

## Part 11

### Scheme of Delegation

#### Document Control

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#### 3.1.1.1 Change History

Version	Date	Description	Change ID
2	June 2008	Updated to incorporate new legislation and to apply the scheme to officers in two services	
2.1	Dec 2008	Paragraph 3.15.1	
3	Dec 2010	Entire document revised to align functions following Senior Management Review and to make amendments in line with changes to legislation	
4	October 2011	Entire document revised	
5	March 2012	Entire document revised to align functions following Senior Management Review and to make amendments in line with changes to legislation. Approved at Council meeting on 1 March 2012.	
6	May 2012	Changes arising from the introduction of the Localism Act	
7	Sept 2012	Added Paragraph 3.14.23	
8	December 2012	Amended Paragraph 3.13.2	
9	July 2013	Added Head of Public Health and Wellbeing (Paragraph 3.17)	



Version	Date	Description	Change ID
10	September 2013	Typos corrected in 3.8.2 and 3.8.5. Additional paragraph inserted in 3.8.6 and new section 3.8.10 added. Additions made to 3.15.3 and paragraph 3.15.5 amended.	
10.1	November 2013	Local Development Plan renamed Development Plan	
11	March 2014	Amendments to under the Head of Legal Services insert provisions pertaining to the Localism Act 2011, and permit the Monitoring officer to make minor amendments to the Constitution. Insert provisions under the Goods vehicles (Licensing of Operators) Act 1985. Changes to paragraphs 3.3.3. (final bullet point), 3.12.2, 3.12.3, 3.12.7, 3.12.14 and 3.15.3	
12	May 2014	To reflect revision of numbers of Members on the Licensing, Governance and Audit and Personnel Committees	
13	July 2014	Changes to paragraphs 3.15.3 and 3.15.5	
14	September 2014	Amendments to Paragraph 3.13.11	
15	September 2014	A new 3.1.6 – Table of Partner Functions A new 3.9.6 to delegate to the Head of Strategic Support, in consultation with the Head of Legal Services, to make a Public Spaces Protection Order. A new 3.13.14 delegating authority to the Head of Legal Services in consultation with the Head of Care Commissioning, Safeguarding and Housing, to seek civil injunctions in accordance with Part 1 of the ASB, Crime and Policing Act 2014. A new 3.13.14 to delegate authority to the Head of Legal Services or his/her nominee in consultation with the Head of Strategic Support, to issue Closure Notices and apply for a Closure Order. A new 3.15.7 delegating authority to the Head of Culture and Environmental Protection, in consultation with the Head of Legal Services, to serve Community Protection Notices. The delegation to serve Community Protection Notice is also extended to Registered Landlords and Police Community Support Officers who are also authorised to serve Fixed Penalty Notices.	
16	March 2015	Changes to paragraphs 3,3,3, 3,7,2, 3,7,3, 3,7,4, , 3,8.1, 3,8.11, 3,9.7, 3,12.15, 3,14.1, 3,15.2, 3,15.3, 3,15.4, 3,15.6, 3,16.1, 3,16.2, 3,16.3, 3,16.4, 3,16.5, 3,16.7, 3,16.8, 3,16.9, 3,16.10, 3,14.22	
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19	July 2015	Amendments arising out of the merge of the Governance and Audit and Standards Committees 3.1.1, 3.1.3, 3.13.2	As per the Council Report
20	August 2015	3.13.11, 3.13.13, 3.14.6, 3.14.7, 3.14.8, 3.14.9, 3.14.10, 3.15.1, 3.15.3, 3.15.6 to 3.15.15	Monitoring Officer under delegated authority
21	March 2016	3.1.3, 3.3.3, 3.3.6, 3.4, 3.5.3, 3.5.7, 3.7.3 (new), 3.8.10 (Energy Act 2011), 3.8.10 (Disability), 3.12.2, 3.14.5 (Berkshire Act 1986), 3.14.16 (Section 1 Burial Act 1986), 3.14.17 (Section 215 Local Government Act 1972), 3.15.1, 3.15.3, 3.15.8 (Berkshire Act 1986), 3.15.17 (Section 1 of the Burial Act 1853), 3.15.18 (Section 215 Local Government Act 1972), 3.16.2,3.16.3 and 3.16.15	As per the Council Report March 2016
22	April 2016	Update the Schedule of Proper Officer Appointments	Monitoring Officer under delegated authority
23	April 2016	3.15.3 - addition of Psychoactive Substances Act 2016	Monitoring Officer under delegated authority
24	July 2016	3.16.14	Monitoring Officer under delegated authority
25	October 2016	3.3.3 and 3.5.3	Monitoring Officer under delegated authority
26	January 2017	3.15	Monitoring Officer under delegated authority
27	June to November 2017	Update to take into account changes in processes, legislation and corporate structure.	Deputy Monitoring Officer
28	December 2018	Updates in relation to the report taken to Council on the 06	Council

