

8.4.15

To develop and implement strategies to bring empty homes back into use, including the use of empty Dwelling Management Orders and Compulsory Purchase Orders.

8.4.16

To make use of planning and housing powers to address poor housing

8.4.17

Service of Notice to Quit on tenants of Council dwellings. Allocation of pitches on Council owned caravan sites.

8.4.18

Decisions on all matters relating to the Council's conditions of tenancy in relation to the Council's statutory housing function.

8.4.19

Assessing current and future need for affordable housing and demand for market housing

8.5 Future Development Sites

8.5.1

The Head of Development and Planning be given delegated authority to determine the mix of types of affordable housing (that is to say the ratio of shared ownership to rented or a financial contribution instead that is to be varied, based on individual site/community needs) to be provided on future development sites, in line with adopted planning policies, and that this process form part of any pre-application or general application negotiations undertaken as part of the development control function.

8.5.2

The Head of Development and Planning be given delegated authority to determine the level of affordable housing financial contribution in line with current policy.

8.6 Sites with Existing Planning Permission

The Head of Development and Planning be authorised to negotiate with developers variations in the mix of types of affordable housing specified in Section 106

Agreements to be provided on specified sites, following consultation with the Head of Legal Services and in line with adopted planning policies.

9. Head of Education

Subject to the reservations and exceptions set out in this Scheme, the Head of Education shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to education, which shall include but not be limited to the following:

- Education Act 1962
- Further Education Act 1985
- Education Reform Act 1988
- Further and Higher Education Act 1992
- Education Act 1996
- School Inspections Act 1996
- Education Act 1997
- School Standards and Framework Act 1998
- Special Educational Needs and Disability Act 2001
- Education Act 2002
- Education Act 2005
- Education and Inspections Act 2006
- Education and Skills Act 2008
- Apprenticeships, Skills, Children and Learning Act 2009
- Education (Schools) Act 1992
- Learning and Skills Act 2000
- Further Education and Training Act 2007
- Special Educational Needs (Information) Act 2008
- Academies Act 2010
- Equalities Act 2010
- Education Act 2011
- Children and Families Act 2014.
- Education and Adoption Act 2016
- Schools admission legislation including appeals
- Schools exclusion legislation including appeals

9.1 Admissions

9.1.1

To consult with governing bodies about admission arrangements as required by the

School Admission Code issued under Section 88 of the School Standards and Framework Act 1998.

9.1.2

To keep Admission Numbers under review and to implement any necessary changes, where these are agreed with the governing body.

9.1.3

To respond to any proposals from governing bodies to increase or reduce Admission Numbers.

9.1.4

To set admission limits which exceed the Admission Number where this is considered necessary.

9.1.5

To administer arrangements for admissions to nursery schools and classes in accordance with agreed policies.

9.1.6

To administer arrangements for the admission of individual pupils to primary and secondary schools including designated catchment areas and other relevant factors and to present the case on behalf of the Authority to admission appeal panels.

9.2 Attendance at School

9.2.1

To ensure that appropriate transport arrangements are made having regard to statutory guidance and the Authority's Home to School Transport Policy and Post-16 Statement.

9.2.2

To authorise home to school transport outside existing policy, in exceptional circumstances through the Stage 1 Appeal process.

9.2.3

To exercise the powers and duties of the Authority in respect of children excluded from school and to make arrangements for the continuing education of pupils who are excluded or otherwise unable to attend school.

9.2.4

To authorise any proceedings relating to the non-attendance of pupils at school, or education other than at school.

9.2.5

To undertake the powers and duties of the Authority under Section 36 of the Children Act 1989 regarding Education Supervision Orders.

9.3 Special Educational Needs (SEN)

9.3.1

To arrange for children to be assessed in accordance with the requirements of the Children and Families Act 2014 to determine the special educational provision which should be made for them and to maintain and review statements of special educational need and Education and Health and Care Plans in accordance with any regulations concerning these.

9.3.2

To represent the Authority at statutory appeal tribunals in connection with the assessment of special educational needs

9.3.3

To determine and authorise the payment of fees and expenses at schools where fees are payable, in accordance with the policy of the Council.

9.3.4 To determine applications for assistance towards home to school transport costs for Children with SEN within the Council's approved scheme.

9.4 School Term Dates

In the case of the Local Authority (LA), Voluntary Controlled and Special Schools, including residential schools, to propose school term dates after consultation with the Education Management Advisory Board.

9.5 Name of School

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

9.6 Curriculum

To provide on behalf of the Authority any information which the Secretary of State may by regulation require.

9.7 Staffing - in respect of Nursery Schools

9.7.1

To advise the Governing Body and/or the Selection Panel as to the shortlisting of candidates for Headship in accordance with the provisions of the Education Act 1996.

9.7.2

Subject to the Articles of Government and the disciplinary procedures applicable in each specific case, to authorise disciplinary action as appropriate.

9.8 Staffing - in respect of Maintained Primary, Secondary and Special Schools

9.8.1

To appoint persons selected by Governing Bodies to fill vacant posts in schools, unless the person so recommended does not meet the staff qualification requirements applicable to the appointment.

9.8.2

In the case of Aided and Foundation Schools, to exercise any advisory rights where appropriate relating to the appointment of Headteachers, Deputy Headteachers or other teaching or ancillary staff conferred by agreement or legislation.

9.8.3

To nominate persons for consideration to fill vacancies in other teaching posts in schools where Governing Bodies have notified their intention to fill those vacancies.

9.8.4

To appoint persons selected by Governing Bodies as their Clerks.

9.8.5

To implement decisions of Governing Bodies of schools relating to the determination of potential dismissals and any subsequent appeals against such dismissals which are in the Authority's power to determine.

9.9 All Educational Establishments

To exercise the powers and duties under the Education (School Teachers' Appraisal) (England) Regulations 2012

9.10 Provision of Information Concerning Individual Performance of Pupils

9.10.1

In accordance with Section 537 of the Education Act 1996, to provide performance information as specified.

9.10.2

In accordance with Section 38 of the Education Act 1997, to provide such information to the Chief Inspector as may be prescribed.

9.11 Governance

9.11.1

Appointment of local education authority governors: in accordance with Section 19 of the Education Act 2002 and relevant regulations to appoint and dismiss local education authority governors.

9.11.2

Training and support of governors: in accordance with Section 22 of the Education Act 2002, to provide information for governors and necessary training.

9.12 Miscellaneous

9.12.1

In accordance with School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and (Establishment and Discontinuance of Schools) Regulations 2013, to make significant changes to maintained schools (e.g. expansion), establishing new provision and school closure.

9.12.2

In accordance with the academy/free school presumption, to establish new schools.

9.12.3

Pursuant to Academies Act 2010 to enter into Commercial Transfer Agreement and property transfer/ lease agreements.

9.12.4

To approve instruments of Government for all LEA maintained schools in the District in the future and to review or vary such instruments of Government (including nursery schools) as may be required by the Governors or the LEA.

9.12.5

To make provision for the day-care of pre-school children and provision for out-of-school and holiday care and activities as appropriate in accordance with the duties and powers of the Council under Section 18 of the Children Act 1989.

9.12.6

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

9.13 Post 16 Years - Education and Training Provision

To exercise the powers and duties of the Council under:

9.13.1

the Education Act 1996 (as inserted by the Apprenticeships, Skills and Children and Learning Act 2009),

9.13.2

Part 3 of the Children and Families Act 2014,

9.13.3

the Education and Skills Act 2008

9.13.4

the Education and Skills Act 2008

10. Head of Finance and Property

10.1 Designation

The Head of Finance and Property will be the Council's designated Section 151 Officer under the Local Government Act 1972.

10.2 Responsibility

10.2.1

To take all appropriate steps and measures to discharge the functions of the Section 151 officer as having responsibility for the proper administration of the financial affairs of the Council under all appropriate legislation.

10.2.2

The Head of Finance and Property provides strategic financial advice to the Council.

10.3 Finance General

Subject to the reservations and exceptions set out in this Scheme, the Head of Finance & Property shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to finance, revenues, benefits and property, which shall include but not be limited to the following:

In consultation with the Head of Human Resources, the Head of Legal Services and the Portfolio Holder for Finance, to make additional payments to qualifying employees of up to £5,000 where it is deemed appropriate to do so.

10.3.1

Local Government Finance Act 1992

10.3.2

Local Government Finance Act 1988.

10.3.3

The power to administer and enforce the collection of council tax.

10.3.4

The power to calculate the Council's council tax base for the purpose of the calculation of its council tax.

10.3.5

The power to administer and enforce the collection of business rates (NDR)

10.3.6

The power to opt to tax certain properties for VAT purposes (in consultation with Head of Legal Services).

10.3.7

Determination of the appropriate rate of interest which may be charged, under Section 24 of the Health and Social Services and Social Security Adjudications Act 1983, on any sum charged on or secured over an interest in land under Section 22 of the Act (in consultation with the Corporate Director (Communities))

10.3.8

Decisions to write off arrears of irrecoverable debt of an amount not exceeding £25,000 and in cases of insolvency where the sums exceed £25,000 up to a maximum of £100,000, the decision should be taken in consultation with the Portfolio Holder for Finance.

10.3.9

Declaration of the Local Rate of Interest on Mortgage Advances on the basis that all mortgages are treated as if they are advances under the Housing Act 1985 and subject to decisions being reported to the Executive (in consultation with Head of Prevention and Safeguarding).

10.3.10

Agreement as to reduction in rateable value.

10.3.11

Investment of surplus funds in accordance with the Council's approved investment policies.

10.3.12

To make any necessary changes to the Constitution consequent upon amendments to the European thresholds on Procurement (see Contract Rules of Procedure).

10.4 Loans and Borrowing

10.4.1

Raising of loans in sterling to meet the capital requirements of the Council for such amounts and on such terms as are considered necessary.

10.4.2

Borrowing in sterling from banks up to a prescribed limit by way of overdraft.

10.4.3

Raising and repayment of temporary loans in sterling.

10.4.4

Valuation

10.4.5

Service on Valuation Officer of Notice of Objection to any proposals for alteration of the Valuation List.

10.4.6

Making proposals for the alteration of the Valuation List or for the inclusion of particular properties in the Valuation List.

10.5 Matters Relating to Children and Young Persons

Where requested by the Head of Legal Services, to take joint action to take out letters of administration with or without the will annexed for:

10.5.1

the estate of parents or any other person where there is a beneficial interest for children or young persons for whom the Council has parental rights under provisions of the Children Act 1989, or any other statutory provision affecting children and young persons;

10.5.2

the estates of children or young persons who die whilst in the care of the Council;

10.5.3

and to administer such estates in the manner directed by the appropriate probate registry.

10.5.4

Jointly with the Head of Legal Services to accept money or other gifts from third parties for and on behalf of children or young persons in care and to hold or convert such money or gifts on their behalf and to their benefit.

10.5.5

Jointly with the Head of Legal Services and the Head of Children and Family Services to invest and administer any funds received by the Council on behalf of a child in care by way of any compensation or settlement or award of damages from legal proceedings.

10.6 Property Matters

10.6.1

The day-to-day management of the Council portfolio of land and buildings, including lease renewals, assignments and rent reviews.

10.6.2

Making proposals to the Valuation Office Rating List.

10.6.3

Agreeing to reductions in rent affecting Council-owned property.

10.6.4

Reaching an agreement on compulsory purchase and home loss payment claims up to £15,000.

10.6.5

Determination of rents of new properties in line with rents of other Council properties.

10.6.6

All matters pertaining to rent collection and the recovery of arrears.

10.6.7

Service of Notices to secure possession where there are arrears of rent.

10.6.8

Authority to approve applications for consent to transfer existing mortgages into joint names of Mortgagor and other members of the Mortgagor's family.

10.7 Insurance

All insurance arrangements and settlement of claims.

11. Head of Legal Services

11.1 General

11.1.1

On behalf of the Council, to defend, institute, participate in, appeal from, settle or abandon any legal proceedings whether administrative, civil or criminal in any court arbitration or tribunal where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such an action is necessary to protect the Council's interests.

11.1.2

Pursuant to Section 223 of the Local Government Act 1972 and other relevant legislation and Practice Directions, authorise persons to represent the Council in legal proceedings.

11.1.3

to instruct external Solicitors or Barristers to represent the Council.

11.1.4

Make such orders, issue such notices and execute such agreements and instruments as are necessary to give effect to any decision or authorisation of the Council, its Committees, Sub-Committees, the Executive or of an Officer acting within the scope of his or her authorised or delegated powers.

11.1.5

Determine whether inspection of a document in the possession of the Council should not be allowed on the grounds that it is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.

11.1.6

This role also provides advice and support to the Council on procurement and the development and delivery of efficiency programmes.

11.1.7

Sealing of all documents on behalf of the Council and to be authorised signatory of behalf of the Council.

11.1.8

Where appropriate exercise powers in consultation with relevant officers.

11.2 Local Government Act 1972

11.2.1

Section 85 - Authority be delegated to the Monitoring Officer to allow the Monitoring Officer to approve applications in writing from absent Councillors in exceptional circumstances (such as serious illness, extended work commitments abroad or extended service in the Forces) subject to consultation with Group Leaders. Any applications for extended absence would be limited to two three month periods only and in the event of disagreement between the Group Leaders, the application would be determined by a Special Meeting of the Governance and Ethics Committee.

11.2.2

Section 229(5) - Certification of photographic copies of documents.

11.2.3

Section 234(1) and (2) - Sealing of documents.

11.3 Local Government (Miscellaneous Provisions) Act 1976:

Section 29 - Application to High Court for repayment of monies paid into Court under Sub-Sections 76 or 85 Land Clauses Consolidation Act 1945 or Section 9 or Schedules 2 and 3 of the Compulsory Purchase Act 1965.

11.4 Miscellaneous

To take all necessary steps to take out letters of administration with or without the will annexed either alone or jointly with the Head of Finance and Property for:

11.4.1

the estates of parents or any other person where there is a beneficial interest for children or young persons for whom the Council has parental rights under provisions of the Children Act 1989, or any other statutory provision affecting children and young persons;

11.4.2

the estates of children or young persons who die whilst in the care of the Council;

11.4.3

and to administer such estates in the manner directed by the appropriate probate registry.

11.4.4

To exercise the Council's powers to be a Trust Corporation.

11.4.5

To act for all Trading Standards Officers authorised as Inspectors.

11.4.6

The Head of Legal Services may make minor amendments to the Constitution in order to ensure that legislative provisions are current and any typographical or other errors are corrected.

11.5 Commons Registration

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

11.6 Berkshire Act 1986

3.11.6.1

Pursuant to Section 7 of the Berkshire Act 1986, to make application to the County Court for an order vesting former highway land in the highway authority.

3.11.6.2

Pursuant to Section 9 of the Berkshire Act 1986, to recover from the person responsible the cost of making good damage caused to a grass verge or footway of a highway by any person carrying on building operations or delivering goods to premises in the course of trade.

11.7 Road Traffic Regulation Act 1984

11.7.1

To exercise the Council's powers under the Road Traffic Regulation Act 1984 to restrict or prohibit vehicular and pedestrian movements as necessary to facilitate the

holding of a "relevant event" when it is considered that an order under the Town Police Clauses Act 1847 is inappropriate (in consultation with the Head of Transport and Countryside).

11.7.2

To advertise proposals to make orders for traffic management other than temporary orders under Section 14(1) of the Road Traffic Regulation Act 1984 as substituted by the Road Traffic (Temporary Restrictions) Act 1991 and to subsequently make the orders where no objections to those proposals are received.

11.7.3

To make temporary orders for traffic management under Section 14(1) of the Road Traffic Regulation Act 1984 as substituted by the Road Traffic (Temporary Restrictions) Act 1991.

11.8 Town and Country Planning (General Permitted Development) (England) Order 2015

To exercise the Council's powers under the Town and Country Planning (General Permitted Development) (England) Order 2015 , on the instructions of the Head of Development and Planning, subject to the conditions below:

11.8.1

Article 4: the making, service and confirmation of directions restricting permitted development;

11.8.2

Schedule 2, Part 6: Determination whether planning permission is required following notification of agricultural development.

The delegations relating to Article 4 Directions above shall be exercised subject to the following:

11.8.3

The action shall be taken after consultation with the Head of Finance and Property to consider any financial implications.

11.8.4

Consultation must also take place with the Chairman or in their absence the Vice-Chairman of the District Planning Committee and appropriate Ward Members, if available.

11.8.5

The action taken shall be reported to the next meeting of the appropriate Area Planning Committee.

11.8.6

In exercising these powers the Officers shall have regard to the urgency of the action which is required. Subject to circumstances, the Officers may report the matter to the appropriate Area Planning Committee for decision where it is prudent to do so.

11.9 Localism Act 2011

The Head of Legal Services (or their nominated representative) in consultation with an Independent Person pursuant to the Localism Act 2011 and its associated Regulations shall ensure that an Initial Assessment of any complaint in respect of Councillors'

(District, Town or Parish) behaviour in relation to the Code of Conduct is determined in accordance with the complaints procedure adopted by the Council.

11.10 Property Matters

To enter into, in consultation with Head of Finance,

11.10.1

Agreements for easements and wayleaves to an unlimited value.

11.10.2

Agreement for leases and licences up to a value of £100,000 per annum.

11.10.3

Agreements relating to acquisition and disposal of investment properties pursuant to the Council's Investment and Borrowing Strategy accompanying Property Investment Strategy as amendment and/or revised from time to time.

11.10.4

Agreements to acquire and dispose of land up to consideration of £300,000.

11.10.5

Surrenders.

11.10.6

Lifting of all restrictive covenants up to a value of £300,000.

11.10.7

Agreements relating to deferred payments (including registration of a legal charge) pursuant to the Care Act 2014.

11.11 Anti-social Behaviour, Crime and Policing Act 2014

11.11.1

The Head of Legal Services, in consultation with the relevant Head of Service, be authorised to seek a civil injunction in accordance with Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014.

11.11.2

The Head of Legal Services in consultation with the Head of Strategic Support, be authorised to issue a Closure Notice and apply for a Closure Order in accordance with Chapter 3 of the Anti-social Behaviour, Crime and Policing Act 2014.

12. Head of Prevention and Safeguarding

Subject to the reservations and exceptions set out in this Scheme, the Head of Prevention and Safeguarding shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to prevention and safeguarding, which shall include but not be limited to the following:

12.1 Care Act 2014

12.2 Safeguarding Vulnerable Groups Act 2006

12.3 Children Act 1989

12.4 To ensure that a Local Safeguarding Adults Board and a Local Safeguarding Children's Board are established, to provide representation on such Boards and to ensure compliance with all the statutory functions and objectives of those Boards

12.5 To support the framework of those Boards in relation to Safeguarding Adults Reviews arranged in accordance with the Care Act 2014 and Serious Case Reviews arranged in accordance with the Children Act 1989 and associated Regulations.

13. Head of Public Health and Wellbeing

Subject to the reservations and exceptions set out in this Scheme, the Head of Public Health and Wellbeing shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to public health and wellbeing, which shall include but not be limited to the following:

13.1 General

Those matters which the Director of Public Health, working through the Head of Public Health and Wellbeing are required to be responsible for under the National Health Service Act 2006 (as amended by the Health and Social care Act 2012).

14. Health of the Population

The duty imposed upon the Council to "take such steps as it considers appropriate for improving the health of the people of its area".

14.1 General

Any public health functions of the Secretary of State which he requires local authorities to discharge on their behalf.

14.2 Dental Health

Dental health functions for which the Council has responsibility.

14.3 Health of Prisoners

The duty to co-operate with the prison service to secure and maintain the health of prisoners.

14.4 Weight Measurement and Children's Sexual Health Service

The Council's duties set out in Schedule 1 of the National Health Act 2006, which include medical inspection of pupils including the weighing and measuring of pupils and the provision of children sexual health services.

14.5 Violent Offenders

Arrangements for assessing the risks posed by violent and sexual offenders.

14.6 Health Protection

To include the provision of screening and immunisation programmes, sexual health services, infectious disease control and emergency planning.

14.7 Health Improvement

To include children's public health, adult healthy lifestyles (drug and alcohol misuse, campaigns to prevent cancer and long term conditions, dental public health and local

initiatives to reduce deaths as a result of seasonal mortality) and the wider determinants of public health such as housing, planning, and education.

14.8 Health Care Public Health

The provision of specialist public health advice to Clinical Commissioning Groups (CCGs) in the following areas which will be the subject of the "core offer":

14.8.1 production of the Joint Strategic Needs Assessment;

14.8.2 reviewing service provision and providing advice to CCGs to reduce health inequalities;

14.8.3 advising Clinical Commissioning Groups on priorities based on appropriate data; and

14.8.4 procuring services and advising on the cost effectiveness of interventions.

15. Head of Public Protection and Culture

15.1 General

15.1.1

Subject to the reservations and exceptions set out in this Scheme, the Head of Public Protection and Culture shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to environmental health, trading standards, licensing, building control and public protection, which shall include but not be limited to the following:

- Administration of Justice Act 1970
- Agricultural Act 1970
- Animal Boarding Establishments Act 1963
- Animal Health Act 1981
- Animal Welfare Act 2006
- Animals Act 1971
- Anti-social Behaviour Act 2003
- Anti-social Behaviour Crime and Policing Act 2014
- Berkshire Act 1980
- Breeding of Dogs Act 1973, 1991
- Building Act 1984
- Cancer Act 1939
- Caravan Act 1968, 1985
- Caravan Sites and Control of Development Act 1960-1985
- Charities Act 1992
- Children and Young Persons (Protection from Tobacco) Act 1991
- Children and Young Persons Act 1933
- Chiropractors Act 1994

- Chronically Sick and Disabled Persons Act 1970
- Cinema Act 1968-1985
- Civil Contingencies Act 2004
- Clean Air Acts 1956-1993
- Clean Neighbourhoods and Environment Act 2005
- Companies Act 2006
- Consumer Credit Act 1974, 2006
- Consumer Protection Act 1987
- Consumer Rights Act 2015
- Control of Pollution Act 1974
- Copyright Designs and Patents Act 1988
- Courts and Legal Services Act 1990
- Crime and Disorder Act 1997
- Criminal Justice Act 1988
- Criminal Justice and Public Order Act 1994
- Customs & Excise (Management) Act 1979
- Dangerous Dogs Act 1991
- Dangerous Wild Animals Act 1976
- Disabled Persons Act 1981
- Public Space Protection Orders
- Education Reform Act 1988
- Enterprise Act 2002
- Environment Act 1995
- Environmental Protection Act 1990
- Estate Agents Act 1979
- European Communities Act 1972
- Explosives Act 1875, 1923
- Factories Act 1961
- Financial Services and Markets Act 2000
- Fireworks Act 2003
- Food and Environment Protection Act 1985
- Food Safety Act 1990
- Forgery and Counterfeiting Act 1981
- Fraud Act 2006
- Gambling Act 2005

- Guard Dogs Act 1975
- Hallmarking Act 1973
- Health Act 2006
- Health and Safety at Work etc. Act 1974
- Home Safety Act 1961
- Housing Acts 1957, 1985, 1996, 2004
- Housing Grants, Construction and Regeneration Act 1996
- Intoxicating Substances (Supply) Act 1985
- Knives Act 1997
- Land Compensation Act 1973
- Late Night Refreshment Houses Act 1969
- Licensing Act 2003
- Local Government (Miscellaneous Provisions) Act 1965, 1976, 1982
- Local Government Acts 1953-1989
- Local Government Act 1972
- Local Government and Housing Act 1989
- Malicious Communications Act 1988
- National Assistance (Amendment) Act 1951
- National Assistance Act 1948
- National Lotteries etc Act 1993
- Noise Act 1996
- Noise and Statutory Nuisance Act 1993
- Offices, Shops and Railway Premises Act 1963
- Olympic Symbols etc. (Protection) Act 1995
- Osteopaths Act 1993
- Performing Animals (Regulation) Act 1925
- Pesticides Act 1996
- Pet Animals Act 1951
- Pollution, Prevention and Control Act 1999
- Prevention of Damage by Pests Act 1949
- Prices Acts 1974
- Private Hire Vehicles (Carriage of Guide Dogs etc.) Act 2002
- *Proceeds of Crime Act 2002*
- Protection from Harassment Act 1997
- Psychoactive Substances Act 2016

- Public Health (Control of Disease) Act 1984
- Public Health Act 1936-1984
- Radioactive Substances Act 1993
- Rag Flock Act 1961
- Regulation of Investigatory Powers Act 2000
- Regulatory Enforcement and Sanctions Act 2008
- Riding Establishments Act 1964, 1970
- Road Traffic (Foreign Vehicles) Act 1972
- Road Traffic Act 1988, 1991
- Road Traffic Regulation Act 1984
- Safety of Sports Grounds Act 1975
- Scotch Whisky Act 1982
- Scrap Metal Dealers Act 1964, 2013
- Slaughter of Poultry Act 1967
- Slaughterhouses Act 1974
- Solicitors Act 1974
- Sunbeds (Regulation) Act 2010
- Sunday Trading Act 1994
- Tattooing of Minors Act 1969
- Theatres Act 1968
- Theft Act 1968
- Tobacco Advertising and Promotion Act 2002
- Tobacco Products Duty Act 1979
- Town Police Clauses Acts 1847-1889
- Trade Descriptions Act 1968
- Trade Marks Act 1994
- Transport Act 1980
- Unsolicited Goods and Services Act 1971, 1975
- Vehicles (Crime) Act 2001
- Video Recordings Act 1984, 2010
- Violent Crime Reduction Act 2006
- Water Acts 1945-1989
- Water Industries Act 1991
- Weights and Measures Act 1985
- Zoo Licensing Act 1981

15.1.2

This extends to any offence under any legislation, or at common law, which is of a similar nature or related to the foregoing including offences of aiding, abetting, counselling and procuring, incitement, conspiracy, perverting the course of justice and criminal attempts.

15.1.3

appoint the Council's Chief Inspector of Weights and Measures ;

15.1.4

act as the Council's Proper Officer for the purposes of any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any other instrument made before 26th October 1972, which refers to the post of Public Health Inspector.

15.2 Culture General

15.2.1

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

15.2.2

Local Government (Miscellaneous Provisions) Act 1982, Action considered appropriate in relation to property found in buildings or premises administered by Cultural and Environmental Protection Services.

15.2.3

Letting of recreation facilities and premises (also Head of Transport and Countryside and Head of Development and Planning)

15.2.4

Admission and exclusion of public to recreation facilities and premises (also Head of Transport and Countryside and Head of Development and Planning) .

15.2.5

Acquisition of items under Museum acquisition scheme.

15.2.6

Administer Archive Service on behalf of all six Unitary Authorities in Berkshire.

15.2.7

To manage public libraries in conformity with the Public Libraries and Museums Act 1964 (as amended) and the Local Government and Housing Act 1989 and the policies of the Council.

15.3 Anti-social Behaviour, Crime and Policing Act 2014

To delegate to the Head of Culture & Public Protection the authority to make a Public Space Protection Order in accordance with Chapter 2 of the Anti-social Behaviour, Crime and Policing Act 2014. The Head of Public Protection and Culture, in consultation with the Head of Legal Services, is authorised to serve Community Protection Notices in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.

