

## 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

<b>Function</b>	<b>Decision-Making Body</b>	<b>Delegation of Function</b>
<p>The determination of an appeal against any decision in relation to employment matter made by or on behalf of the Authority</p>	<p>Employment Appeals Panel</p>	<p>These functions will not be further delegated.</p>
<p>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</p>	<p>Appropriate Appeal panel</p>	<p>These functions will not be further delegated</p>
<p>The appointment of Review Boards under regulations under Subsection (4) of Section 34 (Determination of Claims and Reviews) of the Social Security Act 1998</p>	<p>Council</p>	<p>These functions will not be further delegated.</p>
<p>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)</p>	<p>School Appeals Panel</p>	<p>These functions will not be further delegated.</p>
<p>The making of arrangements pursuant to Section 94(1) and (4) of, and</p>	<p>Appeals Panel</p>	<p>These functions will not be further delegated.</p>

<b>Function</b>	<b>Decision-Making Body</b>	<b>Delegation of Function</b>
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

<b>Function</b>	<b>Decision-Making Body</b>	<b>Delegation of Function</b>
		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
<p>The appointment of any individual:</p> <p>a) to any office other than an office in which they are employed by the Authority;</p> <p>b) to any other body than:</p> <p>i) the Authority;</p> <p>ii) a Joint Committee or Sub Committee of two or more Authorities; or</p> <p>c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment</p>	<p>Executive (for specified appointments)</p> <p>Council for Council functions</p>	<p>These functions will not be delegated further.</p>
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
		<p>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.</p> <p>Functions delegated to the Head of Development and Planning as set out in the Scheme of Delegation.</p> <p>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.</p>
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	<p>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</p>	<p>This function will not be delegated</p>
Executive	<p>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.</p> <p>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,</p>	<p>Functions will be delegated to the Chief Executive, Corporate Directors and Heads of Service in accordance with the Scheme of Delegation</p> <p>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)</p>

<b>Responsibility</b>	<b>Delegation of Functions</b>	<b>Onward limits on delegations</b>
	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**

<b>Responsibility</b>	<b>Delegation of Functions</b>	<b>Onward limits on delegations</b>
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.	

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## **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).

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### **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
<b>Local Government Act 1972</b>		
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

<b>Section</b>	<b>Function</b>	<b>Exercised by</b>
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.

<b>Section</b>	<b>Function</b>	<b>Exercised by</b>
	To send copies of byelaws for Parish records	Head of Legal Services
236(9)	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
	Signature of summonses to Council meetings	Head of Strategic Support
Sch. 12 Para 4(2)(b) & 4(3)	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
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
Section 41	Certification of minutes and resolutions	Head of Strategic Support

Section	Function	Exercised by
<b>Representation of the People Act 1983</b>		
Section 8	Registration Officer and the Deputy Registration Officer	Chief Executive Elections and Land Charges Manager
Section 35	Returning Officer for elections	Chief Executive
<b>General</b>		
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
	<p>For the purpose of:</p> <ul style="list-style-type: none"> <li>- Marriage Act 1949</li> <li>- Registration Services Act 1953</li> <li>- Local Registration Scheme</li> <li>- Provisions relating to new governance of the Registration Services</li> </ul>	<p>Head of Public Protection and Culture with Superintendent Registrar as deputy</p>
	<p>Designated Officer as 'Head of Paid Service' under the provisions of the Local Government and Housing Act 1989</p>	<p>Chief Executive</p>
	<p>Designated Officer as 'Monitoring Officer' under the provisions of the Local Government and Housing Act 1989</p>	<p>Head of Legal Services or deputy appointed in writing.</p>
	<p>Signing and authorising all property valuations on behalf of the Council</p>	<p>Head of Finance and Property</p>
	<p>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.</p>	<p>The most senior qualified Trading Standards Officer as approved and appointed by the Head of Public Protection and Culture</p>
	<p>Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997.</p>	<p>Head of Finance and Property</p>
	<p>Neighbourhood Planning (Referendums) Regulations 2012</p>	<p>Head of Development and Planning</p>
	<p>Any proper officer post not specified in the above list.</p>	<p>The Chief Executive</p>

Section	Function	Exercised by
<p><b>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:</b></p>		
	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.

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## 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.

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## **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.

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## **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.

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## **7. Head of Customer Services and ICT**

Local Government (Miscellaneous Provisions) Act 1982 - Section 38 - Use of spare capacity of computers of Local Authorities.

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## **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.

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## **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

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**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.

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## **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.

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## **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.

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### **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).

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### **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.

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### **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.

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## **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.

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## **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.

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## **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.

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## **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.

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## **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.

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## **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.