		December 2018 3.10.6.9, 3.10.3.8, 3.1.3. 3.10.3 and that 3.3.5.1 and 3.3.5.2 be deleted	
29	July 2026	Updates take to full Council on 16 July 2026	Council

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## 3.1 Delegation of Functions

### 3.1.1 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 Planning Committees, Licensing Committee/Sub-Committee, the Governance 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

### 3.1.2 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 Service Director (Environment) or other Service Directors, depending on the function concerned. See Scheme of Delegation.
The determination of an appeal against any decision in relation to employment matter made by or on behalf of the Authority	Employment Appeals Panel	These functions will not be further delegated.
The determination of Appeals relating to council tax, home-to-school transport and Tourist Information Signs or any other appeal which is not otherwise specified but which must be determined by Members of the Council	Appropriate Appeal panel	These functions will not be further delegated.
The appointment of Review Boards under regulations under Subsection (4) of Section 34 (Determination of Claims and Reviews) of the Social Security Act 1998	Council	These functions will not be further delegated.
The making of arrangements pursuant to Sub-section (1) of Section 67 of, and Schedule 18 to, the 1998 Act (Appeals against the Exclusion of Pupils)	School Appeals Panel	These functions will not be further delegated.
The making of arrangements pursuant	School	These functions will not be further

<b>Function</b>	<b>Decision-Making Body</b>	<b>Delegation of Function</b>
to Section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (Admissions Appeals)	Appeals Panel	delegated.
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 Service Director (Community Services), in accordance 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 Service Director (Community Services) 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 Service Director (Community Services) 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 Service Director (Community Services) 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 Service Director (Community Services) 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 Service Director (Community Services) in accordance with the Scheme of Delegation.
The obtaining of information under Section 330 of the Town and Country Planning Act 1990	District/Area Planning Committees	Functions delegated to the Service Director (Development and Housing) in 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 Service Director (Development and Housing) in accordance with the Scheme of Delegation.
The making of agreements for the execution of highway works	District/Area Planning	Functions delegated to the Service Director (Environment) in accordance

Function	Decision-Making Body	Delegation of Function
	Committees	with the Scheme of Delegation.
The appointment of any individual: a) to any office other than an office in which they are employed by the Authority; b) to any other body than: i) the Authority; ii) a Joint Committee or Sub-Committee of two or more Authorities; or c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment	Executive (for specified appointments)  Council for Council functions	These functions will not be delegated further.
The making of agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities	Executive	Function delegated to Chief Executive where an emergency situation exists.

### 3.1.3 Table 2 - Responsibility for Council Functions (Schedule 1 of the Functions Regulations)

Functions	Committee	Delegation of 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 re-enact 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 but are below £100,000 the costs must first be approved by the Executive. Any costs exceeding £100,000 shall be approved by Council and not delegated further. Below £10,000, the costs must be approved by the Chief Executive in consultation 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 Committee	These functions will not be further delegated.
Duty to make arrangements for proper administration of financial affairs, etc.	Council	Function delegated to the Service Director (Finance, Property and Procurement) Service Director (Finance, Property and Procurement) as set out in the Scheme of Delegation.
Power to amend the Council's	Council	These functions will not be further