16. Registration of Births, Deaths and Marriages

To grant or refuse applications for the approval of premises under the Marriage Act 1949 (as amended) and the Marriage (Approved Premises) Regulations 1995 and to revoke any approval which has been granted. To determine, in consultation with the Head of Finance and Property, and from time to time vary, the fees payable for the granting or refusal of applications for the approval of said premises.

17. Civil Contingencies

Subject to the reservations and exceptions set out in this Scheme, the Head of Public Protection and Culture shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to civil protection and emergency planning, which shall include but not be limited to the following:

17.1

Put in place emergency plans;

17.2

Put in place Business Continuity Management arrangements;

17.3

Put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;

17.4

Share information with other local responders to enhance co-ordination;

17.5

Co-operate with other local responders to enhance co-ordination and efficiency; and

17.6

Provide advice and assistance to businesses and voluntary organisations about business continuity management (Local Authorities only). To form and participate in Local Resilience Forums (based on Police areas) which will help co-ordination and co-operation between responders at the local level.

18. Head of Strategic Support

18.1 General

Power under Section 92 of the Local Government Act 2000 to direct the appropriate Corporate Director or Head of Service in consultation with the relevant Portfolio Member, to make ex-gratia payments up to £2,500 or to provide other benefits to remedy complaints, within the framework of the Local Government Ombudsman Good Practice Remedies (March 2003) document, and Financial Rules of Procedure, and where necessary in consultation with the Monitoring Officer.

18.2 Local Government Act 1972

18.2.1 Section 225(1) - to receive and retain documents deposited.

18.2.2 Schedule 12 Paragraph 4(2)(a) - to publish the time and place, within five clear working days, of the Council meeting.

18.2.3 Schedule 12 Paragraph 4(2)(b) - to sign the summons to attend the Council meeting

18.2.4 Schedule 12 Paragraph 4(3) - to receive notices regarding addresses to which summons to meetings are to be sent.

18.2.5 Schedule 14 Paragraph 25(7) - to certify copies of resolutions for the purposes of legal proceedings.

18.2.6 Section 248 - to retain a roll of Freeman.

18.3 Local Land Charges

To authorise the issue of official certificates of search of the Council's Land Charges Register.

19. Electoral Matters

Designation of Polling Places (in consultation with the Returning Officer and Ward Members).

19.1 Localism Act 2011 - Part 5 Chapter 3 - Assets of Community Value

To delegate to the Head of Strategic Support the management of the Assets of Community Value provisions (Community Right to Bid) in accordance with Part 5, Chapter 3 of the Localism Act 2011. The Head of Strategic Support shall be authorised to determine applications which have been properly made.

20. Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended)

To delegate authority to the Head of Strategic Support in consultation with the Leader of the Council and the Leader of Opposition, to appoint members to the Independent Remuneration Panel.

21. Head of Transport and Countryside

21.1 General

21.1.1

Subject to the reservations and exceptions set out in this Scheme, the Head of Transport and Countryside shall be authorised to exercise the functions, duties and powers of the Council as set out in any relevant legislation relating to transport, highways, street management, street works, waste, countryside and rights of way, which shall include but not be limited to the following:

- Highways Act 1980
- Transport Act 1985
- Transport Act 2000
- Traffic Management Act 2004
- Local Transport Act 2008

- Goods Vehicles (Licensing of Operators) Act 1995
- New Roads and Street Works Act 1991
- Town Police Clauses Act 1847
- Road Traffic Regulations Act 1984
- Berkshire Act 1986
- Clean Neighbourhoods and Environment Act 2005
- Countryside Act 1968
- Countryside and Rights of Way Act 2000
- Criminal Damage Act 1971
- Environmental Protection Act 1990
- Land Drainage Act 1991
- Local Government (Miscellaneous Provisions Act) 1976
- National Parks and Access to the Countryside Act 1949
- Natural Environment and Rural Communities Act 2006
- Rights of Way Act 1990
- Town and Country Planning Act 1990
- Wildlife and Countryside Act 1981
- Goods Vehicles (Licensing of Operators) Act 1985
- Flood and Water Management Act 2010
- Local Government Miscellaneous Provisions Act 1976
- Anti-social Behaviour Act 2003
- Anti-social Behaviour, Crime and Policing Act 2014
- Clean Neighbourhoods and Environment Act 2005
- Control of Pollution Act 1974
- Control of Pollution (Amendment) Act 1989
- Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991
- Environment Act 1995
- Environmental Protection Act 1990
- European Communities Act 1972
- Refuse Disposal (Amenity) Act 1978
- Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005

21.2 Agreements, Notices and Orders

21.2.1

To enter into agreements with other public authorities for the provision of services and the recoupment of charges.

21.2.2

To enter into agreements relating to placing etc of certain apparatus in or under a highway.

21.2.3

To enter into agreements providing for contributions by developers towards the cost of highway improvements, transportation schemes, or other development to be carried out by the Council.

21.2.4

To enter into agreements and make creation orders, where appropriate, and in consultation with Ward Members, for the creation of new public rights of way

21.2.5

To extinguish rights of way, where appropriate, and in consultation with Ward Members

21.2.6

To divert public rights of way, where appropriate, and in agreement with Ward Members.

21.2.7

To enter into maintenance agreements, where appropriate, and in consultation with Ward Members.

21.3 Miscellaneous**21.3.1**

To agree contributions to regional water authorities' surface water drainage schemes calculated on the proportion of highway "run-off" to that from other areas, including related matters such as contributions towards the cost of cleansing village ponds, and to make payments to any minor drainage scheme of any type where they are satisfied that highways will benefit.

21.3.2

To extinguish public rights of way (stop up) and dispose of land not exceeding 500sq m no longer required for highway purposes.

21.3.3

In consultation with the Head of Legal Services to accept dedications of land donated to the Council for highway purposes.

21.3.4

To approve and protect development and improvement lines.

21.3.5

To construct and/or light cycle tracks.

21.3.6

To alter or remove any cycle tracks.

21.3.7

To settle compensation claims in respect of drainage or sewerage schemes on behalf of the Council (in consultation with Head of Legal Services).

21.3.8

To take all necessary action to safeguard the interests of the Council in relation to

applications by water undertakings for orders or schemes under the legislation operated by such undertakings.

21.3.9

to advise on the highway aspects of development control

21.3.10

To demolish property acquired for road schemes in advance of requirements subject always to due regard to planning considerations or consent as appropriate.

21.3.11

To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.

21.3.12

To erect traffic signs and to arrange wayleaves for their erection on private property.

21.3.13

To adopt streets constructed to specification.

21.3.14

To plan and carry out highway improvements not requiring planning permission subject to consultation with the appropriate Executive Member and Ward Members. If the purchase of land is necessary then delegated authority (for land up to the value of £300,000) from the Head of Legal Services will be required.

21.3.15

To fix contributions to private street works and charges apportioned in flank and rear frontages in accordance with the Council's approved policy.

21.3.16

To apply for planning permission.

21.3.17

To approve and licence (including charging any appropriate fees for doing so):

- the placing of structures within highway limits;
- the laying maintenance and inspection of pipes, cables or other lines over or under highways;
- the erection of stiles, gates or cattle grids and enforcement and maintenance of stiles and gates under the Highways Act 1980;
- arrangements for motor vehicles and cycle trails;
- the construction of a building over any part of a highway.
- the placing of tables and chairs on the public highway.

21.3.18

To exercise the Council's powers:

- To grant permits to utility companies to work on the public highway
- To prohibit horses, cattle or vehicles entering on ornamental gardens within the highway;
- To pipe or culvert and fill up roadside ditches;

- To require the execution of works to prevent soil or refuse from land from falling or being washed on to a street;
- To take action in relation to any obstruction of or damage to or nuisance to the highway or users thereof;
- To require the removal of obstructions to sight lines at corners and to remove unauthorised signs on any part of the highway;
- To require the removal, lopping and cutting of trees or hedges overhanging or near to a highway.
- To carry out minor temporary repairs in private streets required to remove danger to persons or vehicles;
- To carry out emergency works of any kind whether or not provision has been made in the estimates, where justified in their opinion (and that of the Head of Legal Services and in consultation with the Head of Finance), by the scale of the potential legal liability.

21.3.19

Selection of sites for street seats.

21.3.20

Approval of requests for street closures or for making orders for the prevention of obstructions in the street during public processions etc in accordance with Section 21 of the Town Police Clauses Act 1847.

21.3.21

Approval of applications for permission to hold events in Council car parks.

21.3.22

Approval of requests to waive car parking charges in the period leading up to Christmas.

21.3.23

To implement highway maintenance and improvement works in accordance with approved budgets and to agreed service standards in accordance with the Highways Act 1980 and current guidance.

21.3.24

Where a Committee, the Executive or Council have already approved in principle an experimental traffic order to exercise powers under the Act to advertise that order and subsequently implement it provided no objections are received. Where objections are received, the matter will be referred back to the relevant decision maker for consideration and determination. Where an order is implemented, the Ward Members will be advised.

21.3.25

Where a Committee, the Executive or Council have already approved in principle any traffic order (for speed limits, prohibitions of movement, weight limits, etc.) to exercise powers under the Act to advertise that order and subsequently implement it provided no objections are received. Where objections are received, the matter will be referred back to the relevant decision maker for consideration and determination. Where an order is implemented, the Ward Members will be advised.

21.3.26

In consultation with the Head of Finance and Property to issue licences and fix and collect fees in relation to the matters governed by the Highways Act 1980.

21.3.27

In consultation with the Head of Legal Services and the Head of Development and Planning to submit objections to the Traffic Commissioner on behalf of the Council.

21.3.28

To act as the Traffic Manager in accordance with the requirements of the Traffic Management Act 2004.

21.4 Transport**21.4.1**

West Berkshire Council is a designated body for the issuing of Section 19 Bus Permits in accordance with the Transport Act 1985 and changes introduced by the Local Transport Act 2008

21.4.2

To lodge holding objections regarding proposals by operators for withdrawals of or alterations to rail services, or the fares and charges therefore, where it is anticipated that extra Council expenditure would result.

Other Powers -Consultation Provisions

21.4.3

All consultations on Transport issues (with the exception of those deemed significant and requiring referral to the Executive/Select Committee) be delegated to the Head of Transport and Countryside in consultation with the Leader, appropriate Portfolio Holder and Opposition Spokesperson.

21.5 Countryside including Rights of Way functions**21.5.1**

Management of Recreation Facilities where these are public open spaces.

21.5.2

Admission and exclusion of public to recreation facilities and premises (also Head of Public Protection and Culture).

21.5.3

Letting of recreation facilities and premises (also Head of Public Protection and Culture).

21.5.4

To carry out powers in relation to The Hedgerow Regulations 1997.

21.5.5

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

21.5.6

To enter into maintenance agreements in relation to Public Rights of Way, where appropriate, and in consultation with the Head of Legal Services

21.5.7

To approve and protect development and improvement lines.

21.5.8

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

21.5.9

To keep the definitive maps and statement under review

21.5.10

In consultation with the Head of Public Protection and Culture to submit objections and such representations considered necessary or permitted in respect of closed churchyard applications under the Section 1 Burial Act 1853.

21.5.11

To exercise the Council's obligations under the Act in relation to transfers of maintenance responsibilities relating to closed churchyards under Section 215 Local Government Act 1972.

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Part 12 - Management Structure

1. Corporate Leadership Team

1.1 The Council's Corporate Leadership Team comprises the following posts:

Post	Functions and areas of responsibility
<u>Chief Executive</u>	• Overall corporate management and operational responsibility (including overall management responsibility for all Officers). • Returning Officer with responsibility for ensuring that elections are administered effectively. • Representing the Council on partnerships and external bodies (as required by statute or the Council).
<u>Executive Director (People - Adult Social Care)</u>	• Adult Social Care • Public Health
<u>Executive Director (People - Children's Services)</u>	• Children's Social Care • Education and SEND
<u>Executive Director (Place)</u>	• Environment • Development and Housing • Community Services
<u>Executive Director (Resources)</u>	• Transformation • Strategy, ICT and Governance • Finance, Property and Procurement

2. Statutory Roles

2.1 By law the Council is required to designate officers to the positions of Head of Paid Service, Monitoring Officer, Chief Financial Officer (also known as Section 151 Officer), and Scrutiny Officer. Those designations are currently as follows:

Post	Functions and areas of responsibility
Chief Executive	• Head of Paid Service
Executive Director (Resources)	• Monitoring Officer
Service Director (Finance, Property and Procurement)	• Chief Financial Officer
Legal Services Manager	• Scrutiny Officer

2.2 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Financial Officer if he/she is a qualified accountant. The Monitoring Officer cannot be the Head of Paid Service or Chief Financial Officer. The Head of Paid Service, Monitoring Officer and Chief Financial Officer may not be designated as the Scrutiny Officer.

3. Senior Management Structure

3.1 The directorate structure and the service units that sit within each is set out in the [Council Senior Management Structure \[41KB\]](#) .

3.2 Strategic and key operational decision making at an officer level is undertaken through Corporate Board which meets fortnightly. This is chaired by the Chief Executive and includes the Executive Directors, the Chief Financial Officer and the Monitoring Officer.

3.3 The Chief Executive and Executive Directors also meet monthly as the Corporate Leadership Team to review communications and non-key operational decisions.

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

Service Directors meet on a monthly basis as the Council's Senior Leadership Team.

4. Chief Officers

4.1 The Council defines Chief Officers as the Chief Executive, Executive Directors and Service Directors. A list of the Chief Officer posts as at 1 January 2025 is set out below:

- Chief Executive
- Executive Director (People - Adult Social Care)
- Executive Director (People - Children's Services)
- Executive Director (Place)
- Executive Director (Resources)
- Director of Public Health
- Service Director (Adult Social Care)
- Service Director (Education and SEND)
- Service Director (Children's Social Care)
- Service Director (Environment)
- Service Director (Development & Housing)
- Service Director (Community Services)
- Service Director (Transformation)
- Service Director (Strategy, ICT & Governance)
- Service Director (Finance, Property & Procurement)

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Part 13

Codes and Protocols

Any Acts, Rules or Regulations mentioned in the text of this document can be accessed on the Office of Public Sector Information website at:
<http://www.opsi.gov.uk/legislation/uk>

If you require this information in a different format, such as audio tape or in another language, please ask an English speaker to contact Stephen Chard on 01635 519462 who will be able to help.

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13.1 Protocol on Member/Officer Relations

13.1.1 Purpose and Scope

Member and Officer relations within the Council are positive and effective. This Protocol provides guidance to Members and Officers, and is intended to strengthen and develop those relationships for the benefit of the Council, the community and effective service delivery by setting out the appropriate standard. The Protocol reflects the recommendations of the Nolan report.

The Protocol is a working document to assist both Members and Officers and, as such:

- it is not exhaustive, and will evolve over time;
- it aims to set the context and tone for working relationships;
- it seeks to clarify how day to day, practical Member/Officer relationships will work.

13.1.2 Definition of ‘Officers’

For the purpose of this protocol ‘Officer’ means any Employee/Manager/Director employed by West Berkshire Council.

13.1.3 Associated Documents

The Protocol should be read in conjunction with the following documents:

- The Council’s Constitution;
- The Members’ Code of Conduct;
- The Officers’ Code of Conduct.

13.1.4 Principles Underlying Member/Officer Relations

The Council’s values contain a commitment to fairness, integrity and the delivery of excellent customer service in reaching our goals. These are reflected in the corporate style and culture which includes close working between Members and Officers.

13.1.5 Reasons for Close Working Relations

Close working relations are essential to:

- maintain mutual trust, confidence and respect between Members and Officers;
- provide the right environment for partnership working;
- facilitate good communications and understanding of political aims and objectives;
- ensure clarity about management and operational responsibilities;
- avoid potentially damaging misunderstandings or tensions which might harm service delivery.

As a general principle, relationships between Members and Officers should be conducted on the basis of mutual respect, openness and partnership.

The approach will be supported by regular and effective two-way communications at both an informal and formal level.

13.1.6 Role of Members

The role of elected Members is defined nationally by legislation and locally with the Council's Constitution.

The role of Members may be broadly described as:

- setting the strategic direction and policies of the Council;
- representing the interests and views of their Constituents;
- monitoring the performance of services;
- overseeing the implementation of policy.

In practice, Members discharge several different roles at the same time depending upon their interests and their position within the Council. The new decision-making arrangements set out Member responsibilities for taking particular decisions, for scrutiny and for other matters such as area working. The relationship is different where the Member is part of the Executive and is empowered to take a decision. All Members are, however, representatives of their constituents and need to be supported by all Officers in this duty.

Members are also, through the Council, the 'employers' of staff and this relationship is dealt with elsewhere in the Constitution (see Part 12, Personnel Rules of Procedure).

13.1.7 Role of Officers

The key responsibilities of Officers are to:

- provide professional, technical or other advice to the Council, the Executive, Scrutiny Commission, Committees, Sub-Committees and other Member forums;
- manage the staff;
- implement effectively the decisions of the Council, the Executive, Committees and Sub-Committees;
- exercise any statutory or delegated powers in the best interests of the Council and in accordance with legislation and the Scheme of Delegation;
- provide information when requested by Members in order that they can discharge their duties;
- respect the rights of individual Members;
- refrain from expressing personal or political opinions on Council matters;
- observe their contract of employment, including provisions relating to the Code of Conduct, political restrictions and confidentiality.

Many Officers will also have management responsibilities and are accountable, through their line manager, to the Head of the Paid Service (Chief Executive) for these duties.

13.1.8 Political Neutrality

Officers are employed by the Council and serve the Council in the delivery of services. As such, Officers are politically neutral and have a duty to provide information to all Members and all Party Groups, subject to the Rules on confidentiality.

13.1.9 Responsibility to Council

The responsibility of Officers to the Council as a whole means that:

- Officers may report to the Council, the Executive or other Member bodies on any matter where they consider that this is required;
- Officers may express a contrary view to that of the Executive or other Member body where there are sound professional or technical reasons for doing so;
- Officer reports may not be changed by Members.

13.1.10 Officers' Advice

Any individual Member may seek the advice of an Officer on a matter relating to the Council's services. The Statutory Officers of the Council have a duty to provide independent advice to the Council and Members on specific matters. These politically restricted posts are:

- Head of Paid Service: Chief Executive;
- Monitoring Officer: Interim Executive Director (Resources);
- Section 151 Officer: Service Director (Finance, Property and Procurement).

13.1.11 Politically Restricted Roles

Group Executives have been appointed in the Council to support the functioning of the political groups. These posts are politically restricted and postholders are Officers of the Council. A list of the posts within the Council that are politically restricted is maintained by the Monitoring Officer.

13.2 Relationships between Members and Officers

13.2.1 Chairman of the Council

The Chairman of the Council is the first citizen of the District with particular statutory responsibilities, including chairing meetings of full Council.

Officers will provide appropriate support to the Chairman in their role of promoting the interests of the District and the Council. For example, by inviting the Chairman to community or staff events, ensuring that the Chairman is kept up to date with major service developments, or supporting the representational role of the Chairman with the Council's key partners. The Chairman will be supported in their duties by Democratic Services Officers.

13.2.2 Support by Officers to the Executive

The Executive Leader and other Members of the Executive will receive all necessary advice and support to enable them to discharge their functions effectively. They will need to respect the political neutrality of Officers in giving advice or support.

The Council has decided not to establish a separate team of Officers to work with the Executive; any Officer may be called upon to advise Executive Members or to attend meetings of the Executive. In practice, there will be particularly frequent contact between Executive Members and senior

Officers. The Chief Executive and other senior Officers will attend Executive meetings as necessary.

In addition, Executive Members with specific portfolios will have day-to-day dealings with the relevant Executive Directors, Service Directors, senior managers on particular service and policy issues. It is essential that arrangements for these regular meetings are agreed and that a proper record is kept of the purpose and outcome to avoid any unnecessary misunderstanding. Executive Members and their principal Officer contacts will need to work co-operatively and openly and respect each other's responsibilities.

Where an Executive Member has specific delegated powers they should ensure that they adhere to the appropriate protocol on decision-making by Executive Members and obtain all relevant legal, financial and professional advice before any decision is made. They should also consider to what extent they should consult other Members of the Executive or local Ward Members. Decisions made must be recorded as required by Regulations and this Constitution. The Protocol for Decision-Making by Individual Executive Members is set out in Appendix A.

13.2.3 Support by Officers to the Scrutiny Function

The Chairman and Members of the Scrutiny Committees will receive all necessary support to enable them to discharge their functions effectively.

Any Officer of the Council may be called upon to advise or attend meetings of the Scrutiny Committees. However, to ensure that the scrutiny and policy development role is developed, the Lead Officer for Scrutiny, in conjunction with the appropriate Executive Director, will work with the Scrutiny Committees.

Members will need to respect the role of Officers in providing advice to the Executive as well as to the Scrutiny Committees in a politically neutral way. The Chairmen of the Scrutiny Committees will, in particular, have a role in ensuring that questioning of Officers is conducted in a positive and constructive way and that the respective accountabilities of the Executive for decision-making and Officers for providing advice are understood.

13.2.4 Questions for Officers Attending Scrutiny Committees

Officers attending Scrutiny Committees may be asked questions of fact about:

- a particular policy;
- the justification for the policy and its objectives;
- the extent to which those objectives have been met;
- how operational factors relate to the policy;
- what advice they gave to the Executive;
- their reasons for taking decisions under Delegated Powers.

13.2.5 Support by Officers to Other Committees

The Chairmen and Members of the Area Planning Committees, Licensing Committees, Governance Committee, Personnel Committee and other relevant Member bodies will receive all the necessary advice and support to enable them to discharge their functions effectively.

These Committees will be supported by a wide range of Officers depending upon the function under discussion.

13.2.6 Political Groups

Officers will provide impartial advice and support to all political Groups on the Council.

13.2.7 Request for Officer to attend a Political Group Meeting

Requests for an Officer to attend a Political Group meeting will be on the following basis:

- Any request must be made through the Chief Executive or a Executive Director normally five working days in advance of the meeting;
- Officers below senior manager level will not normally attend Group meetings;
- Officers below Service Director level must not attend Group meetings unless there is another Officer present;
- No Officer can be required to attend a Group meeting;
- Advice given at Group meetings and the views of Members of the Group thereon will be treated as strictly confidential (unless otherwise agreed);
- Any policy formulated as a result of the advice will be regarded solely as the policy of the Group, and not a policy supported by Officers;
- Officers attending Group meetings must be treated fairly and their political neutrality respected;
- Any non-Councillors present at a Group meeting, except Group Executives, must not be given confidential papers and will be asked to leave the meeting if the Officer briefing is confidential.

13.3 Relationships between Individual Members and Officers

13.3.1 Mutual Respect

All contacts, formal or informal, between individual Members and Officers must be on the basis of mutual respect, trust and courtesy. This is particularly important in relation to the reputation of the Council with the community.

13.3.2 Member/Officer Relations

In their dealings with Officers, particularly junior ones, Members need to be aware that staff may feel uneasy or at a disadvantage, and to make allowances for this accordingly.

A Member must not apply pressure on an employee to make a particular decision, to act improperly, or to provide a service to an individual where there is no entitlement.

Similarly, Officers must not apply pressure on a Member to make a decision, nor raise personal matters relating to employment etc. with a view to influencing the Member.

Close personal familiarity between an individual Member and Officer should be avoided. Any close relationship between a Member and an Officer must be made known to the relevant Group Leader and the Officer's manager.

Where a Member is involved in an Officer appointment, grievance or disciplinary panel, they should not let their personal or political views influence their judgement or discuss the matter with others outside the Panel. The overriding consideration must be the best interests of the Council following the procedures as laid down.

Any Member who proposes to act in a professional or private capacity against the Council, must notify the Chief Executive/Monitoring Officer in writing. This notification should also apply to a Member's spouse, partner, employer or company within which the Member has an interest.

Any Member who considers that they have not been treated with respect and courtesy by an Officer, or has any other concern about the conduct of an Officer (and this has not been resolved by direct discussion with the Officer), may raise this with the Chief Executive or a relevant Executive Director. Any concern will be investigated and, if appropriate, action may be taken.

If an Officer considers that they have not been treated appropriately by a Member, or has any other concern about the conduct of a Member, they may raise it with their Manager or Service Director. Any concern will be investigated and discussed with the relevant Group Leader and the Chief Executive. If the matter cannot be resolved satisfactorily, the Council's Grievance Procedure or Governance Committee procedures may be invoked.

13.3.3 Support by Officers to Ward Members

Officers will support Members in their role as representatives of their local Constituents. This will include:

- providing information on service delivery;
- answering queries from constituents;
- meeting constituents with a Member to hear their views.

13.3.4 Requests for an Officer to attend a Public Meeting

Any request for an Officer to attend a public meeting arranged by a local Member will be dealt with on the following basis:

- the request must be made to the relevant Executive Director or Service Director, who will consider whether attendance is possible;
- the purpose of the meeting must be clearly stated;
- any publicity for the meeting (e.g. a Ward newsletter) must make it clear that it is not a Council meeting;
 - the relevant Spokesperson and other Ward Members (if appropriate) will be advised if an Officer is to be present;
 - any Officer attendance will be strictly on an impartial basis;
 - no representative of the media should be invited, unless this has been agreed with the Officer.

13.3.5 Informing Members

Officers will seek to keep Members informed about the major issues facing the Council and, in particular, on issues and events affecting their ward. This will include notification of issues coming before the Executive or other Member body. A regular information bulletin which contains Planning information will be issued and will contain Officer contact details.

13.3.6 Member Access to Information

Where a Member seeks information or advice from an Officer, the request should normally be responded to within two working days. If longer time is needed to prepare a substantive response an acknowledgement should be given and a full response should be provided, at the latest, within ten working days (which is the Council's performance target for answering all enquiries). The response should be provided on a confidential basis to the Member making the enquiry unless the original correspondence was copied to other Members or the Member agrees that this should happen.

Where the relevant Executive Director or Service Director considers that the cost of providing the information requested is unreasonable, the request may be declined. In such cases the relevant Group Leader should be advised.

If a Member is seeking information or advice on a politically contentious or controversial issue they should direct their request to the relevant Executive Director or Service Director. If a request is made of an Officer by a Member for information/advice of other than a factual nature, the Officer may need to liaise with their manager.

Where an Executive Director or Service Director provides general information to individual Group Leaders, spokespersons or Members, this information will also be provided to other Political Groups.

Where Officers consider that information is of a confidential nature which should not be openly available to the public or press, this information will be supplied by Officers to Members on a private and confidential basis. Any information provided to Members on this basis will be treated as such and will not be circulated outside the Council.

The Council's Access to Information Rules contain the formal legal provisions relating to access to documents by Members. This is supplemented in the Code of Conduct in relation to confidentiality.

13.3.7 Inspection of / Access to Documents (see also Access by the Public to Information Rules of Procedure)

A Member of the Executive, Scrutiny Committees and other Committees or Sub-Committees, has the right to inspect documents about the business of that body. If not a Member of the specific body, they must satisfy the Chief Executive or the relevant Executive Director why sight of the documents is necessary to perform their duties.

Except as otherwise provided, any Member of Council may inspect any document, or have access to information, held by the Council where such inspection or access is necessary to perform their duties as a Member of the Council.

A Member of Council is not entitled to inspect any document, or have access to any information about a matter in which they have a disclosable pecuniary or prejudicial interest or where the Member is acting against the Council in a professional capacity. However, this does not remove from the Member the basic rights of a member of the public.

The Chief Executive or relevant Executive Director may, with good reason, refuse a Member of the Council access to, or inspection of, a document or other information. This is likely to be in cases where the information is of a highly sensitive or personal nature and the Member has not demonstrated adequately why they have a genuine 'need to know' about the information.

If a Member is not satisfied with a decision of the Chief Executive or relevant Executive Director to refuse access to a document or information, they may refer it to the Monitoring Officer. If a Member remains dissatisfied, they may ask for the matter to be considered by the Governance Committee, who may decide to refer the issue to Council for a decision.

13.3.8 Press Releases

Arrangements for the issue of press releases will be in accordance with the Code of Practice on Local Authority Publicity. In particular, Council press releases will reflect the policies and decision of the Council, the Executive and Executive Members or other Member bodies, not the views of Political Groups. Press releases will be available to all Members of the Council.

13.3.9 Democratic Support

Democratic support will be provided through Democratic Services. These services will assist Members to discharge their various roles as elected representatives and cannot be used for party political or private purposes, or for any campaign unrelated to the Council's functions.

13.3.10 Review of Protocol

This Protocol will be kept under review in the light of experience and will be reviewed at the request of the Leader of the Council and after the Council's Elections.

13.3.11 Links with Other Council Policies

There are close links between this Protocol and the following Council policies:

- Members' Code of Conduct
- Officers' Code of Conduct
- Anti-Fraud and Corruption Policy
- Whistleblowing Policy
- Access to Information Procedure Rules

13.4 Members' Code of Conduct

13.4.1 The Members' Code of Conduct is provided at Appendix F.

13.5 Officers' Code of Conduct

Introduction

- 13.5.1 This Code of Conduct for West Berkshire Council employees sets out the expected standards of behaviour for employees of the Council, other than those based in schools.
- 13.5.2 The public is entitled to expect the highest standards of integrity from local government employees and to know that decisions and actions taken are fair and impartial. Public confidence is shaken if there is the least suspicion, however ill-founded, that there has been improper conduct or that decisions and/or actions have been influenced by improper motives or pressures. Councils are expected to provide clear guidance to their employees on what is acceptable conduct and what is not.
- 13.5.3 The Council also has a right to expect high standards of conduct and loyalty from its employees. In delivering Council services, employees should maintain the high standards of behaviour that the public is entitled to expect. Employees should also behave in a fair, courteous and supportive manner to colleagues within the Council, and operate within the Council's employment policies.
- 13.5.4 Breaches of the Code of Conduct will normally result in disciplinary action being taken. Serious breaches may result in dismissal from the Council's employment.

13.5.5 Applicability

This Code of Conduct applies to all employees directly employed by the Council. School employees will be covered by the code of conduct approved by the governing body of the school.

13.5.6 Gifts and Hospitality – General

The acceptance of gifts and hospitality is a sensitive area where actions can easily be misconstrued. Much of what is acceptable practice in the private sector is not acceptable in local government employment, where actions of employees are open to public scrutiny. In deciding whether to accept gifts or hospitality, employees should consider how their actions might be considered by a member of the public; they should not be embarrassed to explain them. These guidelines will help to judge what sort of gift, and what level of hospitality, is acceptable.

13.5.7 Rules and Procedure for Gifts and Hospitality

Acceptance of gifts or hospitality should be the exception. If in any doubt, they should be refused.

- (a) Employees may accept small "thank you" gifts of token value, such as a diary, a coffee mug or bunch of flowers, if they have not asked for any such gift and if their manager agrees (in advance as far as possible). The manager must note all such gifts in the hospitality register (see (e) below). Gifts that the manager refuses permission to accept must be returned.
- (b) Employees should always say no if it is believed that the giver has an ulterior motive. They should be sensitive to the possibility that the giver may think that even small gifts or simple hospitality will elicit a

more prompt service or preferential treatment.

- (c) Employees should not accept gifts or hospitality from anyone who is, or may be in the foreseeable future, tendering for any contract with the Council, seeking planning consent, seeking employment with the Council, or in dispute with the Council, even if the employee is not directly involved in that service area.
- (d) If an employee is in doubt about the acceptability of any gift or offer of hospitality they must consult their Service Director or Executive Director.
- (e) Employees must report immediately (in writing if requested to do so) any offer of hospitality made to them. The manager will make sure it is entered in the hospitality register. Each Service Director will keep a hospitality register to record any offer of a gift or hospitality, whether accepted or not.

13.5.8 Hospitality

A gauge of what is acceptable hospitality is whether the Council would offer a similar level of hospitality in similar circumstances.

Occasional working lunches with customers, providers or partners are generally acceptable as a way of doing business provided that the frequency and cost are reasonable.

Invitations to corporate hospitality events must each be judged on their merit. Provided the general rules above have been taken into account, it may be acceptable to join other company/organisation guests at:

- sponsored cultural and sporting events, or other public performances, as a representative of the Council;
- special events such as significant anniversary or jubilee celebrations.

In all such cases, Executive Directors or Service Directors must be consulted. When deciding acceptability, employees and managers should take account of:

- the number of events attended;
- the possible public perception of the attendance of employees at such events;
- the appropriateness of the invitations, in terms of the level of hospitality, the frequency and the status of the invited employee.

Acceptance of paid holidays, concessionary travel rates, offers of hotel accommodation or the use of company flats is not permitted.

If an employee is visiting a company to view equipment that the Council is considering buying, expenses for the trip should be paid by the Council. Acceptance of refreshments and/or a working lunch may be acceptable, but care must be taken to ensure that the Council's purchasing/tendering procedures are not compromised.

Acceptance of sponsored hospitality that is built into the official programme of conferences and seminars related to an employee's work is acceptable.

Offers to speak at corporate dinners and social gatherings or events organised by, for example, a professional body, where there is a genuine need to impart information or represent the Council, may be accepted if agreed in advance with the Service Director. In such cases, where a spouse or partner is included in the invitation, it is acceptable for them to attend as well, provided that expenses incurred are met by the employee.

Any invitation accepted should be made to the employee in their professional/working capacity as a representative of the Council.

13.5.9 Rules Governing Interests

Local government employees must, at all times, be seen to be acting fairly and impartially and must consider how their actions appear to members of the public. Everything they do is open to public scrutiny. The public must never have reason to suspect that an employee's personal needs or interests or those of their family or friends influence actions or decisions.

The following rules set out what constitutes an interest that may conflict with the interests of the Council and the actions that employees must take should such an interest exist:

- Financial interests can be either direct (e.g. an employee or family member making application for planning consent or a grant from the Council) or indirect (e.g. an employee or family member being a committee member of a club that is making such an application);
- A personal interest exists when an employee or their family or close friends or any organisation they belong to could gain or lose (other than financially) from an act or decision of the Council;
- Employees must disclose to the Service Director if they have a friend, associate or relative who is involved in providing goods or services to the Council, or who is receiving grants or benefits from the Council of a kind that they deal with directly or monitor in any way in the course of their work. ;
- If circumstances arise during employment in which the employee could exploit Council information or procedures, they should inform the Service Director. The manager should be informed if the employee, their partner or a close relative:
 - is applying for a service or benefit that in the job the employee supplies, administers or influences; or
 - is or could be affected by a change to service delivery, enforcement or control procedures which in the job the employee carries out, administers or influences;
- An employee should register with the Council their membership with any organisation not open to the public that has secrecy about rules, membership and/or conduct, for example Freemasons.

Disclosures must be made in writing to the Service Director, with a copy to the Service Director (Strategy, ICT and Governance). They will enter brief details of the disclosure in a register that is open for inspection by elected Members of the Council, but not the general public. Disclosures will also be

circulated to other Service Directors for the attention of any officers who might need to know.

The Service Director (Strategy, ICT and Governance) will liaise as appropriate with the Service Director (Finance, Property and Procurement) and the Audit Manager, who will also have access to any disclosures.

13.5.10 Other Employment and Activities

Employees must not engage in any additional employment, unpaid appointments or other outside activity which conflicts with the Council's interests or which could damage public confidence. In some circumstances permission must be sought before taking on additional employment, as follows:

- **Senior Employees**

Senior employees (on or above scp 33) must not engage in any other business or take up any additional appointment or employment without the written consent of their Service Directors.

- **All Other Employees**

There is no requirement for employees on scp 32 or under to obtain the consent of their Service Director before taking up additional employment. However, all employees must inform their manager if they do so because the Working Time Directive requires employers to know the total number of hours worked by their employees.

The Council owns any inventions, writings and drawings created in the course of employment (intellectual ownership). Employees must obtain their Service Directors written permission to publish or use this material for any other purpose.

Employees should consider with caution any requests to do private work, using their professional/technical skills, and must always be aware of the potential for conflict of interest and damage to public confidence in those circumstances.

13.5.11 Confidentiality

Some Council documents are public documents, e.g. the Constitution and complaints procedures. Other information is strictly exempt/confidential, e.g. personal information about staff and clients, and tendering information. Such information must not be made public or disclosed without authorisation.

Employees must not disclose any information that is exempt and/or confidential or that, if it were made public, might lead to a breakdown in the trust and confidence that the Council is required to provide to the public and therefore to expect of its employees. It may be necessary to discuss confidential information with colleagues, but sensitive information should not be discussed in public, where it may be overheard. Employees should not disclose exempt/confidential information gained through employment in a social or public setting.

Employees must not pass any information, or make comment, to the press or other media unless they are expressly authorised to do so. Media enquiries in particular should be handled with care and employees should

notify the appropriate Service Director and the Public Relations Team if they have been approached by the media.

13.5.12 Recruitment and Appointment

If an employee is involved in recruitment or making an appointment, they must apply the Council's Recruitment and Selection processes, and ensure that fairness and equity is applied at all stages.

Employees involved in recruitment or making an appointment, must inform their manager if they are closely associated with any of the candidates (e.g. a relative or close friend).

Employees making a work-related application to the Council (e.g. for a different job, secondment or development opportunity) must disclose to the decision-maker any information that could affect the outcome or cause public concern (e.g. the relationship to an important contractor or client of the service or a conviction relevant to the work). They must not seek the help or influence of Members of the Council or senior employees.

13.5.13 General Conduct

All employees are expected to apply the Council's values to all aspects of their behaviour and conduct at work. The Council has an Equality Policy that must be applied in all dealings, with work colleagues as well as with those individuals and organisations that employees have contact with in their work.

The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed. Any failure by officers to comply with the provisions of the Council's Constitution may result in disciplinary action being taken.

The Council has agreed Disciplinary Rules which contain examples of conduct which is unacceptable. Employees must make themselves aware of the content of these rules.

The Council expects the conduct of its employees to be such that no justifiable complaint can be made by members of the public, other bodies and agencies, other employees, managers or Council Members. Any complaints about inappropriate conduct will be dealt with using the Council's Disciplinary Procedure.

All employees are expected to comply with the law relating to their work and general conduct. If they break the law outside of working time and the offence is one that could damage public confidence or have a direct effect on their work, they may be subject to disciplinary procedures.

All employees are expected to treat the equipment and facilities that they use at work with care. Abuse of Council property and facilities will be considered as a serious matter and dealt with under the Disciplinary Procedure.

13.5.14 Dress and Presentation

The Council expects its employees to dress in a manner that gives a good impression to the public, and is suitable for the type of work being carried out. Clothes should provide sufficient cover at all times of the year.

Managers will advise employees of the type of clothes that are appropriate for the type of work they are employed to do.

Employees who are required to wear a uniform must conform to those requirements. If they have personal, cultural or religious objections to these requirements, they must raise them with their Service Director, who will consider each case on its merits and take appropriate action, including using the Council's agreed procedures where appropriate, seeking advice from Human Resources where necessary.

Clothes should be clean and tidy unless soiled by work duties on that day.

13.5.15 Service Delivery

Good customer care is essential. The first impression created with service users, either in personal contact or on the telephone, will often determine how the interaction will proceed and how the Council will be perceived.

Employees must treat all service users with courtesy and respect. If a service user is aggressive or offensive, an employee may firmly and politely end their interaction with them or summon assistance, but they should not be aggressive or rude in response. They should inform their manager in writing immediately of details of any aggressive or offensive customer or colleague they have dealt with. Details of the protocol that operates in each service area for dealing with aggressive or offensive customers should be provided by the Service Director.

Training programmes are provided for staff to help develop ways of dealing with difficult customers appropriately. Managers should provide details if an employee believes it may help them in their job.

It may be necessary for security staff to use reasonable force to remove a person who has acted violently and refused to leave the premises. Employees who are directly assaulted may be entitled as a last resort to take reasonable action to defend themselves, but over-reaction can constitute a criminal offence. The Council will support, and take appropriate action on behalf of, employees who are assaulted in the course of their duties.

Employees should try at all times to make service users feel that they are receiving the best attention. Every effort should be made to satisfy the service user or enquirer at their first point of contact. If an employee needs to refer the enquiry or matter to another member of staff or another agency, they must explain the reason why.

13.5.16 Social Media

The way in which Council employees present and conduct themselves on social media can have an impact on public perception of the Council. Employees should consider carefully before they identify themselves as an employee of the Council on their personal social media accounts as this will increase the likelihood that comments may have an impact on the Council.

Anything posted, shared or 'liked' on social media could potentially end up in the public domain, regardless of the privacy settings selected by the employee. Employees should be mindful of this when using social media both for and outside of work.

Employees must ensure that their use of social media does not adversely affect the Council, its business, reputation or credibility. They must ensure that their work and personal use of social media does not:

- breach any Council policy or procedure;
- subject the Council to legal challenge or potential legal challenge;
- compromise the privacy or dignity of service users or colleagues;
- disclose confidential information gained through their employment by the Council;
- amount to cyber-bullying of colleagues, service users, elected Members or others associated with the Council and its business; for example by posting, commenting or liking information or images about/of them that is intimidating, hostile, abusive, degrading, humiliating or offensive;
- criticise Council employees, service users or individual elected Members. Where an employee is concerned that the Council, its employees or elected Members are acting improperly or unlawfully they should use the Whistle Blowing Procedure to report these concerns; see section 20 below;
- show a lack of respect for the opinions and beliefs of others;
- imply that the personal views of the employee are an expression of the views of the Council.

Failure to adhere to these requirements may result in action being taken under the Council's disciplinary procedure and where appropriate this may result in dismissal.

If an employee wishes to publicly comment upon policies or proposals of the Council they should take care to ensure that their comments are not personal or offensive. Employees in politically restricted posts should also take care that their comments do not breach the restrictions placed upon them by legislation. Further information can be found in the Council's Politically Restricted Posts Policy and Procedure.

Employees in the public sector need to maintain high standards of conduct and impartiality. Employees should not connect with service users where this could give rise to a conflict of interest. Particular care must be taken with respect to vulnerable service users. Where an employee considers that it may be appropriate to accept or send a connection request (e.g. a Facebook friendship request) with a vulnerable service user they must obtain prior written approval from their manager before accepting or seeking the friendship request.

Where employees are unsure whether or not it is acceptable to post, comment or 'like' something on social media they should check with their line manager before doing so.

Personal social media sites must not be used by employees during their working hours.

13.5.17 Working with Managers

Managers should deal with staff courteously, reasonably and fairly at all times.

Managers will use the Council's Employee Performance Management scheme to appraise performance and provide feedback. They will define expectations, advise on how to improve and deal with any concerns about an employee's work.

Managers should provide advice relating to the Council's human resources policies and provide access to appropriate training and career development within the context of budget and service delivery needs.

Managers will support staff in the proper performance of their duties, including assistance, where necessary, in dealing with other employees or members of the public.

Employees should treat managers with respect and courtesy, and carry out any reasonable and lawful instructions their manager gives them to the best of their ability.

Employees should complete any document, form or record in an honest way and never damage, alter or falsify them.

Employees have a responsibility to report any breaches of disciplinary or other Council rules.

13.5.18 Working with Elected Members

Employees are expected to be polite and efficient when dealing with enquiries from elected Members, working within whatever procedures apply in each Service. Elected Members are also expected to deal with employees courteously and reasonably (as, in any event, is required by their Code of Conduct).

Employees should not discuss any personal matters to do with the job with Members directly, but should go through agreed Council procedures, such as grievance and appeals procedures or consultative panels. Allegations or claims about other employees should be taken up with an appropriate manager, not with Members.

Employees should not use Members to bypass formal Council procedures in any way, for example to influence the outcome of any disciplinary matter. This does not affect the rights of trade unions to take up matters on behalf of their members through the recognised channels, or for Members to be formally involved in Council procedures when appropriate - for example as a witness.

Employees should not try to influence Members prior to any appointment. This does not preclude them from approaching their local Ward Member in their role as their elected representative.

13.5.19 Working with Other Employees

Employees should show respect for their colleagues and should not disrupt or hinder their work in any way.

All forms of bullying, including violence or verbal aggression towards colleagues is unacceptable and will be dealt with under the Disciplinary

Procedure. It is not acceptable for employees to abuse their position with the Council to take advantage of other employees. If there are important issues that they cannot resolve amicably with another employee, they must make the situation known to their manager.

All forms of harassment, including on the grounds of sex, race, religion or belief, sexual orientation, age, gender identity or reassignment, disability, pregnancy or maternity, marriage or civil partnership, political affiliation, or membership of a trade union, are unacceptable. The Council's approach is set out in the Responding to Bullying and Harassment Policy. Allegations will be investigated and dealt with under the terms of the Disciplinary Procedure where necessary.

Personal relationships with colleagues who would have a line or other management relationship must be declared on appointment. If close personal relationships develop between colleagues who have a management relationship, the employees concerned must inform the Service Director. The information will be treated with confidentiality.

13.5.20 Smoking, Alcohol and Prescription Drugs at Work

The Council operates a no smoking policy. This applies to all Council buildings, and those where Council services are provided. It also applies when transporting customers in Council or private vehicles.

Employees should not consume alcohol when they are on duty unless agreed beforehand by their manager for specific occasions.

Employees should ensure that any alcohol which is consumed whilst off duty but during the normal working day will not damage the reputation of the Council. For certain types of work, for example those which involve operating heavy machinery, driving Council vehicles and working in Social Services, it is not acceptable to consume any alcohol during the working day. Managers must provide employees with details of local arrangements.

Prescribed drugs may be taken on the condition that they do not interfere with service delivery. If an employee is taking prescribed drugs that may affect their behaviour and/or their performance they should inform their line manager, who will take a view on their attendance at work.

13.5.21 Working with Money and making Financial Claims

Employees receiving or responsible for public money need to take particular care. Monies collected on behalf of the Council must be banked by them or otherwise passed to responsible officers without undue delay.

All processes and procedures laid down for the management of the Council's financial affairs must be followed, including Financial Regulations, Standing Orders and the Council's Anti-Fraud and Corruption Policy.

For claims submitted to the Council for reimbursement of expenditure or for legitimate allowances, the correct procedures must be followed and details of the claim be within set limits, correct and can be substantiated.

13.5.22 Working Safely

The Council and its employees have statutory responsibilities for ensuring that a healthy and safe working environment is maintained. These are set out in the Council's Health and Safety Policy.

Actions or omissions of any individual that place others in danger may lead to disciplinary action.

Employees are expected to:

- adhere to the Council's Health and Safety Policy and the safety rules relating to their particular service;
- make known to their manager any unsafe situations or practices that they become aware of;
- take appropriate steps to ensure the health and safety of other employees and any other users of the Council's premises;
- wear any safety clothing and use any safety equipment provided for work;
- report promptly any injuries, accidents or near misses suffered at work;
- report incidents of abusive/aggressive or bullying/threatening behaviour experienced by the employee or they come into contact with during their work;
- tell their manager if they are taking any medications that could affect their ability to work safely;
- comply with hygiene requirements.

13.5.23 Protecting the Council and its Standards

The Council needs its employees help to ensure that West Berkshire can continue to be a fair and equitable provider of services, a safe and rewarding place to work and a local authority with the highest standards and reputation. It recognises that employees are often the first to know when things are going wrong in the Council's operations.

However, there may be reasons why employees are reluctant to draw attention to their concerns e.g. they feel that reporting on colleagues, managers or elected Members is disloyal, they are worried that they may not be believed, or they are afraid of possible victimisation or future disadvantage.

The Council values employees and others who are prepared to acknowledge when things are not right and to bring such matters to the attention of others that can deal with them. Only by encouraging those people to report inappropriate or unlawful conduct can the Council protect its reputation and maintain its high standards.

Improper or unlawful conduct can cover a wide range including financial irregularity; abuse of clients; abuse of power or position; neglect of duty; sexual or racial discrimination; bullying or harassment.

If an employee detects or has reason to suspect that colleagues, managers or elected Members are acting improperly, the Council has a reporting process that can be followed without fear of victimisation, discrimination or disadvantage. The process is set out in the Council's Whistleblowing Policy.

Appendix A

Protocol for Decision-Making by Individual Executive Members

1. Introduction

At its Annual Meeting on 7 May 2002, the Council approved a Protocol for decision making by individual Portfolio Members. The Protocol was drafted on the basis that individual Portfolio Members would not have powers to make “key decisions”. These are defined by the Government (Regulation 8 of the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2001) as:

- (i) Those which result in the Local Authority incurring expenditure which is, or the making of savings which are, significant having regard to the Local Authority’s budget for the service or function to which the decision is related.
- (ii) Those which are significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Local Authority.

It was found that this protocol was too restrictive, particularly in relation to the second definition of a “key decision”, which restricted decisions to single wards or electoral divisions.

The Council, at its meeting on 17 December 2002, therefore agreed the following list of exceptions to the “key decisions”:

- (i) All decisions relating to highway matters which are within the approved budget and policy framework;
- (ii) With the exception of those strategic plans, strategies and policies requiring Council approval (as set out in Article 5 of the Constitution) decisions relating to all other plans, strategies and policies that the Council is required to produce;
- (iii) The Council’s response to Government and other consultation documents;
- (iv) Appointments to outside bodies.

A further exception was agreed at the Council meeting on 4 May 2004:

- (v) Insofar as the Public Rights of Way issues referred to in Part 3 of the Constitution (Scheme of Delegation) Rule 3.13.8 (Notices and Orders in Relation to Highways and Public Rights of Way) and 3.14.1 (Countryside including Rights of Way Functions) are concerned, it is proposed that, where these issues affect more than one Ward, whether objections are received or not, the decision shall be the subject of the Individual Decision-making process.

At the Council meeting on the 13 December 2005 the list of exemptions to “key decisions” was extended to allow the following to be the subject of the Individual Decision-making process:

- (vi) the Leader of the Council to approve the Council’s Forward Plan for subsequent publication in accordance with the Local Government Act 2000 later replaced by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

At the Council meeting on the 22 September 2011 the list of exemptions to “key decisions” was extended to allow the following to be the subject of the Individual Decision-making process:

- (vii) Annual Reports and Statement of Purpose – e.g. Castlegate, Fostering and Adoption Annual Reports;
- (viii) Permission to go out to consultation – e.g. Home to School Transport and School Admissions.

A step by step guide to the Individual Decision Making Process is attached as Appendix B1 to this protocol.

2. West Berkshire Council Forward Plan

Subject to the provisions contained in Part 5 (Executive Rules) Sections 9 (Exceptions to publicity in connection with Key Decisions) and 10 (Urgent key decisions) of the Constitution all decisions to be made by Portfolio Members **must** be included in the West Berkshire Council Forward Plan.

A Forward Plan Submission Form **must** be completed and returned to Democratic Services in all cases. Deadlines for items to be included on the Forward Plan must be strictly adhered to. Failure to comply with these deadlines will result in the decision(s) having to be delayed. Regulations require the Forward Plan to be published 28 clear days’ before a key decision can be taken. It should be noted that “clear days” means working days, from midnight to midnight, and excludes weekends and public holidays, so 28 clear days equates to around 5½ normal weeks.

The provisions contained in Sections 9 and 10 will apply when a decision is deemed to be urgent. The rules relating to call-in set out in Sections 12 and 13 will not apply in the case of urgent decisions.

3. Dates when Individual Decisions can be made

The Portfolio Member will make their decision at a meeting with the relevant Executive Director or their representative. An Officer from Democratic Services must also be in attendance. **It is the responsibility of the service areas to ensure that the Portfolio Member is aware of the forthcoming item and agrees the date when the decision will be taken.** In the absence of the Portfolio Member (and with their agreement) the Leader or Deputy Leader of the Council can be authorised to make a decision on their behalf at a meeting. The date and time of the meeting will, however, be at the discretion of the relevant Portfolio Member.

4. Formal Written Report

A written report will be prepared by the relevant Executive Director or Service Director. The report shall include the following information:

- The name of the Portfolio Member within whose portfolio the issue falls
- The issue to be decided with reasons for the decision
- Supporting information – a summary of the facts relating to the matter under consideration. This section of the report should confirm that the proposed course of action is in accordance with the approved policy and budget framework. It should also include all the necessary corporate implications (e.g. financial, human resource, legal etc)
- The Officer's recommendation and the reasons for that recommendation
- Other options considered (where appropriate)
- A list of background papers
- Any consultations undertaken, **the method of consultation** and a summary of any representations
- A report which contains confidential or exempt information must state the reasons why such information is contained (Part 10, Section 10 refers).

The report should be e-mailed to Democratic Services seven clear working days before the decision is due to be made. This is in order that it can be sent out to all Members five clear working days prior to the decision being made. The five clear working days do not include the day of the meeting or day of despatch of the report. A copy of the Decision Record Notice should be completed by the service area and e-mailed with the report.

5. Decision Record Notice

An Officer from Democratic Services will bring a copy of the relevant report with the partially completed Decision Record Notice to the Decision meeting. Prior to the meeting the Executive Director or their representative will check with the Portfolio Member that they are content with the decision notice.

The Decision Record Notice shall contain the following information:

- The issue to be decided with reasons for the decision
- Other options considered (where appropriate)
- Any consultations undertaken and a summary of comments received. (including other Members consulted if appropriate)
- A list of background papers
- If the report contains confidential or exempt information this must be stated with the reasons why such information is contained (Part 10, Section 10 refers).
- Whether or not any Member consulted in connection with the matter or participating in the making of the decision has declared a conflict of interest under the Local Code of Conduct.
- If a conflict of interest has been declared, a copy of the minute of any dispensation granted by the Governance Committee or Monitoring Officer should be attached to the decision notice (if appropriate).

After each decision has been taken, the Portfolio Member, Executive Director or their representative will finalise and sign the Decision Record Notice. The report and Decision Record Notice will then be handed over to the attending Officer from Democratic Services who will also sign it and a copy of the Notice will be sent to the Executive Director or their representative for their records.

The Decision Record Notice will then be made available via the Council's website.