<b>Functions</b>	<b>Committee</b>	<b>Delegation of Functions</b>
Constitution		delegated – although the Service Director (Strategy and Governance) 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 or remove an Officer as the Head of the Authority's Paid Service and to provide staff	Council	These functions will not be further delegated.
Duty to designate or remove an Officer as the Monitoring Officer, and to provide staff	Personnel Committee	These functions will not be further delegated.
Duty to designate or remove an Officer as the Council's section 151 officer	Personnel Committee	These functions will not be further delegated.
Duty to designate or remove an Officer as the Director of Adult Social Services	Personnel Committee	These functions will not be further delegated.
Duty to designate or remove 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 Service Director (Finance, Property and Procurement) and to the Service Director (Strategy and Governance) 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 Service Director for payments / benefits up to the value of £5000.
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 resolutions are deemed by the Development Manager to have a significant impact on the implementation of the policies and proposals in the Local Development Plan, these will be referred to the District Planning Committee. Functions delegated to the Service Director (Development and Housing) as set out in the Scheme of Delegation. Some functions are delegated to the Service Director (Development and Housing) in consultation with the Service Director (Strategy and Governance) as set out in the Scheme of Delegation.
Powers relating to the Planning and Compulsory Purchase Act 2004	Area Planning Committees	Functions delegated to the Service Director (Development and Housing) as set out in the Scheme of Delegation.
Licensing and registration functions	Licensing Committee	Functions delegated to the Service Director (Community Services) 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 Service Director (Community Services) as set out in the Scheme of Delegation.
Functions relating to health and safety	Licensing	Functions delegated to the Chief

<b>Functions</b>	<b>Committee</b>	<b>Delegation of Functions</b>
(except those relating to the Council as an employer)	Committee	Executive and / or the Service Director (Community Services) as set out in the Scheme of Delegation.
Duty to keep and maintain a register of commons	Area Planning Committees	Functions delegated to the Service Director (Environment) as set out in the Scheme of Delegation.
Duty to keep definitive maps and statement under review	Area Planning Committees	Functions delegated to the Service Director (Environment) as set out in the Scheme of Delegation.
Powers relating to the preservation of important hedgerows	Area Planning Committees	Functions delegated to the Service Director (Environment) as set out in the Scheme of Delegation.
Functions relating to public rights of way	Individual Decision Scheme	Functions delegated to the Service Director (Environment) in consultation with Service Director (Strategy and Governance) as set out in the Scheme of Delegation.
Powers relating to the preservation of trees	Area Planning Committees	Functions delegated to Service Director (Environment) 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 Service Director level and above delegated to the Personnel Committee by means of an Appointments Panel except for Head of Paid Service that may not be delegated from Council. Appointments below Service Director level are delegated to the Chief Executive or the relevant Service Director.
Functions relating to the Governance Committee, as set out in part 6.2	Governance Committee	These functions will not be further delegated

### 3.1.4 Table 3 - Summary of Licensing Authority functions in accordance with the Licensing Act 2003 (except where delegated below)

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
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

Matter to be dealt with	Full Committee	Sub-Committee	Officers
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 Premises Licence (Sections 52(2) or (3) and 88(2) or (3))		All cases	
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

### 3.1.5 Table 4 - Summary of Executive Functions

Responsibility	Delegation of Functions	Onward limits on delegations
Executive	The formulation, review and monitoring of the Budget and Policy Framework, including consultation with relevant Committees, members of the public and interested parties, and the submission of recommendations for amending the Budget and Policy Framework of the Council.	This function will not be delegated
Executive	The implementation of the approved Budget and Policy Framework, except in relation to those functions set out in Tables 1 and 2 of Part 3 of this Constitution which are shown as the responsibility of the Council or its Committees.  This will include the management, control and supervision of key performance relating to the Council Strategy as agreed by Council.	Functions will be delegated to the Chief Executive, Executive Directors and Service Directors in accordance with the Scheme of Delegation  Functions delegated to the Head of Paid Service (Chief Executive) in accordance with Scheme of Delegation and in consultation with Members of the Joint Consultative Panel.

### 3.1.6 Table 5 - Summary of Partner Functions

Responsibility	Delegation of Functions	Onward limits on delegations
Registered Social Landlords	Serving of Community Protection Notices in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.	
Police Community Support Officers	Serving of Community Protection Notices and Fixed Penalty Notices in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.	

## 3.2 Officers' Scheme of Delegation

### 3.2.1 Scope of Scheme

- 3.2.1.1 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.
- 3.2.1.2 Powers designated to a Service Director under this Scheme of Delegation shall immediately transfer to a successor Service Director following a transfer of any functions as a result of a restructuring of Council Services.
- 3.2.1.3 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.
- 3.2.1.4 The Scheme places an obligation on Officers to keep Members properly informed of action arising within the scope of these delegations.
- 3.2.1.5 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.
- 3.2.1.6 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).

### 3.2.2 Consultation

- 3.2.2.1 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.
- 3.2.2.2 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.

3.2.2.3 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.

3.2.2.4 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.

### **3.2.3 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 Executive Directors and Service Directors may be exercised by any other duly authorised Officer on their behalf.
- (c) Powers delegated to Service Directors may be exercised by the appropriate Executive 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: Executive Directors and Service Directors need to ensure that substantial matters dealt with under delegation are recorded.)

### **3.2.4 Overall Limitations**

#### **3.2.4.1 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.

#### **3.2.4.2 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.

### 3.2.4.3 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.

### 3.2.4.4 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 Contract Rules of Procedure and the Financial Rules of Procedure, detailed at Parts 8 and 9 of the Constitution.

### 3.2.4.5 Legal Powers

Any reference to the power to administer or enforce the provisions of any Act, Order or Regulation etc., shall include the power to decide whether to administer or otherwise enforce those provisions. Any reference to the power to commence or institute legal proceedings shall include the decision to commence proceedings or prosecute, as well as all other action in the matter (including in appropriate cases, the power to reach a settlement, withdraw or discontinue proceedings).

## 3.3 General Delegation to Executive Directors/Service Directors

All Executive Directors and Service Directors 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 Executive Directors, within the Directorate):

### 3.3.1 Legal Matters

- 3.3.1.1 Service of requisitions for information as to ownership of any property under statutory powers.
- 3.3.1.2 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.
- 3.3.1.3 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.

### 3.3.2 Human Resources

- 3.3.2.1 To agree temporary posts provided costs are contained within service staffing budgets (in accordance with West Berkshire Council's Conditions of Service).
- 3.3.2.2 Employment of consultants to advise on specialist aspects of work within the relevant Service Area.

- 3.3.2.3 Advertisement of staff vacancies within establishment (in accordance with the Council's recruitment procedures).
- 3.3.2.4 To fill a post without advertisement (in consultation with the relevant Service Director, and Service Director (Strategy and Governance, subject to the post having been advertised internally for a minimum period of two weeks. ).
- 3.3.2.5 Appointment of staff to posts below second tier.
- 3.3.2.6 Determination of starting point within grade.
- 3.3.2.7 To sign job offers and/or contract of employment for:
- Executive Director appointments (by Chief Executive)
  - Service Director appointments (by Chief Executive or responsible Executive Director)
  - Other employee appointments (Executive Director, Service Director or Officer delegated by one of these)
- 3.3.2.8 To agree flexible contracts, including job share, variations outside of Timelord2 and term-time working (in consultation with relevant Executive Director, Service Director (Strategy and Governance) .
- 3.3.2.9 Confirmation of appointments on completion of probationary period.
- 3.3.2.10 Exercise of the discretion contained within the National Conditions for sick payment entitlements.
- 3.3.2.11 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 Service Director (Finance, Property and Procurement)
- 3.3.2.12 Extension of industrial accident pay (in consultation with the Service Director (Finance, Property and Procurement)) and Service Director (Strategy and Governance).
- 3.3.2.13 Approval of application of West Berkshire Council Service Related Additional Payments Scheme (in consultation with the Service Director (Strategy and Governance)).
- 3.3.2.14 Approval of variations to Council payment schemes (in consultation with the Service Director (Strategy and Governance) and where appropriate with employees' representatives).
- 3.3.2.15 To implement the Council's disciplinary and grievance procedures in accordance with West Berkshire Council's Conditions of Service.
- 3.3.2.16 To sign contracts for external employment services within approved budgets (with agreement of Executive Director or Officer delegated by one of these).
- 3.3.2.17 Authorising attendance of Officers at professional, administrative and educational meetings, conferences and courses.
- 3.3.2.18 To determine new organisation structures below Service Director 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.
- 3.3.2.19 In consultation with the Service Director (Finance, Property and Procurement) and the Service Director (Strategy and Governance), 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.
- 3.3.2.20 General organisation of services within policy laid down by Council.
- 3.3.2.21 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.

### **3.3.3 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.

### **3.3.4 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. An Executive 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 Executive Director as appropriate, may delegate responsibility to a Service Director or other nominated Officer where it is considered appropriate.