6. Call-In

Decisions will usually be subject to call-in. The call-in procedure shall not apply where the decision taken by the Portfolio Holder has to be implemented before the expiry of the call-in period. This will only be the case if one of the following applies:

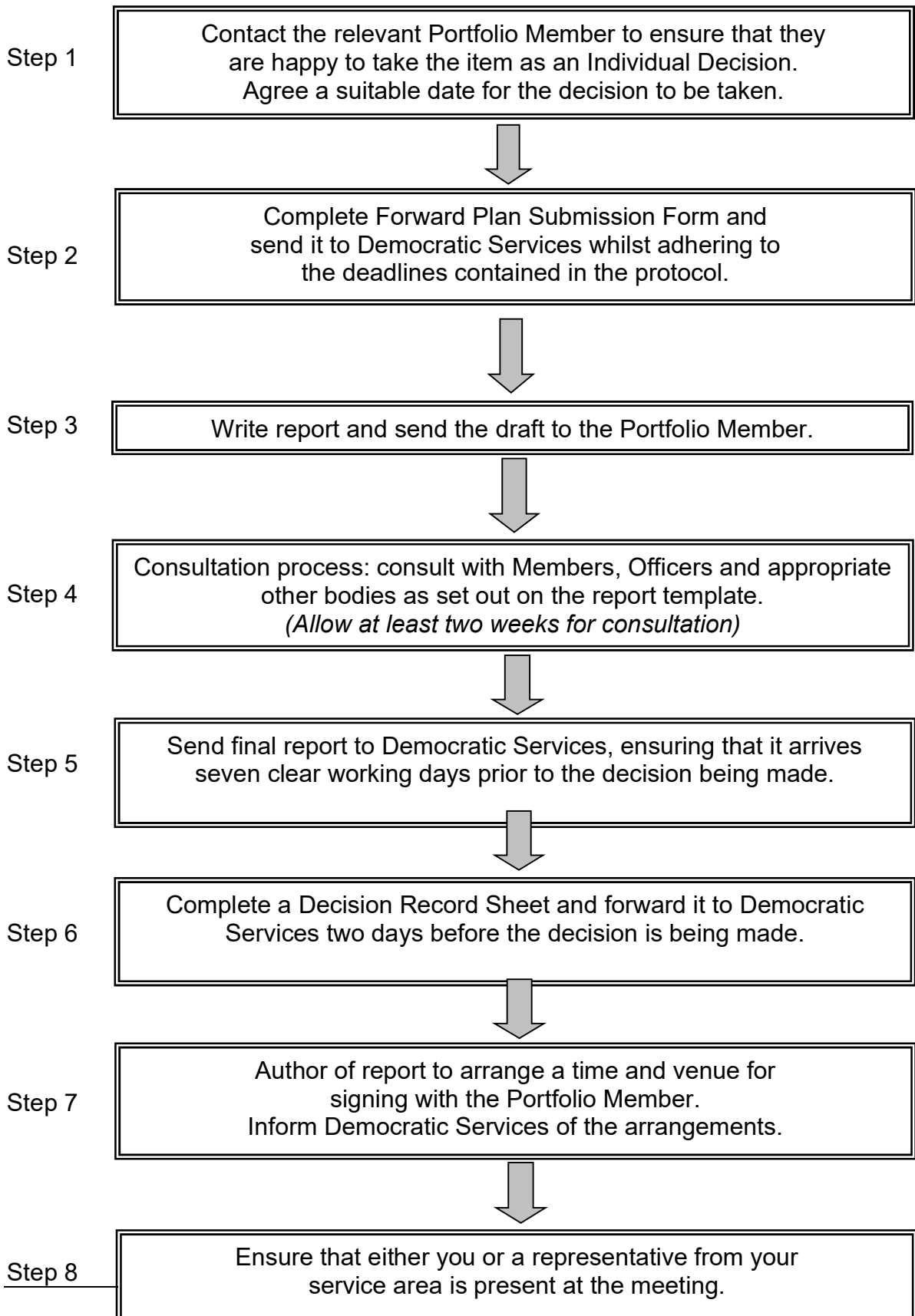
- If there were a delay in implementing the decision, this would have serious financial implications for the Council or could compromise the Council's position.
- The item has been considered by the Scrutiny Commission or the Health Scrutiny Committee, or has been the subject of a review undertaken by another body e.g. Task Group, within the preceding six months.
- The item is deemed an Urgent Key Decision as set out in Part 5 (Executive Rules) Section 10 (Urgent Key Decisions).
- Reports that do not require a decision and are for information only will also not be subject to 'call-in'.

The reason why the item is "not subject to call-in" must be specified in the report. In the event of a dispute over the reason why the item is "not subject to call-in" the Monitoring Officer or the Section 151 Officer will be the final arbiter.

In the event that an item is called in, an Officer from Democratic Services will inform the relevant Executive Director and/or Service Director if the item has been called-in. If the item has not been called-in after five clear working days have elapsed the decision can then be implemented.

Appendix A1

Individual Decision Making Process



Appendix B

Procedure Rules for Dealing with Representations

1. Petitions

1.1 Introduction

- (a) This is the Petition Scheme for West Berkshire Council made under Section 11(1) of the Local Democracy, Economic Development and Construction Act 2009 ('The 2009 Act').
- (b) The Scheme was originally approved at the full meeting of West Berkshire Council on 23 September 2010 and is available on the Council's website.
- (c) The Council reviewed the Scheme at the full Council meeting on the 19 September 2013. In line with best practice the scheme will be reviewed in September 2016 or such earlier time as may be required.
- (d) The purpose of this scheme is to establish a clear process for petitions submitted to West Berkshire Council to be handled in accordance with the legislation (Sections 10-22 of the 2009 Act).
- (e) The Council welcomes petitions and recognises that they are one way in which people can let the Council know about their concerns. Petitions have a long tradition and can be useful in suggesting levels of support for various proposals. West Berkshire Council has long had procedures in its Constitution for Ward Councillors and members of the public to bring petitions to the Council by various means. This Petition Scheme merely clarifies, extends and strengthens those procedures, in accordance with 2009 Act.
- (f) Advice on petitions can be sought from different departments across the Council but enquiries should in the first instance be directed to the Head of Strategic Support, West Berkshire Council, Market Street Offices, Market Street, Newbury, RG14 5LD, via the telephone on (01635) 42400 or email petitions@westberks.gov.uk.

1.2 What is a Petition?

- (a) West Berkshire Council defines a petition as 'any communication which is signed or sent to us on behalf of a number of people'. For practical purposes, there is normally a minimum requirement of at least **50 signatories** before it is treated as a petition. Exceptions can be made in special cases at the discretion of the Council's Monitoring Officer.
- (b) Whilst the Council is keen to hear from people who live, study or work in West Berkshire, this is not always a requirement. A petition from 50 visitors about, for example, the quality of tourism facilities in the district would qualify under the Petition Scheme.

- (c) A petition must include:
- (i) **A clear and concise statement of the concerns and what West Berkshire Council is being asked to do.** The subject matter must relate to the West Berkshire District or to something which the Council has responsibility for or over which it has influence. Where the petition relates to a matter which is the responsibility of another public authority the Council will ask the petition organiser whether they would like to redirect the petition to that authority. Where the petition relates to a matter over which West Berkshire Council has no influence or responsibility, the petition will be returned to the petition organiser with an explanation for that decision.
 - (ii) **The name and contact details of the ‘petition organiser’.** This should normally be the person whom the Council will contact to explain how the Council will respond to the petition. This can be either a postal address or an email address. This need not appear on the website. If the lead signatory chooses to relinquish their role as petition organiser another signatory can and must be elected as lead signatory.
 - (iii) **The names of at least 50 valid petitioners (in most cases this will mean that they live, work or study in West Berkshire),** which may include the petition organiser. In some instances it would be appropriate to require fewer signatures but this will be at the discretion of the Council’s Monitoring Officer. On a paper petition actual signatures from each petitioner would be preferable but this is not essential. Petitioners will be required to provide verifiable details that they live, work or study in West Berkshire. Signatures from others (e.g. visitors) may be considered if they are relevant to the issue in the petition subject. These details need not be published.
 - (iv) For certain types of petition, the number of petitioners will be higher (see sections below ‘A Petition for Debate’ and ‘A Petition to Hold an Officer to Account’)
 - (v) If a petition is produced in response to a consultation that the Council is conducting on a specific matter, please clearly identify the consultation it relates to, to enable the petition to be handled along with other responses to these matters. (see paragraph 1.3(a) below)
- (d) Petitions which are considered to be vexatious, abusive or otherwise inappropriate (e.g. relating to information on an individual(s)) will not be accepted.
 - (e) In the period immediately before an election or a referendum Council Officers may need to deal with the petition differently. The reason will be explained to the petition organiser.
 - (f) Where the guidelines are not followed the Council may decide not to do anything further with the petition.

1.3 Submitting a Petition

- (a) When a petition is submitted in response to a consultation by West Berkshire Council, or to a planning or licensing application it should be directed to the return address specified in the consultation details or in the public notice regarding the application. This will ensure it is considered at the appropriate time in relation to the matter in which it was intended to be considered.
- (b) For all other petitions, there is a choice of means of submitting them:
 - (i) **Paper petitions** should be addressed to the Head of Strategic Support, West Berkshire Council, Market Street Offices, Market Street, Newbury RG14 5LD.
 - (ii) **Email petitions** should be sent to petitions@westberks.gov.uk. The Petitions Officer will send an acknowledgement that the petition has been received within five clear working days.
 - (iii) **Online petitions** can be submitted by following this link www.westberks.gov.uk/petitions. The Council will issue a formal acknowledgement within five clear working days of the initial submission. During this time the Petitions Officer will act as a 'moderator' and establish if there are any difficulties. The Petitions Officer will contact the organiser and endeavour to resolve these issues so that the petition can open for signatures. Petitioners signing the online petition will be required to provide verifiable details (including: names, addresses and postcodes).
 - (iv) **Presented to a meeting of the Executive.** These meetings take place on a six weekly basis, dates and times can be found on the [Executive Meetings](#) page of the Council's website.

Where notice of a petition is given to the Head of Strategic Support by 10.00am seven clear working days before the meeting, details will be included in the summons or agenda. Members of the public may speak for up to five minutes on that petition at the meeting. No further debate shall take place unless the relevant body receives a report on the matter. The petitioner will be notified within three clear working days as to where the petition will be referred. However, if the petition relates to a matter on the agenda for the meeting of the Executive, it shall be dealt with at that meeting.
 - (v) Petitions can also be submitted by Elected Members at Full Council meetings. Dates and times can be found on the [Council Meetings](#) page of the Council's website. Petitions may not be submitted at the Annual (May) or Budget Council (March) meetings. Petitions can also not be presented at extraordinary meetings of Council.
- (c) The petition, however it is submitted, will be entered on the Council's petitions website. The website will be regularly updated with information concerning the progress of the petition and this information will be publicly viewable. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be

removed). The Petition will remain open for 90 calendar days unless otherwise agreed with the Petition Organiser.

- (d) Petitioners will be notified, within 10 clear working days of receipt of the completed/closed petition, what the Council plans to do with the petition and when they could expect to hear from the Council again. If the petition has enough signatures to trigger a Council debate or a senior Officer giving evidence (see 1.4(e) and (f)) then the acknowledgement will confirm this and tell you when the meeting will take place. Relevant Ward Councillors will be notified in writing that a petition has been submitted which particularly affects their Ward(s).
- (e) The Council has a duty to verify signatories to all petitions, using publicly available databases. This is to prevent the misuse of personal information by petition organisers, for example the use of names, email addresses or signatures without permission of the person – or the use of non-existent persons' names.
- (f) Petitions relating to planning and licensing applications will normally be received by Officers during the planning or licensing consultation process. Normal deadlines to these consultations apply. Petitions received after the deadlines will not be accepted.
- (g) If the petition forms part of a statutory process, or where there is an existing appeal mechanism in place (for example council tax banding) other procedures will apply.
- (h) Petitions cannot be a duplicate or a near duplicate of a similar petition received or submitted within the last 12 months.

1.4 Types of Petition and next steps

- (a) There are five different types of petition which are outlined below. How the Council deals with a petition will depend on which category it falls into:
 - Ordinary Petitions
 - Consultation Petitions
 - Statutory Petitions
 - Petitions for Debate
 - Petitions to Hold an Officer to Account
- (b) **Ordinary Petitions.** These are petitions which do not fall into any of the following specific petition categories. Please note that any petitions raising the issue of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and the Localism Act 2011 and will be reported to the Governance and Ethics Committee and not dealt with under this Petition Scheme.
- (c) **Consultation Petitions.** These are petitions in response to an invitation from the Council to comment on a particular proposal, policy or application. For example, planning or licensing applications or proposals concerning speed limits. Consultation petitions which are received by the closing date of the consultation will be reported at the

relevant meeting or to the relevant person taking the decision in question. This will not be impacted on by this process.

- (d) **Statutory Petitions.** Certain Acts of Parliament require the Council to consider petitions. Examples of statutory petitions include those for a directly-elected Mayor or for a review of Parish Councils. When a Statutory Petition is submitted then it will be processed in accordance with statutory requirements.
- (e) **Petitions for Debate.** For a petition to be reported to a Full Council meeting for debate by the elected Members of West Berkshire Council, it must contain a minimum of 1,500 petitioners. Where a petition relates to a local issue, affecting no more than two electoral wards in West Berkshire, this requirement may be reduced to 500 per ward at the discretion of the Monitoring Officer. In order to ensure that this is dealt with appropriately, the two Leaders must agree that the subject for debate is of real significance locally to the people of West Berkshire and its immediate surrounding area. Failure of the two Leaders to agree will result in automatic referral to the Monitoring Officer, whose decision shall be final.
- (f) Where a Full Council meeting debate is triggered by a petition, and the Leaders (or Monitoring Officer) agree that the subject matter is of real significance locally, the Petition Organiser or their nominated spokesperson will have up to five minutes to present their petition and the petition will then be discussed by Councillors for a maximum of 15 minutes. The Council may decide to take the action the petition suggests, not to take the action requested for reasons put forward in the debate or to commission a further investigation into the matter.
- (g) **Petitions to Hold an Officer to Account.** For a petition to be considered at a meeting of the Overview and Scrutiny Management Commission (OSMC) where an Officer identified either by name or by post will be required to answer questions on a particular matter, the petition will need to contain a minimum of **750 petitioners**. Where a petition relates to a local issue, affecting no more than two electoral wards in West Berkshire, this requirement may be reduced to **500 at the discretion of the Monitoring Officer**.

A petition falling into this category must relate to the Chief Executive, a Corporate Director or a Head of Service. Please note that where a petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or the Head of Human Resources in the case of the Chief Executive) for consideration under the Council's Capability Procedure and/ or Disciplinary Procedure. Such petitions will not be dealt with under this Petition Scheme.

1.5 The Petitions Website

- (a) West Berkshire Council keeps a petitions webpage at www.westberks.gov.uk/petitions. When a petition is received, the Petitions Officer will open a new public file on the website within 10 clear working days and place in that file the subject of the petition, the date it was received and the number of petitioners. This will not apply to Planning and Licensing petitions which will be dealt with under the relevant processes.

- (b) The petition organiser's name and contact details will only be included on the website if the organiser has requested this.
- (c) Once it has been determined who within West Berkshire Council will consider the petition and when that consideration will take place, this information will be entered on the website and sent to the petition organiser at the same time.
- (d) As soon as the petition has been considered, the Council's decision will be notified to the petition organiser and put on the website within five clear working days of the decision being taken.

1.6 Ward Councillors and petitions

- (a) All Petitions will be notified to all Council Members, upon receipt unless resolved directly as in paragraph 1.7(c). This is to ensure that Council Members are informed as to the receipt and progress of **all** petitions that affect them as Ward Members, because **all** petitions could in theory end up as Petitions for Debate.
- (b) Where a Petition appears to affect not more than two Wards, unless a Member challenges this within 10 working days, the Petitions Officer will inform the organiser that a reduced number of signatures is sufficient to make the Petition come to Full Council for Debate, if requested.
- (c) Nothing in the Petitions Scheme affects the right of Ward Members to present Motions to Full Council for debate. Such Motions may be based upon Petitions that fail to reach the required number of signatures under this Scheme.
- (d) When a petition is referred to a person or body within the Council who has the authority to take a decision on the subject matter, the Ward Member(s) representing any affected ward(s) will be invited to attend and address the person or body making the decision for no more than five minutes (each), immediately after the petition organiser.

1.7 Process when a petition is received

When a petition is received by West Berkshire Council:

- (a) Within five clear working days of its receipt, the Petitions Officer will acknowledge receipt to the petition organiser. The Ward Councillor will be notified of the submission. The Petitions Officer will open a new public file for the petition on the petitions website. The petition file will include:
 - the subject matter of the petition;
 - the date the petition was received and the closing date for receipt of additional signatures;
 - the number of petitioners (this will be updated weekly);
 - the action being taken by the Council to consider the matter including the date of any public meeting.
- (b) The name and contact details of the petition organiser will only be included if requested.
- (c) In some instances the Petitions Officer may be able to resolve the petitioners' request directly by getting the relevant Executive Member or

Officer to take direct action. An example of this could be a case of fly-tipping. The Petitions Officer will then ask the petitions organiser whether they consider the matter to have been resolved.

- (d) Unless the matter has been resolved directly as described in 1.7c above, the Petitions Officer will within ten clear working days of receipt of the petition provide a response to the petition organiser which sets out:
- who the petition will be reported to for consideration;
 - when and where that consideration will take place;
 - the number of signatures required for the petition to be debated at Full Council under 1.4(e).
 - an invitation for the petition organiser or their nominated representative to attend and address the meeting for up to five minutes on the issue covered by the petition.
 - NB The invitation to the petition organiser or their nominated representative to address that meeting is in addition to any other existing public speaking rights at that meeting. This does not apply to Planning and Licensing petitions which are dealt with under separate processes.
- (e) When responding to the petitions organiser (1.7d), the Petitions Officer will also forward the same information to the relevant Executive and Shadow Executive Members and Ward Councillors.
- (f) The Petitions Officer is responsible for updating the website so that progress in dealing with the petition can be tracked.
- (g) At this point the process varies depending on the different type of petition.

1.8 Process when a Consultation Petition is received

- (a) Submitted in response to an invitation from the Council to contribute on a particular proposal or application. Consultation Petitions will be reported to the relevant person or body at the meeting when they are due to take the decision on that application, appeal or proposal. The Council's Constitution sets out who will take different types of decisions under the Scheme of Delegation, terms of reference of Committees, Commissions and Sub-Committees.
- (b) All planning and licensing applications (except where powers are delegated to officers under the Constitution) will be determined by the relevant Planning Committee or Licensing Sub-Committee and Traffic Regulation Orders by Individual Decision of the Executive Member for Highways and Transport where objections to the orders are received.

1.9 Process when a Statutory Petition is received

Where a petition is submitted under a specific statute, for example a petition for a directly-elected Mayor, it will be reported to the next available meeting of the Council, in accordance with the requirements of the statute in question.

1.10 Process when a Petition for Debate is received

- 1 Petitions for Debate will be reported to the next scheduled meeting of Council unless the matter is deemed urgent, in which case an Extraordinary meeting of Council may be convened. Petitions will not be considered at the Annual Meeting of Council, the Budget meeting or at Extraordinary Meetings of Council unless they are specifically arranged to consider the subject matter of the petition.
- 2 The petition organiser will be invited to address the meeting for up to five minutes on the subject of the petition.

1.11 Process when a Petition to hold an Officer to Account is received

- (a) Petitions to hold an officer to account will be reported to the next convenient meeting of the Overview and Scrutiny Management Commission (OSMC) unless the matter is deemed urgent, in which case an extraordinary meeting may be convened.
- (b) In advance of the Commission meeting, the petition organiser will be invited to submit a list of questions the organiser would like to put to the Officer at the meeting. These questions will be provided to the Chairman and Vice Chairman of the Commission, who will decide whether they are appropriate, and to the Officer concerned, in advance of the meeting.
- (c) At the meeting of the OSMC, the Chairman will invite the petition organiser to address the Commission for a maximum of five minutes on the issue. The relevant officer will then be asked to respond to the Commission on the subject matter of the petition. OSMC Members may question the officer and the Chairman may invite questions from the petition organiser to be put to the Officer through the Chairman.

1.12 Process when an Ordinary Petition is received

The Petitions Officer will arrange for each ordinary petition to be reported to the next convenient meeting of the Executive, Council, Committee, Commission or Sub-Committee of Council which has the power to take a decision on the matter.

1.13 Meetings considering a petition

- (a) Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting.
- (b) Petitions will be considered in the order in which they were received unless the Chairman of the Committee/Commission decides otherwise.
- (c) A maximum of 30 minutes is permitted for the discussion of petitions prior to the normal business of each meeting. Any petitions not considered in this time will be held over to the next meeting unless the next meeting is the Annual or Budget meeting.
- (d) Petitions which do relate to a particular item of business will be taken with that item, in the order of business outlined on the agenda.
- (e) The person or Committee making the decision may invite a relevant officer to set out the background to the issue before inviting the petition organiser to speak for up to five minutes. The Executive Member / Chairman may then ask questions of the petition organiser and invite

any relevant Ward Councillors present to speak on the subject for up to minutes each. The Executive Member / Chairman will then invite a relevant officer to advise the meeting, after which the matter will be opened to debate by the Committee. In the case of an Individual Executive Member Decision, the Executive Member will proceed to take a decision. Possible decisions may be:

- to determine the matter;
 - to refer the matter for investigation and report back; or
 - to refer the matter up to a meeting of Council, Executive or a higher Committee for determination.
- (f) In the case of a decision by an Executive Member, the Petitions Officer will notify the petition organiser of the decision within five clear working days, advising that if the organiser is not satisfied with that decision, the matter could be reported to the next meeting of the Overview and Scrutiny Management Commission for review (see section 1.14 below) unless the matter is deemed urgent, in which case an extraordinary meeting may be convened.
- (g) At each stage of the process in section 1.13, the Petitions Officer will enter the relevant information on the website as it is sent to the petitions organiser.

1.14 Appeal to a Scrutiny Committee/Commission

- (a) If the petition organiser is not satisfied with the outcome of the Council's consideration of the petition, the petition organiser may appeal to the Overview and Scrutiny Management Commission by notifying the Petitions Officer of their intention to appeal. The Petitions Officer must receive notification of intention to appeal within 28 clear working days of the petitions organiser being notified of the Council's decision on the petition.
- (b) Within five clear working days of receipt of intention to appeal the Petitions Officer:
- will determine which is the relevant Scrutiny Commission;
 - will notify the petition organiser of the date, time and place of the next convenient meeting of that Scrutiny Committee/Commission; and
 - will invite the petition organiser to attend that meeting and address the Committee/Commission for up to five minutes on why the Council's decision on the petition is considered to be inadequate.
- (c) At the meeting of the Scrutiny Commission:
- the Committee/Commission will invite the petition organiser to make representations and explain why it is thought the Council's response is inadequate (no more than five minutes);
 - the Commission will invite relevant Ward Councillors to make representations on the matter (no more than five minutes each);

- the Commission cannot overturn the decision, but can make recommendations for the Executive Member/Executive to consider.

1.15 Petition Organiser

- (a) Petition organisers will receive acknowledgement of receipt of the petition within five clear working days of its receipt by West Berkshire Council.
- (b) When the petition is not accepted for consideration, the Petitions Officer will advise the petition organiser of the grounds for rejection.
- (c) Where the petition is accepted for consideration, the Petitions Officer will advise the petition organiser who will consider the petition, the date, time and place of the meeting at which it will be considered, and will invite the petition organiser to address the meeting for up to five minutes. This information will be notified to the petition organiser within ten clear working days of receipt of the petition by West Berkshire Council. The petition organiser may be asked questions on the subject matter of the petition at the meeting.
- (d) The petition organiser may nominate another person to address the meeting on their behalf.
- (e) The Petitions Officer will keep the petition organiser regularly updated with developments on the petition and notify them of the outcome of the petition's consideration in writing within five clear working days of the decision.
- (f) The petition organiser must notify the Petitions Officer of the intention to appeal to the Scrutiny Commission against the decision relating to the petition within 28 days of being notified of that decision. The appeal must be submitted in writing. The petition organiser or their nominated representative may attend and address the meeting of the Scrutiny Commission for up to five minutes to explain why West Berkshire Council's decision on the petition is considered to be inadequate.

1.16 Petitions not being reported

- (a) **Duplicate petitions.** Where more than one petition is received in time for a particular meeting each supporting the same outcome on the same matter, each petition organiser will be treated independently but only the organiser of the first petition received will be invited to address the relevant meeting.
- (b) **Repeat petitions.** A petition will not normally be considered where it is received or submitted within 12 months of another petition being considered by West Berkshire Council on the same matter.
- (c) **Rejected petitions.** Petitions will not be considered if, in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous, vexatious, time wasting or do not relate to something which is the responsibility of West Berkshire Council, or over which West Berkshire Council has some influence.

Please Note:

The following documents also exist and are available on request from Strategic Support:

- Customer Comments and Complaints Procedure
 - Complaints Leaflet
 - Ombudsman Leaflet
 - Your Right to a Review
 - Guidance for making a complaint about an elected Councillor's conduct
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Part 13

Codes and Protocols

Appendix C: Procedure for Local Determination of Allegations

1 Introduction

- 1.1 The procedure referred to in this document sets out the process which will be followed in the local determination of allegations of misconduct made against either a District Councillor or Parish/Town Councillor, where West Berkshire Council is the responsible authority. The purpose of the procedure is to ensure that every effort is made to deal with the complaint as smoothly as possible and to ensure that complaints are dealt with in accordance with the relevant legislation and within the agreed timescales. All allegations will be dealt with objectively, fairly and consistently. The Monitoring Officer will also have regard to what is in the public interest and the Council's fiduciary duty to the tax payers.
- 1.2 Under the Code of Conduct regime all complaints are received by the Monitoring Officer who has delegated authority to take an initial decision on whether a complaint requires investigation, some other form of action, should be referred to the Director of Public Prosecutions or the Police or whether no further action is required.
- 1.3 The person making the complaint is referred to as the Complainant and the District/Town or Parish Councillor being complained about is referred to as the Subject Member.

2 Process for dealing with complaints – Pre-assessment

- 2.1 A flowchart summarising the procedure that will be followed when a complaint is received is attached at Appendix C1 to this procedure.
- 2.2 All complaints must be submitted in writing (electronic submissions are acceptable). It is the responsibility of the Complainant to provide all evidence on which the complaint arises.
- 2.3 Once the Monitoring Officer receives a complaint, a pre-assessment will be undertaken within three working days of receipt and may be rejected if:
 - 2.3.1 the Complainant fails to provide enough information on which to base a decision;
 - 2.3.2 the Subject Member is no longer a Councillor of the authority (although if they are a member of another authority the Monitoring Officer could refer the complaint to that authority);
 - 2.3.3 the complaint has been the subject of an investigation or other action relating to the Code of Conduct or the complaint has been the subject of an investigation by other regulatory authorities;
 - 2.3.4 the complaint is about something that happened so long ago that there would be little benefit in taking action now;
 - 2.3.5 the complaint is too trivial to warrant further action;
 - 2.3.6 the complaint appears to be malicious, politically motivated or tit for tat;
 - 2.3.7 the Complainant appears to be submitting persistent or prolific complaints, but fails to add anything material to a previous complaint.
- 2.4 The Complainant will be advised that further information or evidence will be required within 14 days on such decision or otherwise the file will be closed.
- 2.5 In circumstances that the Monitoring Officer may be unclear, the presumption shall be for the complaint to proceed to an initial assessment.