### **3.3.5 Delegation to Specific Directors**

- 3.3.5.1 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, where appropriate.
- 3.3.5.2 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.
- (a) The Executive Director Place:**
- 3.3.5.3 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.
- 3.3.5.4 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 relevant responsible Member.

3.3.5.5 Is authorised to agree Service Level Agreements/Joint Arrangements with other agencies in respect of the provision of joint leisure, cultural and information services

**(b) Executive Director Children and Family Services**

3.3.5.6 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.

3.3.5.7 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.

3.3.5.8 Is authorised to approve the registration of children’s homes under Part VIII of the Children Act 1989.

**(c) Executive Director for Adult Social Care:**

3.3.5.9 Is authorised to appoint Officers to act as Approved Mental Health Professionals under the Mental Health Act 1983.

**(d) Executive Director Resources**

3.3.5.10 refer any matter to the Executive having assessed the potential risk to the Council and impact on service provision to the public.

**(e) The Chief Executive:**

3.3.5.11 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.

**3.3.6 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 Monitoring Officer or deputy appointed in writing
84	Receipt of declarations of resignation of office	The Chief Executive or Monitoring Officer or deputy appointed in writing
86	Declaration of a vacancy	The Chief Executive or Head of Legal Services Monitoring Officer or deputy appointed in writing
88(2)	Convening of meeting of Council to fill a casual vacancy in the office of Chairman	Monitoring Officer or deputy appointed in writing or deputy

		appointed in writing
89(1)(b)	Receipt of notice of casual vacancy from two local government electors	The Chief Executive or Monitoring Officer or deputy appointed in writing
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 Monitoring Officer or deputy appointed in writing
115(2)	Receipt of money due from Officers	Service Director (Finance, Property and Procurement)
146 (1)	Declarations and certificates with and regards to securities	Service Director (Finance, Property and Procurement)
151	Officers having responsibility for the administration of the Council's financial matters	Officer formally appointed under section 151 by Personnel Committee or their deputy appointed in writing
191	Functions with respect of Ordnance Survey	Service Director (Development and Housing)
210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to Proper Officers	Service Director (Strategy and Governance)
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	Service Director (Strategy and Governance)
228(3)	Accounts of 'any Proper Officer' to be open to inspection by any Member of the authority	Service Director (Finance, Property and Procurement)
229(5)	Certification of photographic copies of documents	Appropriate Director or Service Director from

		which the document originates
234	Authentication of all documents on behalf of the Council	Appropriate Director or Service Director from which the document originates
	Sealing of all documents on behalf of the Council	Monitoring Officer or their deputy authorised in writing.
236(9)	To send copies of byelaws for Parish records	Service Lead (Legal and Democratic Services)
	To receive copies of byelaws and deposit them with public documents of Parish or community	Service Lead (Legal and Democratic Services)
238	Certification of Byelaws	Service Lead (Legal and Democratic Services)
248	Keeping a Roll of Freeman	Service Lead (Legal and Democratic Services)
Sch. Para 4(2)(b) & 4(3)	12 Signature of summonses to Council meetings	Monitoring Officer or their deputy authorised in writing.
	Schedule 12 Receipt of notices regarding Para 4(3) address to which summons to meetings is to be sent	Monitoring Officer or their deputy authorised in writing.
Sch. Para 25(7)	14 Certification of resolutions under Para 25 of Schedule 14	Monitoring Officer or their deputy authorised in writing
Sch. Para 28	16 Receipt on deposit of lists of protected buildings (Sections 146(6) and (7) of the Town & Country Planning Act 1990	Service Director (Development and Housing)
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
Section 41	Certification of minutes and resolutions	Monitoring Officer or their deputy authorised in writing
<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		Service Director (Strategy)

and Freedom of Information are complied with.	and Governance)
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 Executive 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.	Director of Public Health
For the purpose of: - Marriage Act 1949 - Registration Services Act 1953 - Local Registration Scheme - Provisions relating to new governance of the Registration Services	Service Director (Community Services) with Superintendent Registrar as deputy
Designated Officer as 'Head of Paid Service' under the provisions of the Local Government and Housing Act 1989	Chief Executive
Designated Officer as 'Monitoring Officer' under the provisions of the Local Government and Housing Act 1989	Executive Director (Resources) or deputy appointed in writing.
Signing and authorising all property valuations on behalf of the Council	Service Director (Finance, Property and Procurement)
Carrying out the various statutory duties required under the Weights and Measures Acts 1963 and 1985 and/or any regulations or amendments made there-under on behalf of the Council.	The most senior qualified Trading Standards Officer as approved and appointed by the Service Director (Community Services)
Nominating representatives for the purpose of the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997.	Service Director (Finance, Property and Procurement)
Neighbourhood Planning (Referendums) Regulations 2012	Service Director (Development and Housing)
Any proper officer post not specified in the above list.	The Chief Executive
<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>	
For the Chief Executive	Appropriate Executive Director or other officer

	authorised in writing by the Chief Executive.
For the Service Director (Strategy, Governance)	Service Lead - Legal and Democratic Services
For the Service Director (Finance, Property and Procurement)	Service Lead (Financial Management) or Service Lead (Commissioning and Procurement)
Others	Appropriate Executive Director

### 3.3.7 Delegations to Service Directors

Specific delegations are granted to Service Directors as set out in section 3.6 to 3.17 below.

## 3.4 Service Director (Adult Social Care)

Subject to the reservations and exceptions set out in this Scheme, the Service Director (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

### 3.4.1 Residential and Nursing Home Accommodation

- 3.4.1.1 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.
- 3.4.1.2 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 Service Director (Strategy, and Governance)).
- 3.4.1.3 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.
- 3.4.1.4 Better Care Fund
- 3.4.1.5 Quarterly Performance Reporting
- 3.4.1.6 To approve performance reporting for the Better Care Fund Programme.

### 3.4.2 Home Care Services: Financial Matters

- 3.4.2.1 In accordance with procedures approved in advance by the Service Director (Finance, Property and Procurement) 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.

- 3.4.2.2 In accordance with procedures agreed in writing in advance, with the Service Director (Finance, Property and Procurement)), 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.
- 3.4.2.3 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.
- 3.4.2.4 Mental Health Act 1983
- 3.4.2.5 To accept a guardianship application and to exercise the powers of guardianship under the Mental Health Act 1983
- 3.4.2.6 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
- 3.4.2.7 To authorise deprivations of liberty in accordance with Schedule A1 of the Mental Capacity Act 2005.
- 3.4.2.8 To authorise applications to the Court of Protection in conjunction with the Service Director (Strategy and Governance) for those being deprived of their liberty falling outside Schedule A1 of the Mental Capacity Act 2005.

### **3.5 To support the framework of those Boards in relation to Safeguarding Adults Reviews arranged in accordance with the Care Act 2014**

Service Lead, Commissioning and Procurement Subject to the reservations and exceptions set out in this Scheme, the Service Lead Commissioning and Procurement 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:

- 3.5.1 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.
- 3.5.2 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.
- 3.5.3 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.

- 3.5.4 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.
- 3.5.5 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.
- 3.5.6 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.

### **3.6 Service Director (Transformation, Customer & ICT)**

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

### **3.7 Service Director (Development and Housing)**

- 3.7.1 Subject to the reservations and exceptions set out in this Scheme, the Service Director (Development and Housing) 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
- 3.7.2 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.
- 3.7.3 Subject to the conditions set out below, the approval or refusal of items reserved or conditioned by any permission, approval or consent.

- 3.7.4 Subject to the conditions set out below, the determination of applications for advertisement consent.
- 3.7.5 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.
- 3.7.6 Prior to determination of submitted application, the acceptance of amendments to submitted application for permission approval or consent.

### **3.7.7 Conditions**

- 3.7.7.1 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.
- 3.7.7.2 The Council may modify or revoke the scheme of delegation at any time.
- 3.7.7.3 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 Service Director (Development and Housing) or the Development Control Manager
- 3.7.8 Members who wish to ‘call-in’ an item to be discussed at an Area Planning Committee will be required to complete the agreed proforma 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:
- 3.7.9 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:
- 3.7.9.1 those submitted by or on behalf of a member of staff of Planning,
  - 3.7.9.2 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;
  - 3.7.9.3 those recommended for approval, for which a petition of objection has been received of at least 20 signatories;
  - 3.7.9.4 those recommended for approval, for which at least 10 letters of objection have been received;

- 3.7.9.5 those applications not considered prudent by the Development Control Manager to be determined under delegated authority.