3 Initial Assessment

- 3.1 Once the Monitoring Officer has received a formal complaint, they need to ensure that it is acknowledged within five Working Days of receipt.
- 3.2 The Monitoring Officer also needs to ensure that the complaint complies with the Council's Assessment Criteria i.e.
 - 3.2.1 it is a complaint against one or more named Councillors of the authority, or an authority covered by West Berkshire Council as responsible authority;
 - 3.2.2 the Subject Member was in office at the time of the alleged conduct and the relevant Code of Conduct was in force at the time;
 - 3.2.3 the complaint relates to matters where the Councillor was acting as a Councillor or representative of the authority, and it is not a private matter;
 - 3.2.4 the complaint, if proven, would be a breach of the Code under which the Councillor was subject at the time of the alleged misconduct.
- 3.3 If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the Complainant will be informed that no further action will be taken in respect of the complaint.
- 3.4 Following receipt of a complaint that meets the agreed Assessment Criteria the Complainant will be asked if there is any additional information they wish to submit and they may also be asked to clarify any issues that they have raised.

- 3.5 A copy of the complaint will also be sent to the Subject Member (anonymised appropriately if the Complainant has asked to keep their identity confidential – see Requests for Confidentiality) for written comment. The Subject Member will also have the opportunity to submit any additional information that they feel will support their submission. This can include written witness statements.
- 3.6 Where the Subject Member has not commented, and 15 Working Days has elapsed (and they have not provided a reasonable excuse for the delay) since the provision of the Complainant's paperwork, the assessment should nevertheless be made within five working days after that.
- 3.7 Both the Subject Member and the Complainant can consult one of the Council's Independent Persons directly to seek advice. The Council has therefore appointed three Independent Persons to ensure that a conflict situation does not arise i.e. once they have been consulted the Independent Person will not be involved in the decision-making process.
- 3.8 The Monitoring Officer will also collate any additional information (e.g. minutes and agendas of meetings, information on websites, the applicable Code of Conduct, Standing Orders and any other relevant policies, background information including correspondence and witness statements) that will assist the initial assessment process.
- 3.9 An Initial Assessment meeting will take place usually within 25 Working Days of receipt of the complaint. The Monitoring Officer will consult the Independent Person at this meeting. As this is not a public meeting, neither the Subject Member nor the Complainant, nor members of the press or public, will have the opportunity to attend or speak at the meeting.
- 3.10 In accordance with the Localism Act 2011, following the Initial Assessment the Monitoring Officer (in consultation with the Independent Person) is able to decide on one of the following four outcomes:
- 3.10.1 no further action will be taken on the complaint;
 - 3.10.2 some form of informal resolution will be sought;
 - 3.10.3 the matter will be referred to the Director of Public Prosecutions or the Police where it is suspected that some form of criminal conduct has occurred in relation to interests that have not been disclosed;
 - 3.10.4 the complaint will be investigated fully by an independent investigator.
- 3.11 The Subject Member, Complainant and if appropriate the Clerk to the relevant Town or Parish Council will be notified of the outcome of the Initial Assessment meeting usually within five Working Days of the meeting taking place. Details of the discussion will be included in an Initial Decision Notice which will be sent to the Subject Member, the Complainant and the relevant Parish or Town Clerk if appropriate.
- 3.12 The Initial Decision Notice will record the views of the Independent Person should these not accord with the decision of the Monitoring Officer.
- 3.13 Where a complaint is resolved at an Initial Assessment stage, there are no findings of fact as no formal investigation has been undertaken. The purpose of resolving at the Initial Assessment stage shall balance the interest in resolving a matter quickly and satisfactorily against the interest in the Complainant having their complaint upheld or the Subject Member's desire to clear their name.

4 Requests for Confidentiality

- 4.1 In the interests of fairness and in compliance with the rules of natural justice, District, Town and Parish Councillors who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against them.

- 4.2 Complainants do however have the right to request that their identity is not revealed to the Subject Member and the Monitoring Officer, in consultation with the Independent Person, may grant such requests at their discretion in exceptional circumstances. The Monitoring Officer is unlikely to withhold a Complainant's personal details or the details of the complaint unless they consider there to be good reasons to believe that a Complainant has justifiable grounds for anonymity/confidentiality.
- 4.3 When considering a request for confidentiality the Monitoring Officer, in consultation with the Independent Person, will consider any such request alongside the substance of the complaint itself and apply the following criteria:
- 4.3.1 the Complainant has reasonable grounds for believing that they will be at risk of physical harm from, or that they may be victimised or harassed by the Subject Member(s) against whom they are submitting the complaint (or from or by a person associated with the Subject Member(s));
 - 4.3.2 the Complainant is an officer of a relevant authority who fears the consequences as regards their employment if their identity is revealed;
 - 4.3.3 the Complainant works closely with the Subject Member, and is therefore afraid of the consequences to their employment or of losing their job;
 - 4.3.4 there is a medical risk to the Complainant's health if their identity is revealed and is this supported by medical evidence;
 - 4.3.5 the Complainant has reasonable grounds for the belief that they may receive less favourable treatment from the Council because of the identity and/or seniority of the Subject Member(s) in terms of any existing Council service provision or any tender/contract that they may have or are about to submit to the Council; or
 - 4.3.6 other exceptional circumstances.
- 4.4 When considering a request for confidentiality against these criteria the Monitoring Officer will also:
- 4.4.1 balance the request for confidentiality against the substance of the complaint;
 - 4.4.2 consider whether it is possible to investigate the complaint without making the Complainant's identity known to the Subject Member, given the requirement for a proper investigation.
- 4.5 If the Monitoring Officer, in consultation with the Independent Person, decides to refuse a request for confidentiality they may decide to offer the Complainant the opportunity to withdraw their complaint. When deciding whether to allow a complaint to be withdrawn the Monitoring Officer must consider whether the public interest in proceeding with an investigation outweighs the Complainant's wish to have their identity withheld from the Subject Member.

5 Outcome of Initial Assessment – No Further Action

- 5.1 If, following the Initial Assessment, the Monitoring Officer, in consultation with the Independent Person, decides that no further action should be taken on a complaint then this will be the end of the matter.
- 5.2 The Localism Act 2011 does not provide any appeals mechanism. However, the decision could be open to Judicial Review by the High Court should they wish to take up this option. The Complainant would be advised to seek independent legal advice about taking up this option.

6 Outcome of Initial Assessment – Informal Resolution or Other Action

- 6.1 If, following the Initial Assessment, the Monitoring Officer, in consultation with the Independent Person, decides that other action should be taken on the complaint the nature, format and timescales for this action needs to be articulated in the Initial Assessment Notice.
- 6.2 Informal resolution may take the form of an apology, mediation or training by way of example.
- 6.3 If informal resolution is determined as appropriate and either party declines to comply, this will be reported to the Monitoring Officer who may decide to treat the facts as unresolved and progress to investigation.
- 6.4 The Localism Act 2011 does not provide any appeals mechanism. However the decision could be open to Judicial Review by the High Court should either party wish to take up this option. The Complainant or Subject Member would be advised to seek independent legal advice about taking up this option.

7 Outcome of Initial Assessment – Referred to the Director of Public Prosecutions or the Police

- 7.1 If, following the Initial Assessment, the Monitoring Officer, in consultation with the Independent Person, decides that the matter needs to be referred to the Director of Public Prosecutions or the Police both the Subject Member and the Complainant and if appropriate the Town or Parish Clerk will be informed.
- 7.2 The Monitoring Officer will pass to the Police or the Director of Public Prosecutions any relevant evidence relating to the allegations received which disclose behaviour that may constitute a criminal offence, whether under the ethical standards provisions of the Localism Act or otherwise.
- 7.3 If potential criminal offences are identified and the complaint is referred for investigation with a view to prosecution the appropriate procedures of the Police or Council will be followed so as to protect the integrity of the investigation.

8 Outcome of Initial Assessment – Investigation by Appointed Person

- 8.1 If, following the Initial Assessment, the Monitoring Officer, in consultation with the Independent Person, decides that if the allegations were substantiated they may constitute a breach of the Code of Conduct of the relevant authority, they can refer the complaint for investigation.
- 8.2 The Monitoring Officer will usually appoint an external independent investigator to undertake an investigation on behalf of the Governance Committee. The Complainant, Subject Member and the Group Leader of the Subject Member shall be notified of the details of the investigator who will contact them to arrange an interview with them. In addition, the investigator may wish to interview additional witnesses.
- 8.3 The Complainant and Subject Member are to ensure that all witness statements and evidence are provided within ten working days of the initial assessment on which they rely (if they have not provided a reasonable excuse for any delay). No further evidence shall be admitted after this deadline.
- 8.4 Once the investigation is concluded (preferably within three months of receipt of instruction) the investigator will be required to produce a written report setting out their findings. The Monitoring Officer, Subject Member, the Complainant and the Independent Person(s) will all be provided with an opportunity to comment on the initial report.

- 8.5 The Subject Member and the Complainant will be asked to respond articulating any areas of the report they dispute. All comments would need to be received within ten Working Days of receipt of the draft report (if they have not provided a reasonable excuse for a delay). The Complainant will then be given an additional three Working Days to comment on any of the Subject Member's comments on the draft report (if they have not provided a reasonable excuse for a delay).

9 Arranging the meeting of the Governance Committee

- 9.1 A special meeting of the Governance Committee shall be held within 15 working days of receipt of the Investigation Report, but must allow the relevant parties adequate time to consider and respond to the Investigation Report.
- 9.2 The Monitoring Officer shall arrange a time and date for the Governance Committee to meet and consider the matter.
- 9.3 At least five clear Working Days before the date of the meeting of the Governance Committee, the Monitoring Officer shall notify the Subject Member, Complainant and any relevant witnesses of the date, time and place of the meeting and the membership of the Governance Committee at which the matter will be considered.
- 9.4 At least five clear working days before the day of the meeting of the Governance Committee, the Monitoring Officer will send to each member of the Governance Committee, to the Subject Member and the Complainant, a copy of the paperwork for the meeting. The paperwork will include the agenda for the meeting of the Committee, a copy of the investigator's report, any witness statements, a copy of any written statement in response to the report which has been received from the Subject Member, Complainant and Independent Person.
- 9.5 Paperwork shall not be published, and the Monitoring Officer makes the provision of any such copy of papers conditional upon an appropriate undertaking of confidentiality until the report is available to the press and public or the Governance Committee agree that the press and public shall not be excluded from the meeting.
- 9.6 At the same time the Monitoring Officer will write to the Subject Member and Complainant and advise them that, at the commencement of the meeting, the Governance Committee will consider whether the press and public should be excluded from the meeting. There will be an assumption that the majority of hearings should take place in public.
- 9.7 All paperwork associated with the Governance Committee meeting will be subject to the Council's Access to Information Procedure Rules (see Part 10 of the Constitution).

10 Procedure at the Meeting

10.1 Attendance of the Subject Member and Complainant

- 10.1.1 The Subject Member and Complainant may arrange to be accompanied at the meeting at their own expense by a solicitor, counsel or friend.
- 10.1.2 Where the Subject Member or Complainant opt to be accompanied at the meeting by a solicitor, counsel or friend they must notify the Monitoring Officer of their intention to do so at least three clear working days before the meeting.
- 10.1.3 If the Subject Member or Complainant are not present at the start of the meeting, having been provided with notice of the meeting and failed to provide any reasonable explanation for such non-attendance, the Committee shall resolve to proceed in their absence. The procedure for the meeting shall be adapted as necessary, giving any representative of the Subject Member or Complainant who is present such rights as would otherwise be accorded to them.

10.2 Order of business

10.2.1 The order of business at the meeting shall be as follows:

- (i) elect a person to preside if the Chairman or Vice-Chairman are not present;
- (ii) receive apologies for the inability to attend the meeting;
- (iii) approve the Minutes of the last meeting;
- (iv) receive any Declarations of Interest from Members;
- (v) consideration as to whether to adjourn or to proceed in the absence of the Subject Member or Complainant;
- (vi) introduction of the Committee, Monitoring Officer (or their representative), Independent Person, independent investigator, the legal adviser to the Committee (if appropriate) the clerk, the Subject Member, Complainant and any other witnesses present;
- (vii) any representation from the Monitoring Officer, or their representative and/or the Subject Member as to reasons why the Committee should exclude the press and public and a determination as to whether to exclude the press and public. Where the Committee decides that it will not exclude press and public, the Clerk shall at this point provide copies of the agenda and reports to any members of the press and public who are present;
- (viii) consideration of the complaints in the order in which they have been received.

10.3 Speaking

- 10.3.1 Presentation by the Monitoring Officer or the independent investigator of the investigator's report.
- 10.3.2 Committee's questions to the Monitoring Officer/ independent investigator. (There shall be no cross-examination by the Subject Member, but the Subject Member may request the Chairman of the Meeting to direct appropriate questions to the Monitoring Officer).
- 10.3.3 The Monitoring Officer may introduce any witnesses required to substantiate any matter contained in the report that the Complainant and Subject Member have disputed.*
- 10.3.4 Committee's questions to the Monitoring Officer's witnesses. (There shall be no cross-examination by the Subject Member, but the Subject Member may request the Chairman of the Meeting to direct appropriate questions to the Witnesses).
- 10.3.5 Opportunity for the Complainant or their representative to raise any issues in the report which they have disputed in their written submission. (The legal advisor shall ensure that the Committee is aware of any written submissions.)
- 10.3.6 Committee's questions to the Complainant. (There shall be no cross-examination by the Subject Member, they will have the opportunity to raise any issues when they address the Committee).
- 10.3.7 The Complainant may introduce any witnesses required to substantiate any matter contained in the report that they have disputed.
- 10.3.8 Committee's questions to the Complainant's witnesses. (There shall be no cross-examination by the Subject Member, they will have the opportunity to raise any issues when they address the Committee).
- 10.3.9 Presentation by the Subject Member or their representative. They should only raise any issues in the report which they have disputed in their written submission. (The legal advisor shall ensure that the Committee are aware of any written submissions.)
- 10.3.10 Committee's questions to the Subject Member.
- 10.3.11 The Subject Member may introduce any witnesses required to substantiate any matter contained in the report that they have disputed.
- 10.3.12 Committee's questions to the Subject Member's witnesses.
- 10.3.13 The Committee may at any time seek legal advice from its legal advisor. Such advice will on all occasions be given in the presence of the Subject Member (or their representative) and Complainant (or their representative).

*(*Where the Subject Member or Complainant seeks to dispute any matter not included in their written statement, the Monitoring Officer or clerk should draw this to the attention of the Committee. The Committee may then decide:*

- 10.3.14 not to admit the information but to proceed to a decision on the basis of the information contained in the report;
- 10.3.15 to admit the dispute, but invite the Monitoring Officer to respond or recall any witness as necessary; or
- 10.3.16 to adjourn the meeting to enable the Monitoring Officer to investigate and report on the dispute and/or to arrange for the attendance of appropriate witnesses as to the disputed information.)

10.4 Making a Decision

- 10.4.1 At the conclusion of the presentation by the last speaker, the Chairman will ask the Monitoring Officer whether there was any matter raised during the course of the meeting which was not addressed in the investigator's report or in the information submitted by the Complainant or Subject Member disputing elements of the report. The Monitoring Officer will then have an opportunity to respond to any such new matter, or may request the Committee to adjourn to enable the Monitoring Officer to investigate and report on that new matter and/or to secure the attendance of witnesses as to the new matter;
- 10.4.2 If no adjournment is requested, the Committee is then required to come to a decision as to whether the Subject Member has breached the relevant Code of Conduct. The Committee needs to satisfy themselves that they have sufficient information upon which to take that decision. In the event that they require additional information they may question the Monitoring Officer, the Subject Member, Complainant or any witness present in order to obtain sufficient information to enable the Committee to come to a decision on this issue.
- 10.4.3 The Committee will then adjourn into another room where they will consider in private session whether the Subject Member has acted in breach of the relevant Code of Conduct. Should they require any additional clarity they will raise matters with those present. Any advice will be sought from the clerk or legal advisor as to process or legislative provisions.
- 10.4.4 At the conclusion of their consideration, the Committee will return and the Chairman will advise the Complainant and the Subject Member of their decision as to whether a breach of the Code of Conduct has occurred, and the reasons for that decision.
- 10.4.5 If the Committee conclude that the Subject Member has acted in breach of the Code of Conduct, the Committee will then hear representations from the Monitoring Officer and the Subject Member as to whether the Committee should take any action against the Councillor and what form any sanction should take. Members of the Committee may ask questions of the Monitoring Officer and the Subject Member and seek legal advice in order to satisfy themselves that they have the information upon which to take a proper decision.
- 10.4.6 The Committee will then adjourn into another room where they will consider in private session whether to take any action in respect of the Subject Member and what form any sanction should take. The sanctions available to the Committee are set out in Appendix C1 to this procedure. The Committee will then return and the Chairman will advise the Subject Member of their decision as to whether any action would be taken and what sanctions, if any, would be applied and the reasons for those decisions.
- 10.4.7 The Committee can also consider in open session whether there are any recommendations which the Committee should make to the authority of which the Subject Member is a member arising from their consideration of the allegation.
- 10.4.8 Should the Subject Member fail to comply with the Governance Committee sanction, the matter shall be referred to Chairman of Governance Committee and Group Leader to review and provide a view at the next Governance Committee on further sanctions that may be appropriate.

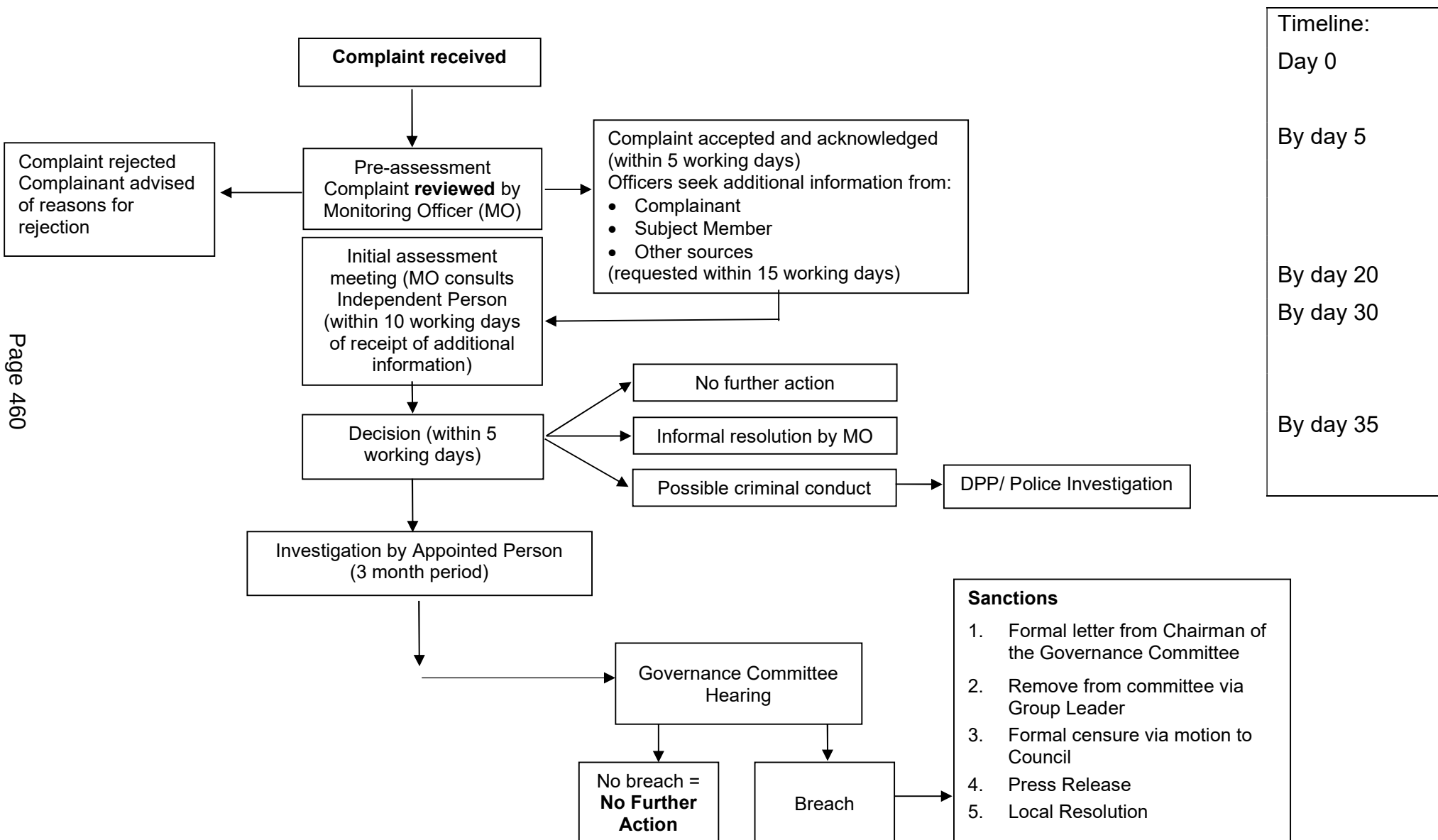
11 Reporting of Decision of Governance Committee

- 11.1 As soon as reasonably practicable (usually within three clear working days) after the Committee has made its determination in respect of an allegation, the Monitoring Officer shall take reasonable steps to give written notice of that determination and the reasons for such determination to the Complainant, Subject Member, Group Leader of the Subject Member, the investigator, Independent Person and if appropriate the relevant Parish/Town Clerk.
- 11.2 Where the Committee determines that there has not been a breach of the Code of Conduct the notice shall:
 - 11.2.1 state that the Committee found that the Subject Member concerned had not failed to comply with the Code of Conduct of the authority concerned or the Code of Conduct of any other authority concerned and shall give its reasons for reaching that finding; and
 - 11.2.2 not be published in summary in one or more local newspapers unless the Subject Member requests that it is published.
- 11.3 Where the Committee determines that there has been a failure to comply with the Code of Conduct the notice shall:
 - 11.3.1 state that the Committee found that the Subject Member concerned had failed to comply with the Code of Conduct of the authority;
 - 11.3.2 specify the details of the failure;
 - 11.3.3 give reasons for the decision reached by the Committee; and
 - 11.3.4 specify the sanction imposed if any;
 - 11.3.5 state that the disclosure is for the purpose of criminal proceedings and the information in question was not obtained as a result of personal enquiries of the person subject to the criminal proceedings (if appropriate).
- 11.4 Where the Committee determines that there has been a failure to comply with the Code of Conduct but no action is required, the notice shall:
 - 11.4.1 state that the Committee found that the Subject Member concerned had failed to comply with the Code of Conduct of the authority;
 - 11.4.2 specify the details of the failure;
 - 11.4.3 give reasons for the decision reached by the Committee.

12 Failure to adhere to the decision of the Governance Committee

- 12.1 Should the Subject Member fail to comply with the sanction imposed by the Governance Committee decision, this will be referred to the Chairman of the Governance Committee and the respective Group Leader to review and provide a view at the next Governance Committee on further sanctions that may be appropriate.

Processing Complaints: Code of Conduct: Localism Act 2011



Appendix D

Protocol for use of ICT Equipment supplied to Members

1. Purpose of Document

This document constitutes the protocol for the use of Information and Communications Technology (ICT) facilities provided for West Berkshire Council Members and should be read in conjunction with the West Berkshire Council ICT Policy and ICT User Usage Agreement. This protocol is included in the Council's Constitution and the requirements of the Code of Conduct (Appendix E to Part 13 (Codes and Protocols)) will apply to the protocol. This protocol should also be read in conjunction with the Social Media Protocol for Councillors (Appendix H to Part 13 (Codes and Protocols)).

2. Background

This protocol was developed when West Berkshire Council Members were first provided with ICT facilities in 2002, to support them in carrying out their role as District Councillors, and has been periodically updated to reflect changes in the technology provided or to reflect changes in policy or legislation.

3. ICT Facilities Provided

- Following the 2019 election all West Berkshire Councillors will be provided with the following ICT equipment, software and services:
- **Hardware**
 - ☐ A touchscreen laptop, (Dell XPS 13 2-in-1) running Microsoft Windows 10
 - ☐ A bluetooth mouse
 - ☐ A USB adaptor and converter
 - ☐ A protective carry case
 - ☐ The option of a BlackBerry smartphone upon request for Executive Members.
- **Software**
 - ☐ Microsoft Office 2013
 - ☐ Mod.Gov - Paperless meeting software and storage
 - ☐ Microsoft Bitlocker - Hard disk encryption
 - ☐ Sophos – Anti-virus/malware protection
 - ☐ Skype for Business
- **Services**
 - ☐ Wireless connectivity in West Berkshire Council corporate buildings (Market Street Offices, Shaw House, Turnhams Green, West Street House, West Point)
 - ☐ Follow Me Printing – Allowing members to print to multi-function devices (MFDs) in all WBC corporate buildings

- ☐ Access to technical support through the WBC ICT Help Desk 01635 519440 during core office hours 08:30-17:00 Mon-Thu, 08:30-16:30 Fri.

4. Use of the Members ICT Equipment

The Council will provide each elected Member with a tablet computer with a standard build/configuration as described above. The primary purpose of the ICT facilities provided is to allow Members to effectively carry out their role as elected Councillors. However, it is permissible for Members to make minor configuration changes to this equipment and/or to install additional software for their own business use, or for private use at their own expense.

All the standard software installed on the supplied tablet is appropriately licensed and WBC ICT department hold these licences. Should Members install additional software, it is their responsibility to ensure that it is appropriately licensed.

In the event that changes made by Members render their tablet computer unusable the Council's ICT department will address this by reinstating the device back to its standard configuration. It is each individual Member's responsibility to ensure that they take regular back-ups of any applications or data they may have installed or stored locally on the tablet hard drive, and to reinstate these as necessary following a device rebuild.

As custodian of the Council's provided ICT equipment, Members are responsible for how the equipment is used and by whom.

The primary means by which the tablets will connect to WBC systems is via WiFi, either in WBC corporate offices, Members homes or elsewhere. All Members will be expected to have suitable WiFi enabled internet connectivity in their homes and these costs will be funded from their allowance.

Computer viruses and malware present a very real threat to all ICT systems, particularly when connecting to the internet. Member ICT equipment has been configured to protect it from these threats and Members should not attempt to disable or bypass these protection mechanisms.

In the event of loss or damage to Members ICT equipment, it would normally be expected that any cost would be indemnified by the person in possession of the equipment. Failure to do so will result in costs being incurred by the Council. It is recommended that Members ensure that the WBC ICT equipment provided is included in their household contents insurance policy. This should not usually result in any additional premium.

Should a Member to whom ICT equipment has been supplied cease to hold office, for whatever reason, all of the equipment supplied must be returned to the Member Services Officer within two weeks – at which point all data on the machine will be deleted and the equipment will be scrapped or re-issued.

All Members will be provided with their own *westberks.gov.uk* email address. This is available using Microsoft Outlook which is part of the Office 365 suite of programs installed on their tablet. In the interests of Council branding, ease of data sharing and security it is expected that Members will opt to access this email account directly rather than forwarding or re-directing mail to another address. It is expected that Members

will check their West Berkshire email accounts at least daily. Officers of the Council will assume this to be a reliable method of communication to all Members.

5. Security Requirements

As custodians of the data of its citizens and customers West Berkshire Council operates rigid information security standards and is also required to comply with standards imposed by central Government under the Public Services Network (PSN) accreditation scheme. This protocol identifies specific information security considerations that Members should be aware of in relation to the use of the provided ICT equipment.

Password

Members should be aware that the ID/password that is issued to enable them to connect to West Berkshire systems is unique to them and is for their sole use. They should not divulge their password, share it with anyone nor should they write it down unless it is stored securely where it is not available to anyone else. Members are required to change their password at 3-monthly intervals or once a year if they create a password following the rules of Option 1 found in Password Quick Notes: <http://intranet/CHttpHandler.ashx?id=45945> Members will need to change their password immediately if there is evidence of system or password compromise. Members should not use the same password for West Berkshire Council and other uses.

Data Protection

Members have access to sensitive and personal information of the Council and its stakeholders. Members should ensure that this information is only used in the course of Council business and must not be disclosed to a third party without authority of the data owners. Failure to treat sensitive and personal information could lead to a complaint being made against a Member for breaching the Council's Code of Conduct.

Use of Personal ICT Equipment

PSN rules dictate that access to WBC systems and data should only be made using equipment supplied by and owned by the Council. The use of Members own, or other third party ICT equipment to access WBC system (other than those publicly available) is not allowed.

Security Breaches or Incidents

Members should report actual or suspected breaches of security to the ICT Helpdesk. Security incidents examples include:

- ☐ An unauthorised person gaining access to a Members account
- ☐ A third party obtaining a Members password
- ☐ Loss or theft of Members ICT equipment
- ☐ Loss of sensitive information or divulgence to an unauthorised third party
- ☐ A virus, malware infection or attempted hacking attempt

6. Privacy

Whilst not routinely monitoring an individual Members use of ICT, the Council maintains the right to review, audit, intercept, access, monitor, delete or disclose any information, created, sent, received or stored on its ICT systems. Members' use of the Council's systems implies that they recognise and consent to the rights of the Council

described above. The strictest confidentiality is observed in respect of such monitoring, and any inappropriate use generally is only known to the ICT Operations Manager and the Head of Customer Services and ICT. However, the Chief Executive, in consultation with the Monitoring Officer and/or Section 151 Officer Part 13 – Codes and Protocols 71 would determine whether the Member concerned should be reported to the Police and / or the Council's Governance and Ethics Committee.

7. ICT Support

Reporting Issues

ICT support to Members is accessed through the Council's ICT Help Desk (01635 519440) which is staffed during normal working hours 08:30-17:00 Mon-Thu, 08:30-16:30 Fri and should be used to report all urgent problems.

Outside of normal working hours, an email can be addressed to ITHelpdesk@westberks.gov.uk. These messages will normally be dealt with as soon as possible on the next working day. When logging a Help Desk call it is useful if a contact telephone number is given.

In the first instance, Members might prefer to contact their Group Executive, or Members Services Officer who will either be able to help with the query, or contact the ICT Help Desk on Members behalf.

Resolving Issues

It should be possible to resolve most issues through verbal advice provided via telephone or by remote access. If the issue cannot be resolved in this way, Members may need to arrange for their ICT equipment to be brought to the ICT Helpdesk (Ground Floor, Council Offices, Market Street) to allow the issue to be investigated and resolved.

Any faults will be dealt with either by correcting them on the existing equipment, or by the provision of replacement equipment. In the latter case, Members should be aware, that the Council's ICT Department cannot accept liability for loss of any personal data stored or application installed on the tablet; it is a Member responsibility to keep backup copies of any personal data or software.

Support Exclusions

The Council's ICT Department cannot usually resolve the following issues:

- ☐ Members' home broadband connectivity
- ☐ Members' own ICT equipment.

8. Training

Illustrated Help Guides are provided on the ICT Training Manuals page on the intranet. Training Sessions for Members are provided when receiving their equipment and Members are encouraged to attend these so that they can make best use of the facilities offered.

Members who are less confident in using ICT are encouraged to attend further training sessions and can take advice from the IT Training Team on the most appropriate course to meet their needs.

9. Accessibility

Any Member with a disability that affects the use of the Members ICT equipment or facilities may request configuration changes or adaptations via the WBC ICT Helpdesk.

10. Useful Contacts

Fault reporting & support	ICT Help Desk	01635 519440	ITHelpdesk@westberks.gov.uk
Human Resources (Training) IT Training Officer	Kerry Taylor	01635 519099	kerry.taylor@westberks.gov.uk
Principal Democratic Services Officer (Legal and Democratic Services)	Darius Zarazel	01635 519458	darius.zarazel1@westberks.gov.uk@westberks.gov.uk
Liberal Democrat Group Executive (Legal and Democratic Services)	Melanie Booth	07876516705	melanie.booth1@westberks.gov.uk
Group Executive Conservatives Strategic Support (Legal and Democratic Services)	Jake Carpenter	01635 503295	jake.carpenter2@westberks.gov.uk

Part 13

Codes and Protocols

Appendix E: Councillors' Code of Conduct

1 Introduction

- 1.1 The initial version of this Code of Conduct ("this Code") was adopted by the Council at its meeting on 10 May 2012 and confirmed at its meeting on 16 July 2012 pursuant to the duty to promote and maintain high standards of conduct by Councillors and others set out in the Localism Act 2011 ("the Act"). It came into effect on 1 July 2012 and revisions were adopted on 12 December 2013 and 15 September 2016.

2 Gifts and Hospitality Protocol and Appendices

- 2.1 The Councillors' Gifts and Hospitality Protocol is an associated document to be read in conjunction with this Code.
- 2.2 Appendix 1 contains the Seven Principles of Public Life ('the Nolan Principles').
- 2.3 Appendix 2 gives guidance for declaring and registering interests.
- 2.4 Appendix 2a sets out the prescribed definitions relating to Disclosable Pecuniary Interests.
- 2.5 Appendix 2b gives guidance on pre-disposition or pre-determination at Planning Committees.
- 2.6 Appendix 2c contains a flow chart relating to the declaration of interests.
- 2.7 Appendix 3 sets out the rules relating to Dispensations.

3 Application

- 3.1 This Code applies to Councillors and Co-Opted Members (e.g. whenever they are acting, claiming to act, or giving the impression they are acting in their capacity as a Councillor or Co-Opted Member). Where a councillor is not acting with Capacity no breach of this Code is likely to occur.
- 3.2 It is a Councillor's or a Co-Opted Member's personal responsibility to comply with this Code.
- 3.3 This Code is consistent with and based upon the Seven Principles of Public Life (also known as the Nolan Principles).
- 3.4 Should a complaint be made against a Councillor or Co-Opted Member it will be dealt with in accordance with the Act and its supporting regulations.
- 3.5 If a Councillor or Co-Opted Member needs any guidance on any matter relating to this Code, they should seek it from the Monitoring Officer or their own legal adviser (but it is repeated that it is entirely their personal responsibility to comply with the provisions of this Code).

4 General Obligations

4.1 Councillors and Co-Opted members **must**:

- 4.1.1 Treat councillors, co-opted members, officers, members of the public and service providers with courtesy and respect.
- 4.1.2 When involved in the decision making of the Council:
 - (i) ensure that they are aware of and comply with the requirements of the Bribery Act 2010;
 - (ii) have regard to any advice provided to them by the Council's s151 Officer or Monitoring Officer pursuant to their statutory duties;
 - (iii) give reasons for decisions made in accordance with any legal requirements and/or reasonable requirements of the Council.
- 4.1.3 When using or authorising the use by others of the resources of the Council, use the resources properly and in accordance with the Council's relevant policies.
- 4.1.4 Have regard to the applicable Local Authority Code of Publicity under the Local Government Act 1986.

4.2 Councillors and Co-Opted Members **must not**:

- 4.2.1 Engage in bullying or intimidating behaviour or behaviour which could be regarded as bullying or intimidation.
- 4.2.2 Do anything which may cause the Council to breach any of the equality enactments as defined in section 33, Equality Act 2006.
- 4.2.3 Disclose information given to them in confidence or information acquired by them which they believe or are aware is of a confidential nature except where:
 - (i) they have the consent of a person authorised to give it;
 - (ii) they are required to do so by law;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice;
 - (iv) the disclosure is reasonable and in the public interest;
 - (v) the disclosure is made in good faith and in compliance with the reasonable requirements of the Council or its professional advisers.
- 4.2.4 Prevent another person from accessing information if that person is entitled to do so by law.
- 4.2.5 Improperly use knowledge gained solely as a result of their role as a Councillor for the advancement of their Disclosable Pecuniary Interests.
- 4.2.6 Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute.
- 4.2.7 Seek or accept preferential treatment in dealings with the Council on a personal level because of their position as a Councillor or Member of a Committee or Sub-Committee.

4.3 A Member should not seek, or accept, the leadership of the Council if they, or any body with which they are associated, has a significant financial interest in, or is closely related to, the business or affairs of the Council. Likewise, they should not accept the chairmanship of the Executive, a Committee or Sub-Committee if they have similar interest in the business of that Committee or Sub-Committee.

5 Interests, Dispensations, Sensitive Interests and Bias

- 5.1 Councillors **must** declare any interests (Disclosable Pecuniary Interests, Other Registrable Interests and Personal Interests) that relate to their public duties and **must** take steps to resolve any conflicts arising in a way which promotes openness and transparency, including registering and declaring interests in a manner conforming with the procedures. Further guidance is contained within Appendix 2.
- 5.2 Councillors who have a Disclosable Pecuniary Interest may apply for a Dispensation to enable them to speak and/or vote at a meeting on the specific grounds set out in the Dispensation Procedure in Appendix 3.
- 5.3 If the Monitoring Officer agrees that an interest is a Sensitive Interest the Councillor **must** disclose its existence at a relevant Meeting but is not required to provide specific details (see Appendix 2). The Monitoring Officer shall also exclude the details of the Sensitive Interest from the published version of the Register of Interests.
- 5.4 When exercising a quasi-judicial function (e.g. Planning, Licensing and Appeals), interests which do not qualify as Disclosable Pecuniary Interests or Other Registrable Interests could nevertheless lead a reasonable member of the public to conclude that there was a real possibility of bias on the part of a Councillor. In such circumstances the Councillor should not participate in the decision making process (i.e. the Councillor should not vote nor, unless they are requested to do so by the Chairman of the Meeting on a point of clarification, speak on the matter). The interest should be registered with the Monitoring Officer.

6 Gifts and Hospitality

- 6.1 Councillors **must** disclose and record any gift or hospitality they are offered or receive in accordance with the Councillors' Gifts and Hospitality Protocol.

7 Alleged breaches of this Code

- 7.1 Any allegation that a Councillor has breached this Code after confirming the Complaint complies with the assessment criteria, an initial assessment shall be considered by the Monitoring Officer in consultation with one of the Independent Persons. Where a matter is referred for investigation the Governance Committee will consider the findings of the investigation.
- 7.2 A flowchart outlining the process for dealing with alleged breaches of this Code is contained within Appendix C of Part 13 (Procedure for Local Determination of Allegations) (INSERT LINK).

Councillors' Gifts and Hospitality Protocol

1. Introduction

- 1.1 This Protocol is intended to complement the Councillors' Code of Conduct. It offers guidance to Councillors with regard to best practice and the need to preserve integrity and demonstrate good governance. It has been written to protect both individual Councillors and the Council itself. The intention of this Protocol is to ensure that the Council can demonstrate that no undue influence has been applied or could be said to have been applied by any supplier or anyone else dealing with the Council and its stewardship of public funds.
- 1.2 This Protocol sets out Councillors' obligations to declare any relevant gifts and hospitality which might be offered to or received by them in their capacity as a Councillor or to their spouse, partner or dependent as a result of their relationship with the Councillor.
- 1.3 The corollary of this is that gifts and hospitality offered to a councillor in their private capacity, of whatever value, do not need to be registered at all. Further, this Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to a councillor by the Council.
- 1.4 It is the Councillor's responsibility to ensure any gifts and hospitality received or offered to them or their spouse/partner are declared to the Council's Monitoring Officer in accordance with the agreed procedures.

Transparency is the issue: councillors should always consider whether any gifts or hospitality could be seen as being connected with their public role as a Councillor. It is public perception that matters.

- 1.5 A breach of this Protocol amounts to a breach of the Code and a complaint can be reported to the Monitoring Officer or the Governance Committee and dealt with in accordance with the process for alleged breaches of the Code.

2. The Rules

- 2.1 A Councillor, their spouse/ partner or Dependent must never:
- accept a gift or hospitality as an inducement or reward for anything which they do as a Councillor; or
 - accept a gift or hospitality which might be open to misinterpretation; or
 - accept a gift or hospitality which puts them under an improper obligation; or
 - solicit a gift or hospitality.
- 2.2 Prior to the acceptance of any hospitality with a value of £25 or more, a Councillor should whenever possible seek authorisation from the Monitoring Officer, and only if consent has been given should the Councillor or their spouse/partner accept the hospitality.
- 2.3 A Councillor must register every individual gift or item of hospitality over £25 in value that is offered to them and indicate whether or not it was accepted.
- 2.4 A Councillor's registration of the gift or hospitality must be made within 28 days of the date of offer or receipt as the case may be.
- 2.5 Registration is made by a declaration in writing to the Member Services Officer(s) working on behalf of the Monitoring Officer, preferably electronically (e.g. by email), and giving details of:
- the value (or estimated value) and details of the gift or hospitality offered or received;
 - if the gift or hospitality has been accepted, the reason for that acceptance;
 - whether to the Councillor's knowledge the donor of the gift has, or has had in the past, or is likely to have in the future, dealings with the Council.

- 2.6 A Councillor should be aware of serial givers or repeat offers of hospitality as these may indicate a pattern of behaviour that might result in a breach of the Code of Conduct.
- 2.7 An offer of a gift or hospitality that appears over-generous must be declined; it could be seen as an inducement to affect a Council decision.
- 2.8 Even if all Councillors, or a large number of them, are offered or receive the same gift or hospitality, they must each make individual notifications.

Please note that the press and public have the right to inspect gift and hospitality declarations as submitted (and that Officers cannot edit the declarations).

Guidance

3. Should a Councillor accept gifts and hospitality?

- 3.1 It is not sufficient just to register gifts or hospitality; a Councillor **must** consider whether it is appropriate or sensible to accept them in the first place. The general test of caution is one of common sense and perception, i.e. would a reasonable member of the public question the appropriateness of hospitality or gifts offered to or received by the Councillor or their spouse/partner/dependent? If a Councillor is concerned the acceptance could be misinterpreted they **must** decline it and declare it.
- 3.2 A Councillor or their spouse/partner/dependent **must never** solicit a gift or hospitality, or accept any gift or hospitality offered as an inducement or which puts them under any obligation.
- 3.3 Particular care must be taken in relation to gifts and hospitality offered by current or potential contractors for the Council. In certain cases, the acceptance of a gift or hospitality from these sources could constitute a criminal offence, even if declared. If there is any suspicion that any offer is intended as an inducement, then the matter **must** be reported in accordance with established procedures.
- 3.4 The Bribery Act 2010 has offences of “bribing another person” (active bribery) and of “being bribed” (passive bribery). The offences consist of “promising, offering or giving” or “requesting, agreeing to receive or accepting an advantage (financial or otherwise)” in circumstances involving the improper performance of a relevant function or activity.
- 3.5 In the context of the Council the relevant function or activity means a public activity which a reasonable person would expect to be performed in good faith, impartially or in a particular way by a person performing it in a position of trust. There is a maximum penalty of 10 years’ imprisonment or an unlimited fine for these offences.

4. Must a Councillor register all gifts and hospitality that they are offered?

- 4.1 A Councillor **must** register any gift or hospitality worth £25 or more that they or their spouse/partner/dependent are offered, and whether it was accepted. Where the value of any gift or hospitality is under £25 a Councillor **may** wish to declare receiving it.

5. What about gifts or hospitality that a Councillor is offered but did not accept?

- 5.1 A Councillor **must** register any offer of gifts and/or hospitality over £25 even if declined, since this protects both their position and that of the Council.

6. What is the value of the gift / hospitality?

- 6.1 A Councillor may have to estimate how much a gift or some hospitality is worth in their written declaration. It is suggested that they take a common sense approach and consider how much they reasonably think it would cost a member of the public to buy the gift, or provide the hospitality in question. If as a result they estimate that the value is £25 or more, then the Councillor **must** declare it.
- 6.2 Where hospitality is concerned, a Councillor can disregard catering on-costs and other overheads, e.g. staff and room hire. If the refreshments, of whatever kind, would cost £25 or more in a comparable establishment providing food of comparable quality, the Councillor **must** register it.
- 6.3 If a Councillor is not certain whether the value is under £25, the safest course of action is to register it and give an approximate value.

7. What about gifts of low value?

- 7.1 There is no requirement to declare gifts of a value of less than £25. However, in order to be transparent, if a Councillor or their spouse/ partner receive a series of related gifts which are all under £25, but together total above £25, then they **must** register them if they are from the same person. If the small gifts offered by or received from different persons are connected in some way, it is good practice to register them.

8. How does a Councillor register gifts and hospitality that they receive?

- 8.1 A Councillor **must** give Democratic Services working on behalf of the Monitoring Officer written details about the gifts and hospitality they or their spouse/ partner are offered, preferably by email. The best advice is to get into the habit of registering things as soon as possible.

9. Which organisation does a Councillor make declarations to?

- 9.1 A Councillor **must** also consider that they might be offered gifts and hospitality in their capacity as the Council's representative on an outside body. It is a Councillor's responsibility to ensure that they declare any gifts and hospitality in accordance with that organisation's rules and procedures.

10. How to deal with the issue of when gifts or hospitality are offered or received in different capacities or where there are overlapping roles

- 10.1 Councillors need only declare gifts and hospitality to the Monitoring Officer where they are offered or received in their Capacity as a West Berkshire District Councillor.
- 10.2 If a councillor receives gifts or hospitality in another capacity, e.g. arising from holding another public office, they should register in accordance with whatever code is in place for that other body. If a particular body does not actually require the councillor to register anything, then they do not need to do anything in respect of the receipt of a gift or hospitality directly attributed to their role within that organisation.
- 10.3 If the councillor is not sure what capacity they or their spouse/partner was offered or received something in, provided they declare the gift or hospitality *at least once* with the body that appears to be the most appropriate, they will have fulfilled their duties. The overriding purpose is public transparency.

11. What happens if a Councillor does not register a gift or hospitality?

- 11.1 Failure to notify the Monitoring Officer, or the Democratic Services acting on their behalf, of the offer or receipt of a gift or hospitality with a value of £25 or more is a breach of this Protocol and consequently also a breach of the Code of Conduct. An alleged breach of the Code can be the subject of a complaint to the Monitoring Officer or Governance Committee which could result in the matter becoming the subject of an investigation.

12. Gifts which are more likely to be considered acceptable

- 12.1 It is the responsibility of the Councillor to decide whether or not to declare gifts and hospitality.

- 12.2 The Council has however agreed that in appropriate circumstances Members of the Council may choose to accept gifts and hospitality in the following circumstances:

- Civic hospitality provided by another authority;
- Modest refreshments offered or received in the ordinary course of duties as a Councillor e.g. at formal meetings, training or working meetings or when in contact with constituents;
- Tickets for sporting or cultural events which are sponsored or supported by the Council;
- Small gifts of low intrinsic value branded with the name of the company or organisation making the gift (e.g. pens, diaries, calendars etc);
- Modest souvenir gifts from another public body given on the occasion of a visit by or to that body;
- Hospitality offered or received in the course of an external visit or meeting which has been authorised by the Council. In such cases the arrangements should be made by Officers rather than the Councillors who will be benefiting and hospitality should be commensurate with the nature of the visit; and
- Other unsolicited gifts where it is impracticable to return them or where refusal would in the circumstances cause offence. In such cases the Councillor may wish to pass the gift to the Chairman's Charity.

- 12.3 Offers/receipt of gifts and hospitality of these types are still subject to the requirements of this Protocol regarding the notification to the Monitoring Officer of gifts and hospitality of greater than £25 in value. The appropriateness of acceptance must always be considered beforehand. It must also be noted that the fact that a gift or hospitality does not have to be notified under this Protocol does not necessarily mean that it is appropriate to accept it.

13. Will the register be open to the public?

- 13.1 The register is available to the public in the same way as the register of Disclosable Pecuniary Interests is. It is open for inspection at the Council Offices, Market Street.

- 13.2 Regular updates of declarations will be reported to the Governance Committee as part of the quarterly performance monitoring reports.

14. Further assistance

- 14.1 It is each Councillor's own individual responsibility to observe this Protocol, but the Monitoring Officer will help where possible. If a Councillor has any questions at all please contact the Monitoring Officer, Deputy Monitoring Officer(s) or the Democratic and Electoral Services Manager for advice and assistance.

Appendix 1 - The Seven Principles of Public Life ('the Nolan Principles')

Selflessness

Councillors should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty

Holders of public office should be truthful.

Integrity

Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Councillors should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits. Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Councillors should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

Councillors should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Leadership

Councillors should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Appendix 2 - Interests

Introduction

- 1.1 Councillors and Co-Opted Members **must** declare any interests that relate to their public duties and **must** take steps to resolve any conflicts arising in a way which promotes openness and transparency, including registering and declaring interests in a manner conforming to the procedures.
- 1.2 There are three types of interest:
 - Disclosable Pecuniary Interests
 - Other Registrable Interests
 - Personal Interests
- 1.3 Councillors should also always consider whether any interest could be seen as being prejudicial to their decision making as a Councillor. It is public perception that matters.

Disclosable Pecuniary Interests (DPIs)

- 1.4 Schedule 2 of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 lists the disclosable pecuniary interests specified for the purpose of the Act. This list is in Appendix 2a
- 1.5 The requirements to register interests apply to either an interest of the Councillor or an interest of the Councillor's spouse, civil partner, partner or dependent. However, the Councillor does not have to differentiate between their own or their spouse/civil partner/partners' interests or to name them.

How to declare a DPI

- 1.6 Councillors **must** notify the Monitoring Officer of any DPI, within 28 days of taking up office or becoming aware of their interest. As with the Code, the requirement to disclose DPIs applies to Co-Opted Members as well as to Councillors.
- 1.7 Any interests **must** also be disclosed at a Meeting if they are relevant to the matters under discussion.
- 1.8 The Act makes participation in such matters a criminal offence if the Councillor has a DPI.
- 1.9 Where, as an Executive Member, a Councillor may discharge a function alone, and they become aware of a DPI in a matter being dealt with, or to be dealt with by them, the Councillor **must** notify the Monitoring Officer of the interest and **must not** take any steps or further steps in the matter, or seek improperly to influence a decision about the matter.

Other Registrable Interests

- 1.10 Councillors are required by law to register Other Registrable Interests.
- 1.11 An Other Registrable Interest is one which a member of the public who knows all the relevant facts relating to it would reasonably consider that interest is so significant that it is likely to prejudice or influence the Councillor's judgement of the public interest.
- 1.12 These relate to:
 - any body of which a Councillor is a member or in a position of general control or management and to which they are appointed or nominated by their authority;
 - any body exercising functions of a public nature; directed to charitable purposes; or one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which they are a member or in a position of general control or management;

- any easement, servitude, interest or right in or over land which does not carry with it a right for the Councillor (alone or jointly with another) to occupy the land or to receive income.

How to declare an Other Registrable Interest

- 1.13 Councillors **must** notify the Monitoring Officer of any Other Registrable Interests, within 28 days of taking up office or becoming aware of their interest. As with the Code, the requirement to disclose Other Registrable Interests applies to Co-Opted Members in addition to Councillors.
- 1.14 A Councillor may participate in decision making relating to their Other Registrable Interests to make representations, answer questions or give evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. The Councillor **must** leave the Meeting immediately after making representations, answering questions or giving evidence.
- 1.15 Subject to the Councillor disclosing the interest at the Meeting, they may attend a Meeting and vote on a matter where they have an Other Registrable Interest that relates to the functions of their authority in respect of:
- housing, where they are a tenant of their authority provided that those functions do not relate particularly to their tenancy or lease;
 - school meals or school transport and travelling expenses, where they are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where they are in receipt of, or are entitled to the receipt of, such pay;
 - an allowance, payment or indemnity given to Councillors;
 - any ceremonial honour given to Councillors; and
 - setting council tax or a precept under the Local Government Finance Act 1992.

When an Other Registrable Interest becomes a Personal Interest

- 1.16 The Council has many dual-hatted Councillors who are also town or parish councillors. Membership of a body exercising functions of a public nature, such as town and parish councils, is an Other Registrable Interest and usually restricts a Councillor's participation in decision making. A Councillor would however be permitted to participate in decision making at Planning Committee meetings because their membership of a town or parish council is unlikely to prejudice or influence the Councillor's judgement of the planning application before the Committee. In this instance the Councillor should follow the rules on how to declare a Personal Interest.
- 1.17 Conversely, there might be times when a Councillor's membership of a town or parish council is likely to prejudice or influence the Councillor's judgement of the planning application before the Committee. The Councillor should seek advice from the Monitoring Officer if they are unsure.

Personal Interests

- 1.18 A Councillor has a Personal Interest in any decision of their authority where the interest might reasonably be regarded as affecting their well-being or financial position or that of a Relevant Person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward
- 1.19 A Relevant Person is:

- a parent, grandparent, sibling, child, aunt, uncle, cousin (or partner/spouse of any of those people) by birth or by marriage; or
- any person or body who employs or has appointed a Relevant Person, any firm in which they are a partner, or any company of which they are directors;
- any person or body in whom a Relevant Person has a beneficial interest in a class of securities exceeding the nominal value of £25,000.00; or
- any body of a type described in Other Registrable Interests.

How to declare a Personal Interest

- 1.20 Where a Councillor has a Personal Interest in any business of the Council a Councillor needs to disclose to the meeting the existence and nature of that interest when they address the meeting on that business.
- 1.21 Personal interests do not need to be declared to the Monitoring Officer, but Councillors should seek advice if they are not sure what type of interest they have.

When a Personal Interest becomes an Other Registrable Interest

- 1.22 As outlined in the Code, a situation may arise where a member of the public who knows all the relevant facts relating to it would reasonably consider that an interest is so significant that it is likely to prejudice or influence the Councillor's judgement of the public interest. In that circumstance their interest would be considered to be an Other Registrable Interest.
- 1.23 A Councillor would have an Other Registrable Interest in a planning application that their parent had submitted because that Relevant Person is likely to be affected by the application to a greater extent than the majority of the inhabitants of the ward or parish. A DPI would not cover this aspect as they relate to Councillor and their spouse/partner only. The existence of a close family tie would mean that the public might consider that it would prejudice the Councillor's view when considering the application.
- 1.24 In this instance the Councillor should follow the rules on how to declare an Other Registrable Interest.

Interests arising in relation to Scrutiny Committees

- 1.25 In any business before a Scrutiny Committee of the Council (or of a sub-committee of such a committee) where:
- that business relates to a decision made (whether implemented or not) or action taken by the executive or another of their authority's committees, sub-committees, joint committees or joint sub-committees; and
 - at the time the decision was made or action was taken, they were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee they were present when that decision was made or action was taken,

- 1.26 a Councillor may only attend a meeting of the overview and scrutiny committee for the purpose of answering questions or giving evidence relating to the business, and they **must** leave the room where the meeting is held immediately after making representations, answering questions or giving evidence. The Councillor should not stay in the meeting for the purposes of taking part in the committee's general debate.

Register of Interests

- 1.27 The Council will maintain a register of Councillors' interests and make it available to the public on their website.

Sensitive Interests

- 1.28 Where a Councillor is concerned that the disclosure of the details of an interest (whether a DPI or Other Interest which the Councillor is required to disclose) at a Meeting or on the Register of Members' Interests, and such disclosure would lead to the Councillor or a person associated with them being subject to violence or intimidation, the Councillor may request the Monitoring Officer agree that such interest is a Sensitive Interest.
- 1.29 If the Monitoring Officer agrees that the interest is a Sensitive Interest the Councillor **must** still disclose the existence of the interest at a relevant Meeting but the Councillor is not required to provide the details of the Sensitive Interest during the meeting. The Monitoring Officer shall also exclude the details of the Sensitive Interest from the published version of the Register of Members' Interests.

Appendix 2a - Prescribed definitions for Disclosable Pecuniary Interests

The following table replicates Schedule 2 of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and gives the prescribed definitions for Disclosable Pecuniary Interests.

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by a Councillor in carrying out duties as a member, or towards the election expenses of a Councillor. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the Councillor's partner/ spouse (or a body in which the Councillor's partner/ spouse has a beneficial interest) and the Council— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the Council.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate tenancies	Any tenancy where (to the Councillor's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the Councillor's partner/ spouse has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to the Councillor's knowledge) has a place of business or land in the area of the Council; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor's partner/spouse has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Appendix 2b - Pre-disposition or Pre-determination – Planning Committees

- 1.1 Members of the Planning Committee need to ensure that they do not fetter their ability to participate in the decision making process on an application by making up their mind or clearly indicating that they have made up their mind on how they will vote prior to the consideration of the application by the Committee.
- 1.2 The Planning Committee should, when considering an application, take into account all views that are expressed in such a way that they are openly heard and fairly considered in a balanced way before the Committee reach a decision.
- 1.3 Members of the Planning Committee can have a predisposition to an initial view, where the Councillor is clear they are still willing to listen to all the material considerations presented at the Planning Committee before deciding on how to exercise their vote on behalf of the community.
- 1.4 A Councillor that has fettered their discretion and then takes part in the decision making process will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a risk of bias or predetermination or a failure to not take into account all of the factors enabling the application to be considered on its merits.
- 1.5 The Localism Act 2011 (Section 25) provides that a Councillor who has expressed a preference for a particular outcome of an application as it proceeds to determination, will not be taken to have had a closed mind when making the decision just because they have previously done or said anything to indicate their view in respect of the matter. However, in order to use this provision, it is important that a fair minded observer would consider that the Councillor was open to changing their mind in the light of different or additional information, advice or evidence presented.
- 1.6 It will be evident that the appropriate action is not clear cut and will depend on the circumstances of a particular case and application. Planning Committee members need to avoid bias and predetermination and take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. To do this, Councillors taking the decision on an application must take account of all the evidence presented before arriving at a decision and should avoid committing themselves one way or another before hearing all the arguments.
- 1.7 A situation can arise when a Member of the Planning Committee represents a Ward within which a contentious application is lodged. If, prior to the matter being considered by the Planning Committee, that Councillor decides to make a public statement, and either supports or opposes the application, it will be difficult for that Councillor to be seen to subsequently determine the application transparently, openly and fairly. Accordingly, the Councillor should make an open declaration, in relation to their position and not vote on the determination of the application at Planning Committee.
- 1.8 The open declaration should be noted in the Planning Committee minutes. The Councillor will also be required to vacate their seat within the Planning Committee and to sit within the public gallery for the duration of the consideration of the item, and where they have exercised their right to speak as a Ward Member, they can address the Planning Committee at the appropriate time in accordance with the Ward Member speaking arrangements (see paragraph 10 of Part 6.8 of the Constitution).
- 1.9 Ultimately it is the responsibility of the individual Councillor to ensure that, as a result of their stance in regard to a particular matter the Planning Committee is not compromised and it is also for them to strike the balance that may need to be made between ward and other interests and the requirements of the Planning Committee.

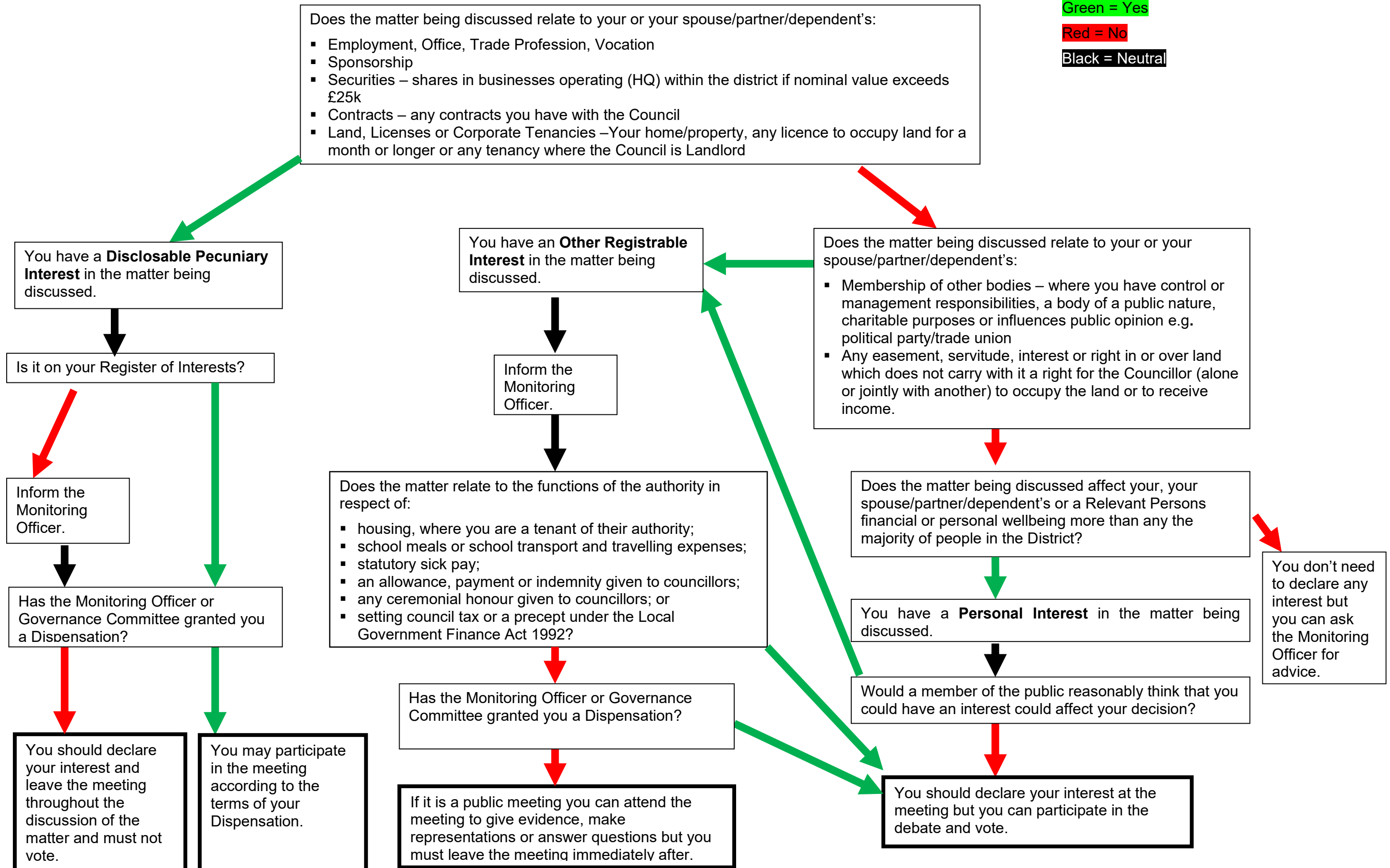
Appendix 2c Interest Flowchart

Key:

Green = Yes

Red = No

Black = Neutral



Appendix 3 - Dispensations under the Localism Act 2011

Introduction

Regulations came in to force on 1 July 2012 following the introduction of the Localism Act 2011. Section 33 of these regulations prescribes the circumstances in which the Governance Committee and the Monitoring Officer may grant Dispensations to Councillors to speak and/or vote at a meeting in which they have a Disclosable Pecuniary Interest under Section 31 of the Act.

If a Councillor acts in accordance with the granting of such a Dispensation, any participation in business prohibited by the mandatory provisions of the Code of Conduct is not a failure to comply with the authority's Code. These regulations refer to the circumstances where a Councillor, finds they are in a position where they have to declare a Disclosable Pecuniary Interest or Other Registrable Interest under the Code of Conduct which would ordinarily then require them to leave the meeting. These Councillors might be able to obtain a Dispensation from the Governance Committee or Monitoring Officer to stay in the meeting after declaring the interest and either speak or speak and vote according to any Dispensation granted.

Dispensations

1 Circumstances in which a Dispensation can be Granted

1.1 The Governance Committee or Monitoring Officer may grant a Dispensation to a Councillor in the following circumstances:

- (a) That so many Councillors of the decision making body have Disclosable Pecuniary Interests in a matter that it would "impede" the transaction of the business of that body. [In practice this means the decision making body would be inquorate as a result].
- (b) That without the Dispensation the representation of different political groups on the body transacting the business would be such as to alter the outcome of the vote on that particular matter.
- (c) That the authority considers that the Dispensation is in the interests of persons living in the authority's area.
- (d) That without a Dispensation no Member of the Executive would be able to participate in a particular matter. They suggest that where the Executive would be inquorate as a result then the particular decision could be dealt with by an individual Member of the Executive. It may be necessary to make provision in the Scheme of Delegation to enable this to occur although it does appear to be an unlikely event.
- (e) That the Council considers that it is "otherwise appropriate" to grant a Dispensation. This is a particularly wide provision as to some extent is (c) above.

1.2 It is considered that grounds (a) and (d) are objective. Dispensations on these grounds are delegated to the Monitoring Officer with an appeal to the Governance Committee.

1.3 Grounds (b), (c) and (d) are rather more complex and subjective. The discretion to grant Dispensations on these grounds remains with Governance Committee after consultation with the Independent Person.

2 Requesting a Dispensation

2.1 Requests for Dispensations **must**:

- (a) be made in writing;
- (b) be made to the Monitoring Officer of the Council;

- (c) be made by an individual Councillor or Co-Opted Member of the authority;
- (d) provide sufficient information to base a decision on.

3 Procedure and Considerations

- 3.1 The Governance Committee or Monitoring Officer will take the following into consideration when determining whether or not a Dispensation should be granted:
 - (a) They will weigh up the effect of Councillors' Disclosable Pecuniary or Other Registrable interest against the outcome of the vote if they are not participating in the vote.
 - (b) They will consider whether the nature of the interest in question is such that public confidence in the authority would be damaged if that Councillor were allowed to vote.
 - (c) They will look at whether the interest in question is one that is common to both the Councillor and to a significant proportion of the population.
 - (d) They will take account of the expertise and knowledge of the Councillor and whether this justifies their participation in the item in question.
 - (e) They will have regard to whether the business in question relates to a voluntary or public body and additionally whether the interest is a financial one.
 - (f) They will consider whether a Dispensation not being granted would mean the meeting was inquorate, this might be a reason to grant the Dispensation.
- 3.2 This consideration may also take account of any other relevant circumstances or local criteria.
- 3.3 The Monitoring Officer or Governance Committee will determine the nature of any Dispensation they are minded to grant:
 - (a) Whether the applicant can speak and not vote; or
 - (b) Whether the applicant can participate fully and vote.
- 3.4 The Monitoring Officer or Governance Committee can also decide the length of the Dispensation (not more than four years).
- 3.5 The regulations do not allow for the Monitoring Officer or Governance Committee to grant a general Dispensation to cover any situation where a Disclosable Pecuniary Interest may arise.
- 3.6 If the Monitoring Officer or Governance Committee grants a Dispensation it should do so in writing and before the Meeting(s) in question is/are held.
- 3.7 The Monitoring Officer or Governance Committee may decide to refuse an application for a Dispensation. This is within their discretion under the regulations.
- 3.8 A written record of the decision taken must be kept and placed with the Register of Interests maintained under Section 81(1) of the Local Government Act 2000.

Appendix F

Councillor Call for Action Protocol

Introduction

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

Description

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

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

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

All of these factors can make resolution easier to achieve.

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

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

Eligibility criteria for the initiation of a CCfA

Any Member of the Council may submit a CCfA for inclusion in the agenda of a Scrutiny Committee.

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

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

- Questions at Executive/Council
- Informal discussions with officers or other Members
- Formal letters written on behalf of constituents
- Public meetings
- Petitions and deputations
- Motions on the agenda at full Council

- Communication with local MPs
- Communication with Councillors in other authorities
- The Council's complaints process
- Web or e-mail based campaigns
- Communications with relevant Portfolio Holder.

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

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

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

Exclusions from Councillor Call for Action

Specifically excluded from becoming a CCfA are:

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

Investigation and resolution

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

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

The Council's scrutiny function only has the power or authority to require the Council or other organisations to have regard to its considerations and cannot of itself impose a resolution. Therefore at the conclusion of its investigation the Scrutiny Committee

will produce a report containing recommendations for the consideration of the Council's Executive or other organisations as appropriate.

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

Monitoring

The responding service will provide implementation progress reports to the Scrutiny Commission at intervals not normally more frequent than six monthly.

Appendix G

Protocol for Council Representation on Outside Bodies

1. Introduction

- 1.1 Elected Members are appointed by West Berkshire Council to serve on a range of Outside Bodies. In the context of this Protocol, an “Outside Body” covers organisations such as Trusts, Voluntary Bodies, Charities, Community Associations and Companies etc.
- 1.2 Service on Outside Bodies has always been an established part of a Councillor’s role. A Member appointed to an external body will be able to use their knowledge and skills both as a Council Member, and as a representative of their communities, to assist the organisation to which they are appointed, as well as the Council which they represent.
- 1.3 This Protocol is designed to provide guidance as to the roles, experience and responsibilities as well as the liabilities that Members may attract in connection with their involvement with these organisations. Councils are increasingly working in partnership with external organisations. This means that it is important that everyone is clear exactly what the role of Councillors appointed to these bodies is. Questions of accountability and governance are likely to arise particularly as more funding may be channelled through the Council to these Outside Bodies.
- 1.4 Membership of an Outside Body brings into play different considerations to those which relate to Council membership. As members of Outside Bodies, elected Members will have different duties, obligations and liabilities depending upon the type of organisation involved. Members’ roles on these Outside Bodies may appear to conflict, sometimes with each other, and sometimes with their position as a West Berkshire Councillor. This can be eased by giving clear guidance, which is what this document aims to do. Paragraphs 9 and 10 of this Protocol provides information on registering interest and information on dealing with conflicts of interest are set out in paragraph 11.
- 1.5 Depending on the legal nature of the body and the role fulfilled by the Member they may attract personal responsibility for decisions and actions of the body. It is a Members’ responsibility to ensure that they are aware of their liabilities and any insurance arrangements that are in place where they participate in Outside Bodies. Officers will strive to ensure that Members are provided with as much information as possible prior to their appointment. Paragraphs 4 and 5 of the Protocol set out the general roles and responsibilities for Members on Outside Bodies.
- 1.6 To aid Members further, this Protocol sets out the different types of bodies and responsibilities. Members with any doubts or questions should consult the Monitoring Officer at the earliest opportunity for help and advice. More detailed information, relating to Limited Companies, Charitable Trusts, Partnerships and Unincorporated Organisations, is set out in paragraphs 12 to 15.

- 1.7 The Council will indemnify Members representing the Council on Outside Bodies in many circumstances. There are however specific statutory limitations as to the extent of indemnification the Council is able to provide. These are set out in paragraph 16 of the Protocol.
- 1.8 Members can serve on Outside Bodies in their personal capacity provided that there is no conflict of interest with their duties as a Member of West Berkshire Council. Again, legal advice is available to help Members assess their position.

2. How are Appointments made?

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

3. Before Accepting the Appointment

- 3.1 Before accepting the appointment Members should establish:
 - the time commitment required by the role and whether or not they have the time and capacity to take on the responsibility;
 - what the nature of the organisation is as this will affect their role and help with identifying the potential risks involved. One of the most important things is to find out if the organisation is a separate legal organisation (i.e. a body which has an identity of its own such as a company) or whether it is simply a group of people coming together with a common purpose (an unincorporated organisation). An unincorporated organisation generally poses a more significant risk to those involved in it because if something goes wrong, personal legal action can be taken against everyone managing it.
 - in what capacity they are being asked to serve on the Outside Body:
 - as a member of an Outside Body where they represent the Council's position as a 'member' of the Outside Body but take no part in its management or governance other than to attend and vote at annual or general meetings. Here they will be mainly

concerned with representing the Council and will not have responsibilities for governance of the body; or

- as a member of the management committee, board of directors or committee of trustees of the Outside Body. Whilst the Member may have been appointed to the body by the Council, their primary responsibility will be to the body itself, to advance the interests of the body or of the beneficiaries of the trust, as opposed to acting as a representative of the Council. They will have detailed responsibilities which are outlined further in this guidance
- what the body has been set up to do;
- the governance arrangements of the organisation; and
- the financial position of the organisation.

3.2 The Council representatives are also advised to:

- consider if there is likely to be any significant conflict of interest between their role in the outside organisation and their Council role before accepting the office;
- clarify the insurance arrangements (does it cover the key risks of the organisation as well as the Member and is the liability limited or unlimited) and assess the possibility of any implications on themselves as individuals (specifically consider the nature and function of the body and the amount of money it deals with – always be aware of the added risk where the organisation employs staff);
- if no insurance exists this must be weighed up in the decision to accept the appointment;
- ask about any specific legal responsibilities attached to the membership of the organisation;
- read the constitution of the organisation and be aware of its powers, duties and objectives;
- attend meetings regularly and present apologies in good time when they are unable to attend;
- satisfy themselves that they receive regular reports on the activities of the organisation and its financial position;
- satisfy themselves that the organisation has adequate Health and Safety and Equalities Policies;
- obtain a copy of the annual report and accounts to ensure that funds are spent on agreed objectives where the organisation is funded by or through the Council; and
- seek advice from the appropriate Council Officers in the event of any doubt or concerns about the running of the organisation.

4. The Responsibilities of the Councillor

4.1 In carrying out the role of a representative on the Outside Body, Councillors act both as individuals and as representatives of the Council:

4.2 Members should:

- act according to the rules, constitution and framework set by the Outside Body;
- take an active and informed role in the Outside Body's affairs;
- make independent and personal judgements in line with their duty of care to the Outside Body;
- report back to West Berkshire Council annually (by the 1 May) using the prescribed form;
- promote equality as an integral part of the role and to treat everyone with fairness and dignity;
- from time to time it is possible that a conflict of interest may arise between the role of the Councillor and the role they are undertaking on an Outside Body. Members are referred to paragraph 11. Members are advised to seek legal advice before setting off on a course of action;
- behave ethically and follow as far as applicable the Code of Conduct for Members; and
- wherever possible approach the lead officer for the Outside Body for a briefing on agenda items before attending meetings of the Outside Body.

4.3 Members should not:

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

4.4 More specific information pertaining to Limited Companies, Charitable Trusts, Partnerships, and Unincorporated Organisations is set out within this Protocol.

5. The Role of the Councillor

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

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

6. Expenses, Remuneration and Benefits

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

- 6.2 Travel and subsistence expenses should be claimed through the organisation if available otherwise through the Council in accordance with Part 14 of the Constitution (Members' Allowances Scheme).
- 6.3 Any Councillors offered any gift or hospitality, in their capacity as Members must treat the offer in accordance with Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors) to Part 13 (Codes and Protocols) of the Constitution.
- 6.4 Free access to a Company's facilities should only be accepted where it is necessary to discharge duties and responsibilities as a Director and should be declared to the Council.
- 6.5 The Code of Conduct should be followed at all times.

7. Representatives Reporting Back

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

8. Further Advice

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

9. Interests

- 9.1 Members are required to register interests in line with section 4. (Disclosable Pecuniary Interests and Interests other than Disclosable Pecuniary Interests)

of Appendix H (Code of Conduct) to Part 13 (Codes and Protocols) of the Council's Constitution.

10. Council's Code of Conduct – General Provisions

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

11. Conflicts of Interest

- 11.1 Appointment to an Outside Body can take various forms, and before taking up active membership it is advisable to establish exactly in what capacity the Member is being appointed.
- 11.2 If Members are appointed to an Outside Body they will have a personal interest in that body and will need to consider their position when they sit on Council, the Executive, a Council committee or other decision-making body which is considering a matter which relates to that body.
- 11.3 If Members attend a meeting where there is an item of business which relates to or affects the Outside Body, they will need to disclose the interest at the meeting, regardless of whether or not they were appointed onto the Outside Body by the Council, or by the Outside Body itself. This may not be a report which specifically mentions the body, but will affect it. For example, the budget setting meeting of Full Council can have implications for Council funding of voluntary organisations.
- 11.4 The next issue is to consider whether they also have a Disclosable Pecuniary Interest (DPI) which would require them not only to disclose it but also to withdraw from consideration of that item of business.
- 11.5 If a Member does decide that they have a DPI, they must disclose this and leave the meeting room and not influence the debate or decision in any way. If the Council body making the decision has a policy of allowing members of the public to speak, Members can use this avenue legitimately to speak to the meeting but they must follow the rules of the public speaking session and then leave the room as soon as they have spoken on the matter.
- 11.6 Members should take advice from the Monitoring Officer if any situation arises where they think they might have a problem with an interest arising from their involvement with the Outside Body.
- 11.7 Whilst a failure by a Member to disclose a personal interest, or to disclose and withdraw for a DPI, may lead to sanctions against the individual Councillor, it will not of itself invalidate the decision of the authority in which the Councillor participated. However, where there is a real possibility that the decision of the Council might have been affected by bias or predetermination on the part of one or more Councillor, that decision can be held by a Court of Law to be invalid. Members therefore need also to be careful about the possibility of bias and predetermination when they are dealing with matters involving an Outside Body on which they serve.
- 11.8 Any Councillor who is about to take part in a decision, either collectively with other Councillors or via Individual Decision, must not allow themselves to be unduly influenced by their allegiance to any Outside Body or individual, nor should they give the impression that they might be influenced by it. That is

bias and apparent bias. It arises because of a connection to an Outside Body or person.

- 11.9 It also follows that, whilst a Councillor may have preferences and predispositions, they must not finish the decision-making process until they have received and considered all the relevant information relating to the matter. To do so would be predetermination. Whilst it is accepted that Councillors live in the real world and will discuss matters with colleagues and constituents, and bring the benefit of those discussions to the Committee Room, they must still listen to the arguments and be prepared to change their mind if the evidence presented requires it.
- 11.10 From this it will be apparent that particular difficulties arise where a Councillor is a member of an Outside Body such as a pressure group, which is seeking to influence the authority's decision on a particular matter, as such membership can readily be taken as evidence of bias and/or predetermination. On occasion, and particularly in respect of local, single-issue pressure groups, a Member may have to choose whether to be a campaigning Councillor, participating in a pressure group, or to remain outside the campaign but be able to vote on the issue when it comes before the Council.
- 11.11 In some instances a Member may also find that they are unable to properly carry out their functions as a Member of the Council and a Member of the Outside Body. In these instances the Member may consider resigning from one body or another. Members should seek advice from the Monitoring Officer before taking such action.

12. Limited Company

- 12.1 A company has a separate legal personality to its shareholders (also described as company members or subscribers). One of the main advantages of acting through a limited company is that shareholders can claim the benefit of limited liability. In the case of a company limited by shares this means that they will not be liable for the debts of the company if the company makes losses over and above the amount which they have pledged to pay the company for their shares. In a company limited by guarantee this means that the shareholders 'guarantee' to contribute a specified sum if called upon to do so (usually a nominal amount of £1) in the event that the company goes into insolvent liquidation.
- 12.2 An appointment as a director of a company needs to be confirmed by the completion of a form (known as '288') which needs to be signed and submitted to Companies House. The secretary of the Outside Body should assist you with this.
- 12.3 The Directorship should also be recorded in the Council's Register of Members' Interests (within 28 days of the appointment). Directors take responsibility for all the main decisions in relation to the operation of the company, including entering into contracts.
- 12.4 The position of Council Members acting as Company Directors is that although Members have been appointed by the Council they have a duty to act in the best interest of the Company.
- 12.5 Although Members are advised to consider the specific rules pertaining to the Company they have been appointed to, the general legal responsibilities of Company Directors are:

- to ensure that the Company acts within its legal powers;
- to act honestly and in good faith in the best interests of the Company;
- not to make a personal profit and to take proper care of the assets;
- to avoid conflicts of interest and not to allow personal interest to influence action as a Director;
- to record personal interests in the Company's Register of Director's Interests;
- to act with reasonable competence and care;
- to exercise reasonable skill and care (this is a subjective test based upon the individual's own knowledge and experience); and
- not knowingly allow the Company to trade fraudulently, recklessly or in an insolvent position.

12.6 Council appointed Directors are advised to:

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

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

- 12.8 If you become a Company Director there are some useful guidance documents to assist you on the websites of the [Institute of Directors](#) and [Companies House](#).
- 12.9 There may be occasions where conflicts of interest arise between the Council and the Company. Some examples are:
- contracts between the two;
 - negotiations on agreements, such as terms of leases;
 - applications for Council permission, e.g. planning consent.
- 12.10 This may mean that the primary responsibility to the Company could conflict with the Council's interest.
- 12.11 In these circumstances, Members are advised to declare a DPI at any Council meetings or discussions and should withdraw from the decision making process.

13. Charitable Trustees

- 13.1 To be a Charity an organisation must operate for one of the four charitable purposes, namely:
- the relief of poverty and human suffering;
 - the advancement of education;
 - the advancement of religion; and
 - another purpose for the benefit of the community.
- 13.2 It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.
- 13.3 Trustees duties include:
- the need to act in accordance with the constitution of the Charity;
 - not making a private profit from their position;
 - acting honestly and in good faith in the best interests of the Charity;
 - ensuring that information relating to the charity and trustees is registered with the Charity Commissioners and annual accounts, reports and returns are completed and sent;
 - ensuring that the body acts in accordance with the overriding duty to the beneficiaries of the Trust;
 - ensuring compliance with all relevant legislation (e.g. in relation to tax and land matters); and
 - Council representatives are advised to clarify the insurance arrangements and assess the possibilities of any implications on themselves as individuals.
- 13.4 There is now a statutory duty of care under the Trustee Act 2000 which applies when a Trustee is:
- exercising a general power of investment or any specific power of investment arising from the Trust;

- making investments in line with the Standard Investment Criteria under section 4 of the Act or taking independent advice on investments under section 5;
- exercising the power to acquire land or deal in land;
- appointing agents, custodians or nominees or in reviewing their obligations;
- compounding liabilities under section 15 of the Trustee Act 1925;
- Insuring Trust property; and
- Dealing with reversionary interests, valuations or audits.

13.5 The standards of care expected of Trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual. Additional information relating to the responsibilities for charitable directors and trustees is available on the Charity commission's website [The Charity Commission - GOV.UK](https://www.gov.uk/government/organisations/the-charity-commission).

14. Partnerships

14.1 The Council representatives on partnerships have three main roles:

- to promote the Council's objectives in participating in the partnership;
- to ensure that the Partnership delivers its own objectives;
- to safeguard the Council's interests within the partnership, particularly where the Council is a funding partner or the accountable body for external funding.

14.2 Council representatives on partnerships are advised to:

- be clear on the Council's own objectives in participating in the partnership;
- read the Constitution of the partnership and be aware of its objectives and powers;
- attend partnership meetings regularly, read the agendas in advance and seek briefing from Officers where necessary;
- ensure that the partnership has proper procedures for reporting progress and financial information; and
- take an interest in the appointment of key staff.

1. Unincorporated Organisations

15.1 Groups which are not charitable trusts or limited companies are 'unincorporated associations' and have no separate legal identity from their members. The rules governing the Members' duties and liability will be set out in a constitution, which is simply an agreement between the members as to how the organisation will operate. Usually the constitution will provide for Management Committees to be responsible for the every day running of the organisation. An unincorporated organisation may be charitable and therefore register as a charity.

15.2 Management Committee Members must act within the Constitution of that Outside Body and must take reasonable care when exercising their powers.

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

16. Indemnity for Members

- 16.1 The Council may only indemnify Members in certain circumstances as prescribed by the Local Authorities (Indemnity for Members and Officers) Order 2004.
- 16.2 The Council will provide an indemnity in relation to any action or failure to act by any Member which:
- is authorised by the Council;
 - forms part of, or arises from, any powers conferred, or duties placed, upon that Member at the request, or with the approval of the authority, including acting as the Council's representative on an Outside Body;
 - arises in respect of the cost of defending any claim for an allegation of defamation by a Member acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious or injurious falsehood);
 - is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for Members but, if the Member is found to have breached the Code of Conduct, and where an appeal is unsuccessful, then that Member shall reimburse the authority or the insurer for their costs incurred in relation to those proceedings;
- 16.3 The indemnity includes an act or omission subsequently found to be beyond the powers of the Member in question, but only to the extent that the Member reasonably and genuinely believed that the act or omission was within their powers at the time they acted.
- 16.4 The indemnity does not apply to the defence of any criminal proceedings brought against a Member unless specifically approved by the Council and then only on a similar basis to that relating to proceedings for breaches of the Code of Conduct.
- 16.5 It is possible in some circumstances for the Council to indemnify (i.e. stand behind the Councillor and pick up any personal legal liabilities/costs/damages which the Councillor incurs as a result of their appointment to an Outside

Body). The Council currently has Officials Indemnity insurance cover in place which covers Members on Outside Bodies but it may be necessary to consider issues on a case by case basis. Please speak to the Monitoring Officer if you have any cause for concern that an Outside Body with whom you are involved is getting into difficulty or you have any indication that you might be getting involved in potential personal liability.

Appendix G(1)

West Berkshire Council

Appointment to Outside Bodies Annual Feedback Form

Name of Organisation	
Name of Member	
Period of review	
Number of Meetings called to attend	
Number of Meetings attended	
Reasons for not attending, if appropriate	
Please give a brief synopsis of the key areas covered by the outside body during the past Municipal Year.	

What background/briefing information did you receive from the organisation on its constitution, aims, objectives etc and was it sufficient to enable you to carryout your appointed role? What additional information do you require?

Please indicate how effective you think the organisation is (has it met or contributed to the Council's Key Priorities?) and give examples to illustrate your reply.

Do you think the Council should continue to be represented on this organisation?

Yes / No

If No, please state why:

Please provide any additional information that fellow Members might find useful.

Councillor

Signed

Dated

Return completed forms to:
Stephen Chard, Legal and Democratic Services, Market Street Offices, Newbury,
RG14 5LD or email: stephen.chard@westberks.gov.uk

Appendix H

Social Media Protocol for Councillors

1. Introduction

- 1.1 This protocol ("Protocol") was last reviewed and updated on 6 December 2018.
- 1.2 This Protocol should be read in conjunction with the Councillor's Code of Conduct ("Code of Conduct" - Appendix H to Part 13 Codes and Protocols of the Council's Constitution), the Council's ICT Policy, the Council's Equalities Policy, and the Local Authority Code of Publicity under the Local Government Act 1986.
- 1.3 Advice on the use of social media can be sought from different departments across the Council but enquiries should in the first instance be directed to the Service Lead – Legal and Democratic Services, West Berkshire Council, Market Street Offices, Market Street, Newbury, RG14 5LD.

2. Purpose and Application

- 2.1 This Protocol seeks to ensure that:
Councillors make use of social media effectively whilst avoiding breaches of the Code of Conduct; and
the reputation of the Council is not adversely affected, and that the Council is not subject to legal challenge, as a result of Councillors' use of social media.
- 2.2 This Protocol will apply to Councillors using social media who are acting, purporting to act, or reasonably perceived to be acting, in their Capacity as a Councillor – all references to "Councillor" below adopt this definition.
- 2.3 For the purposes of this Protocol, social media has a broad meaning. By way of example, this will include but will not be limited to the following types of social media: Facebook, Instagram, Twitter, Snapchat, You Tube and local internet based discussion forum
- 2.4 You should bear in mind that anything posted, shared (for example by retweeting), or liked on social media could end up in the public domain, regardless of any privacy settings that you have applied.
- 2.5 Particular care needs to be taken when sharing the views or comments of others as this could be perceived as an endorsement of the content regardless of your intention.

It is difficult to give definitive advice on the application of the Code of Conduct to social media use and there is developing case law in this area. However, if you use a social media platform where you identify yourself or can otherwise be identified as a Councillor, either in your profile or otherwise, there is a strong likelihood that you will be regarded as acting in your Capacity as a Councillor.

- 2.6 Bear in mind the Code of Conduct when you blog, post, use social networking sites or any other digital content publication service. You should pay particular attention to the requirements of the Code relating to:
- courtesy and respect;
 - bullying or intimidating behaviour;
 - disclosure of confidential information;
 - conduct that could bring your office or the Council into disrepute;
 - misuse of the Council's resources.
- 2.6 The content of a blog, account, page or other social networking tool and the circumstances surrounding its creation will determine whether or not you are deemed to be acting in your Capacity as a Councillor. There are however some general rules that Councillors should bear in mind when deciding on whether to publish content:
- only publish on social media what you would say verbally in public, even in an informal discussion;
 - only publish on social media what you could defend in court if asked to do so; and
 - if retweeting or forwarding the views of others, ensure that it is clear whether you are endorsing or otherwise the original content.

3. Guidance

- 3.1 All Councillors are required to act in accordance with the Code of Conduct.
- 3.2 Social media is an effective method by which Councillors can interact with constituents and support local democracy. Used effectively, Councillors can engage those who would not normally have access to local councillors and politics.
- 3.3 This Protocol is intended to assist Councillors in complying with the Code of Conduct and ensuring that the use of social media is well received. You should think about what you say and how you say it, in just the same way as you must when making statements in person or in writing.
- 3.4 Whenever you are using social media, you should be aware that such activity may be subject to the Code of Conduct. Councillors are permitted to write their own official blogs or pages as members of the Council but they must always conform to the Code of Conduct and other relevant policies and protocols of the Council.
- 3.5 It should be noted that privacy settings will not prevent others with access to your comments from sharing your views with a broader audience. Therefore, notwithstanding the privacy settings applied to any of your social media accounts, you must bear in mind that if you refer to council business in it, you may be viewed as acting in your Capacity.
- 3.6 To make sure you comply with the Code of Conduct, it is suggested that when using social media as a Councillor, you should observe the Guidelines below. You may also wish to adopt these principles even when you regard your social media activity as being conducted in your private capacity, as this should reduce the potential that allegations are made against you that you have breached the Code of Conduct.

4. Derogatory comments against you

- 4.1 On occasion, Councillors might find themselves the subject of offensive or defamatory remarks on other people's blogs, accounts, pages or networking sites.

- 4.2 If you become the subject of offensive on-line behaviour or trolling, it is suggested that you pursue a policy of indifference and, if you do wish to respond, do so in a measured manner, eg asking the blog/account/page owner/person making the remarks to remove them from the site.
- 4.3 If the person making the comments is a local authority, town or parish councillor, discuss the situation with the Monitoring Officer. It might be the case that the person has breached the Code of Conduct by making the remarks, and it could be appropriate to make a complaint to the Governance Committee.
- 4.4 If you are subject to unacceptable on-line behaviour, you should seek advice from the Monitoring Officer as to whether there is any action that can be taken by the Council in this regard.

5. Use of social media during and after Meetings

- 5.1 Councillors are permitted to use social media for the reporting of proceedings of public Council meetings. Councillors will need to consider whether using social media may distract them from participating and understanding information that is being shared at the meeting prior to a decision being made to use social media at any point or points during the meeting.
- 5.2 Councillors should however switch their mobile phone or other equipment to silent mode, so that no disruption is caused to proceedings. If, at a meeting, a Councillor's use of an electronic communication device is causing proceedings to be disrupted any councillor may move that the Councillor should desist from using the device. If the motion is seconded it should be put to the vote without discussion.
- 5.3 Members wishing to record (whether in an audio or visual format) meetings will need to do so in accordance with (as pertinent) the Council Rules of Procedure, Executive Rules of Procedure, Scrutiny Rules of Procedure, and/or Regulatory and Other Committees Rules of Procedure.

Social Media Guidelines

You should always:

- conduct yourself in a manner that is respectful of others - this does not prevent you from holding opposing views and expressing political opinion, but views should be expressed in an appropriate manner;
- keep an eye out for defamatory, untrue or obscene posts from others on your blog, account or page and remove them as soon as possible to avoid the perception that you condone such views, and to prevent any potential libel action being taken against you;
- act in accordance with the Council's policies, including but not limited to the Council's Equality Policy;
- be aware that the higher your profile as a Councillor, the more likely it is you will be seen as acting in your official capacity when you blog, post or network;
- be careful about being 'friends' with service users who are vulnerable adults or children, as this could be regarded as a safeguarding issue;
- ensure you use Council facilities appropriately; and be aware that any posts you make using Council facilities will be viewed as being made in your official capacity and/or an inappropriate use of Council resources;

- consider that English Law allows court actions for libel to be brought for published statements alleged to defame a named or identifiable individual or individuals, and that blogging, social media and other forms of digital content publication are covered by the libel laws.

You should never:

- blog, post, tweet, network, or otherwise use social media in haste;
 - engage in any form of personal attack on an individual that may be seen as disrespectful - general comments about another political party or genuine political expression is less likely to be viewed as disrespect;
 - place images or text on social media from a copyrighted source (for example extracts from publications or photos) without permission;
 - post comments on social media that you would not be prepared to make in writing or face to face;
 - make any comments on social media that you could not defend in court;
 - disclose any information identified by the Council as confidential or exempt;
 - disclose information given to you in confidence by anyone or information acquired by you which you believe or are aware is of a confidential nature;
 - publish personal information relating to individuals, including photographs, unless you have their permission to do so;
 - give the impression that you are expressing the views of the Council where it is not appropriate to do so;
 - use online accounts and digital publishing services associated with a specific council office if you no longer hold that office, or during Purdah;
 - if you are involved in determining planning or licensing applications or other quasi-judicial decisions, publish anything on your blog, account or page that might suggest you do not have an open mind about a matter you may be involved in.
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Part 14 - Members Allowance Scheme

1. General

The West Berkshire District Council, in exercise of the powers conferred by the Local Authorities (Members' Allowances) Regulations 2003 hereby makes the following Scheme.

This Scheme may be cited as the West Berkshire District Council Members' Allowances Scheme, and shall have effect for the part year commencing on 8 May 2001 and subsequent years.

In this Scheme, 'Councillor' means a Member of West Berkshire District Council who is a Councillor; 'year' means the 12 months ending with 31 March.

The Scheme is reviewed by the Independent Remuneration Panel (IRP) on 3 August 2007 and Council on 10 September 2007, and IRP on 12 August 2009 and Council on the 24 September 2009.

The Scheme was reviewed as a whole and amended in February 2011 and was implemented on 5 May 2011. Additional amendments to the scheme were discussed at an IRP meeting in July 2011 and these amendments were agreed at Full Council on the 22 September 2011.

The Scheme was reviewed as a whole and amended in February 2015 and was implemented on 19 May 2015. Additional amendments to the scheme were discussed at an IRP meeting in November 2017 and these amendments were agreed at Full Council on the 1 March 2018.

The Scheme was reviewed again, in its entirety, on the 23 and 24 September 2020 and was agreed at the Full Council meeting on the 3 December 2020.

The Scheme was last amended following a meeting of the IRP on 23 June 2021 and Council on the 9 September 2021.

Further to a Motion approved at the 12 September 2019 Council meeting, the Personnel Committee at its meeting on 24 April 2020 adopted a

Parental Leave for Members Policy. Section 9 deals with allowances for a Member taking Qualifying Parental Leave and should be read in conjunction with this Scheme.

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2. Basic Allowance

Subject to Part Year Entitlements for each year, a Basic Allowance shall be paid to each Councillor as agreed at Council and set out in section 14 of the Scheme. The Basic Allowance will cover:

- Costs associated with home telephone landline and calls
- All costs associated with Broadband
- Mobile phone contracts and calls (personal)
- IT consumables (such as paper and cartridges for personal printer)

- The cost of replacing damaged or lost West Berkshire Council ICT equipment in accordance with the Members ICT Policy. This includes:
 - Tablet device
 - Bluetooth Mouse
 - Bluetooth Keyboard
 - Docking Station
 - Stylus
 - Keyboard, Video Mouse (KVM) switch (where relevant)
 - Projector connection
 - Carry case
 - Batteries and cables
- The costs associated with returning West Berkshire Council ICT equipment and other sundries to the Council, when ceasing to be a Councillor
- Headed paper (following initial supply after Election)
- Business cards
- Online or paper subscriptions or memberships
- Registration with the Information Commissioner's Office (ICO) and similar
- Incidental Expenses not otherwise specified in the scheme (see Travelling and Subsistence Allowances).

In accordance with the Members' Scheme of Allowances, the Basic Allowance is paid over 11 months from June - April, with no payment made in May.

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3. Special Responsibility Allowances

For each year a Special Responsibility Allowance shall be paid to those Councillors who hold the special responsibilities in relation to the Authority that are specified in Schedule 1 to this Scheme.

Subject to [Part Year Entitlements](#) the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.

No Councillor shall be entitled to more than one special responsibility allowance paid by the Council. The Council works towards a maximum number of special responsibility allowances payable at any one time not exceeding 50% of Council Members (22 Members).

In accordance with the Members' Scheme of Allowances, the Special Responsibility Allowance is paid over 11 months from June - April with no payment made in May.

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4. Dependants' Carer's Allowance

Subject to the provisions of this scheme, a Dependants' Carer's Allowance (DCA) shall be payable to a Councillor based on two rates. Rate one for general care is linked to the Real Living Wage as recommended by the Living Wage Foundation (currently £9.90 per hour) with no monthly maximum claim. Rate two is for specialist care based at cost upon production of receipts and requiring medical evidence that this type of care is required, with no monthly maximum claim when undertaking Approved Duties. In the interest of clarity, childcare costs are eligible for this Allowance.

The definition of a dependant used in Section 57A (3) of the Employment Rights Act 1996 applies, namely:

- a spouse;
- a child;
- a parent;
- a person who lives in the same household but is not an employee, tenant lodger or boarder.

The carer employed must not be a member of the claimant's immediate family i.e. a spouse or partner; other children of the Councillor or the Councillor's spouse; any member of the Councillor's family who lives at the same address as the Councillor.

DCA shall only be payable in respect of such expenses as are necessarily incurred in relation to the following (as specified in the Local Authorities (Members' Allowances) (England) Regulations 2001:

- the attendance at a meeting of the Authority, or of any committee or sub-committee of the Authority, or of any other body to which the Authority makes appointments or nominations, or of any committee or sub-committee of such a body;
- the attendance at any other meeting, the holding of which is authorised by the Authority, or a committee or sub-committee of the Authority, or a joint committee of the Authority and one or more local Authority within the meaning of Section 270(1) of the 1972 Local Government Act, or a sub-committee of such a joint committee provided that :
 - (a) where the Authority is divided into two or more political groups, it is a meeting to which Members of at least two such groups have been invited, or
 - (b) if the Authority is not so divided, it is a meeting to which at least two Members of the Authority have been invited;
- the attendance at a meeting of any association of authorities of which the Authority is a Member;
- the attendance at a meeting of the Executive or a meeting of any of its committees, where the Authority is operating Executive arrangements;
- the performance of any duty in pursuance of any standing order made under Section 135 of the 1972 Act requiring a Member or Members to be present while tender documents are opened;

- the performance of any duty in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises, and
- the performance of any duty in connection with arrangements made by the Authority for the attendance of pupils at school approved for the purposes of Section 342 (Special Schools) of the Education Act 1996.

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5. Approved Duties

Members are entitled to claim mileage, fares, authorised payments and subsistence for attendance at any meeting categorised as an '**Approved duty**'. Approved duties include:

- (a) All meetings of Council, the Executive, Committees, SubCommittees, Panels, Task Groups, Outside Bodies*, formal Site Visits and Member Development and Induction Sessions and other training provided by the Council;
- (b) Where a Member attends a meeting in their role as a Council Champion for a particular service or project;
- (c) Meetings with Officers (in any of the Council's buildings) regarding the business of a meeting (see 2(a));
- (d) Where the Chairman or Vice-Chairman is asked to attend an event or function in their civic role. When the Chairman or Vice-Chairman is not available, a Past Chairman may be invited to attend.

*Travel and subsistence expenses for attendance associated with appointments to Outside Bodies should be claimed through the organisation if payments are available.

A list of those duties for which Members are **not** entitled to claim allowances for are included in the Procedure for Completing Members' Claim Forms.

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6. Travelling Allowance

The most common Travelling Allowance payable is mileage allowance, which can be claimed for the following journeys:

- travelling to and from meetings that are categorised as 'Approved Duties (see section 5 above)'; that is, all meetings of Council, the Executive, Committees, Sub-Committees, Panels, Task Groups, Outside Bodies, Site Visits and Member Development sessions;
- travelling to and from any of the Council buildings to meet with Officers regarding the business of a meeting;
- Mileage is not payable for attendance at political group meetings, meetings with constituents, informal site visits or events of a social nature.

- Travel allowance rates shall be in line with Inland Revenue approved rates and should only rise in accordance with any increase in the Inland Revenue rates.

The Council follows the Inland Revenue travel allowance rates, currently:

- 45 pence per mile for cars.
- 24 pence per mile for motor-cycles.
- 20 pence per mile for bicycles.

When claiming a Travel Allowance for attending an approved duty within the district that claim must be made with the starting point being a Members' usual place of residence or work within the District, or if the usual place of residence or work is outside the District boundary then the total return journey for which that claim can be made is capped at **36 miles**. Where mileage is claimed the 'depart from' and 'return to' sections of the form MUST be completed.

The use of public transport is encouraged, in line with the Council's Green Travel Plan. The rate of travel by public transport shall not exceed the amount of the ordinary fare or any available cheap fare.

In the interests of transparency and the requirements of internal audit for Officers to carry out the necessary checks of Members travelling claims reimbursements for travelling expenses should only be provided with evidence of expenditure. Where receipts or evidence of expenditure (in the case of car parking payments made by phone) are not provided, the expenditure will be treated as an 'incidental expense' under the Basic Allowance.

Valid Insurance, MOT (if required), Tax and driving licence are required when claiming a Travel Allowance for attending an approved duty.

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7. Subsistence Allowance

The Subsistence Allowance is paid to recompense Members for actual expenditure on meals necessarily incurred when carrying out 'Approved Duties' (see Rule 5 above).

Claims for Subsistence Allowance for meetings that take place at any of the Council Offices are liable to tax but those that take place 'off-site' are not, and any claims made should reflect this.

Claims for Subsistence Allowance must fall within the relevant time periods, as set out below, and therefore start and finish times of journeys must be included with each claim. The following rates are currently payable:

- Breakfast Allowance (more than four hours away from normal place of residence or, where the Authority permits, a lesser period, before 11.00am) - £5.00;
- Lunch Allowance (more than four hours away from normal place of residence or, where the Authority permits, a lesser period, between 12 noon and 2.00pm) - £7.00;

- Tea Allowance (more than four hours away from normal place of residence or, where the Authority permits, a lesser period, including the period 3.00pm to 6.00pm) - £3.00;
- Evening Meal Allowance (more than four hours away from normal place of residence or, where the Authority permits, a lesser period, ending after 7.00pm) - £12.00.

In the interests of transparency and the requirements of internal audit for Officers to carry out the necessary checks of Members subsistence claims, reimbursements for subsistence expenses should only be provided with evidence of expenditure. Where receipts or evidence of expenditure are not provided, the expenditure will be treated as an 'incidental expense' under the Basic Allowance.

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8. Renunciation of Allowances

A Councillor may, by notice in writing given to the Service Director: Strategy and Governance, elect to forego any part of their entitlement to any allowance under this scheme.

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9. Part-year Entitlements

The provisions of this Rule shall have the effect of regulating the entitlement of a Councillor to Basic, Special Responsibility and Dependents' Carers' (DCA) Allowances where, in the course of a year, this scheme is amended or the Councillor becomes, or ceases to be a Councillor, or accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable.

In the event of any Councillor relinquishing either their duties as a Councillor or their Special Responsibility Allowance at any time during the year, the relevant payments will be paid up to the day in which they relinquish their duties or their Special Responsibility Allowance.

Where the term of office of a Councillor begins other than at the beginning of a year, the entitlement of that Councillor to Basic Allowance shall start from the date that they took up the office of Councillor.

Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle them to a Special Responsibility Allowance, that Councillor's entitlement shall be from the date that they take up such responsibilities.

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10. Submission of Claims

Members **may** submit claims for expenses relating to travel, subsistence and Dependents' Carer's Allowance that are incurred by their attendance at meetings and other approved duties. Claims must be made, in writing, and may be made in arrears up to three calendar months, if claimed by 5th of the fourth month. e.g. all expenses for 1st October to 31 October 2018 must be claimed by close of business on 5th December.

In addition, Members are able to submit claims within the same month as attendance has occurred, providing the meeting has taken place and the above submission dates are adhered to.

When claiming for reimbursement for travel by public transport and subsistence, claims shall be accompanied by tickets or receipts for the expenditure incurred.

Failure to do so will result in any claim being void unless the Service Director: Strategy and Governance has approved payment of a claim from a Member submitted after that period due to illness.

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11. Delay of Submission Caused by Illness

Nothing in Rule 10 above shall prevent the Service Director: Strategy and Governance from approving payment of a claim submitted after that period where the reason for delay is attributable to illness.

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12. Payments

Payment shall be made:

- in respect of Basic and Special Responsibility Allowances subject to (b) below, in instalments of one-eleventh of the amount specified in this scheme on or before the last working day of each month, between June and April each year;
- in respect of, on or before the last working day of each month in respect of claims received by the 5th day of that month.

Payments for the Basic and Special Responsibility Allowance shall be paid direct to Councillors over eleven months (June-April). No payment of Basic or Special Responsibility Allowance shall be made in May of each year. Claims for mileage, Subsistence Allowance and DCA can be made in any month.

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13. Indexation

That the level of indexation for the Basic Allowance, each of the Special Responsibility Allowances, the Co-Optees' / Independent Persons Allowance and the Dependent

Carers' Allowance be automatically linked for a period of up to four years to that used for West Berkshire Council Officers. The political groups should not renounce any indexation of allowances on a group basis and any renunciation will be at the discretion of individual Councillors in accordance with the procedure for renunciation as outlined in rule 8 above.

The mileage allowances are indexed to HMRC rates.

1.1 That in accordance with the 2003 Members' Allowances Regulations (21.1e) the level of indexation will be revisited at a set period.

For more detailed information on allowances, including completing claim forms, contact Vicki Yull, Principal Democratic Services Officer, or go to the Members' allowances webpage: <https://www.westberks.gov.uk/councillorallowances>

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Special Responsibility Allowances

The following are specified as the special responsibilities in respect of which responsibility allowances are payable, and the amounts of those allowances.

Position	2023/2024	2024/2025	2025/2026
Basic Allowance	£8,289	£8,768	£8,768
Chairman of Council (1)	£6,217	£6,576	£6,576
Vice-Chairman of Council (1)	£1,243	£1,315	£1,315
Leader of Council (1)	£20,723	£21,920	£21,920
Deputy Leader (1)	£12,434	£13,152	£13,152
Executive Members (8)	£10,361	£10,960	£10,960
Chairman of Planning Committee (2)	£5,181	£5,480	£5,480

Position	2023/2024	2024/2025	2025/2026
Chairman of the Overview and Scrutiny Management Commission (1)	£5,181	£5,480	N/A
Chairman of any Scrutiny Committee (3)	N/A	N/A	£5,480
Chairman of Licensing Committee (1)	£3,108	£3,288	£3,288
Chairman of Governance Committee (1)	£3,108	£3,288	£3,288
Chairman of Personnel Committee (1)	£3,108	£3,288	£3,288
Chairman of Health Scrutiny Committee (1)	£3,288	£3,288	N/A
Leader of the Opposition (1)	£8,289	£8,768	£8,768
Opposition Spokespersons (up to 4 but in proportion to the number of allowances paid to the Administration)	£2,487	£2,630	£2,630
Leader(s) of Minority Group(s) if have more than 2 Group Members	£2,072	£2,192	£2,192
Co-opted Members / Independent Person(s)*	£1,132	£1,132	£1,132

** The remuneration of the Independent Person(s) does not fall within the Members' Allowance Scheme but in the interest of transparency has been published here (see*

report titled Revised Standards Arrangements - Localism Act 2011 discussed at Full Council on the 10 May 2012)

At Full Council on 1 March 2018 it was agreed that the Opposition Spokespersons' Special Responsibility Allowances should be paid in proportion to those paid to the Administration.

At Full Council on 9 September 2021 it was agreed that a new Special Responsibility Allowance would be created for the post of Chairman of the Health Scrutiny Committee. This was set at the same tier as Chairman of the Licensing Committee and backdated to May 2021 when the Health Scrutiny Committee had been created.

At the Annual Meeting of Council on 15 May 2025, it was agreed that the Special Responsibility Allowance for Chairman of Resources and Place Scrutiny Committee, Chairman of Adults and Health Scrutiny Committee and Children and Young People Scrutiny Committee be set at the same tier as the Chairmen of Planning Committees.

On 3 December 2020 it was agreed that the level of indexation for the Basic Allowance, each of the Special Responsibility Allowances, the Co-Optees' / Independent Persons Allowance and the Dependent Carers' Allowance continue (as from May 2021) to be automatically linked to that used for West Berkshire Council Officers unless Members choose to forgo index linked increases in a particular year. The mileage rates are index linked to HMRC rates.

In December 2020 it was agreed that the Special Responsibility Allowances would be calculated based on the ratios set out below:

Position	Calculation
Leader of Council (1)	250% of the Basic Allowance
Chairman of Council (1)	30% of the Leader's Allowance
Vice-Chairman of Council (1)	20% of the Chairman's Allowance
Deputy Leader (1)	60% of the Leader's Allowance
Executive Members (8)	50% of the Leader's Allowance

Position	Calculation
Chairman of Planning Committee (2)	25% of the Leader's Allowance
Chairman of any Scrutiny Committee(3)	25% of the Leader's Allowance
Chairman of Licensing Committee (1)	15% of the Leader's Allowance
Chairman of Governance Committee (1)	15% of the Leader's Allowance
Chairman of Personnel Committee (1)	15% of the Leader's Allowance
Leader of the Opposition (1)	40% of the Leader's Allowance
Opposition Spokespersons (up to 4 but in proportion to the number of allowances paid to the Administration)	30% of the Leader of the Opposition's Allowance
Leader(s) of Minority Group(s) if have 2 or more Group Members	10% of the Leader's Allowance

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