### **3.7.10 Traveller Sites**

- 3.7.10.1 To commission professional services in relation to traveller and gypsy sites
- 3.7.10.2 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
- 3.7.10.3 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.

### **3.7.11 Housing**

- 3.7.11.1 To publish an allocations scheme and develop policies to offer choice to applicants in the allocation of housing
- 3.7.11.2 To exercise the duties conferred on the Council in relation to homelessness.
- 3.7.11.3 To promote energy efficient homes including administering grants for energy efficiency.
- 3.7.11.4 To give grants and loans for the repair / improvement of housing in accordance with national guidance and locally published policies.
- 3.7.11.5 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.
- 3.7.11.6 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
- 3.7.11.7 To approve discretionary grants and loans as exceptions to the adopted Housing Grants & Loans Policy
- 3.7.11.8 To offer grants for the improvement and/or repair of housing.
- 3.7.11.9 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.
- 3.7.11.10 Determination of application for individual DIYSO Housing Association Grant.
- 3.7.11.11 Implementing rent reviews in accordance with valuers' instructions.
- 3.7.11.12 Carry out repairs to units of temporary accommodation.
- 3.7.11.13 Repurchase of ex-Council House Stock in Rural Areas
- 3.7.11.14 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

- 3.7.11.15 To develop and implement strategies to bring empty homes back into use, including the use of empty Dwelling Management Orders and Compulsory Purchase Orders.
- 3.7.11.16 To make use of planning and housing powers to address poor housing
- 3.7.11.17 Service of Notice to Quit on tenants of Council dwellings. Allocation of pitches on Council owned caravan sites.
- 3.7.11.18 Decisions on all matters relating to the Council's conditions of tenancy in relation to the Council's statutory housing function.
- 3.7.11.19 Assessing current and future need for affordable housing and demand for market housing

### **3.7.12 Future Development Sites**

- 3.7.12.1 The Service Director (Development and Housing) 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.
- 3.7.12.2 The Service Director (Development and Housing) be given delegated authority to determine the level of affordable housing financial contribution in line with current policy.

### **3.7.13 Sites with Existing Planning Permission**

The Service Director (Development and Housing) 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 Service Director (Strategy, and Governance) and in line with adopted planning policies.

## **3.8 Service Director (Education and SEND)**

Subject to the reservations and exceptions set out in this Scheme, the Service Director (Education and SEND) 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

### **3.9 Admissions**

- 3.9.1.1 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.
- 3.9.1.2 To keep Admission Numbers under review and to implement any necessary changes, where these are agreed with the governing body.
- 3.9.1.3 To respond to any proposals from governing bodies to increase or reduce Admission Numbers.
- 3.9.1.4 To set admission limits which exceed the Admission Number where this is considered necessary.
- 3.9.1.5 To administer arrangements for admissions to nursery schools and classes in accordance with agreed policies.
- 3.9.1.6 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.

#### **3.9.2 Attendance at School**

- 3.9.2.1 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.
- 3.9.2.2 To authorise home to school transport outside existing policy, in exceptional circumstances through the Stage 1 Appeal process.

- 3.9.2.3 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.
- 3.9.2.4 To authorise any proceedings relating to the non-attendance of pupils at school, or education other than at school.
- 3.9.2.5 To undertake the powers and duties of the Authority under Section 36 of the Children Act 1989 regarding Education Supervision Orders.

### **3.9.3 Special Educational Needs (SEN)**

- 3.9.3.1 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.
- 3.9.3.2 To represent the Authority at statutory appeal tribunals in connection with the assessment of special educational needs.
- 3.9.3.3 To determine and authorise the payment of fees and expenses at schools where fees are payable, in accordance with the policy of the Council.
- 3.9.3.4 To determine applications for assistance towards home to school transport costs for Children with SEN within the Council's approved scheme.

### **3.9.4 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 Schools Forum.

### **3.9.5 Name of School**

To approve the name of a school proposed by the governors.

### **3.9.6 Curriculum**

To provide on behalf of the Authority any information which the Secretary of State may by regulation require.

### **3.9.7 Staffing – in respect of Nursery Schools**

- 3.9.7.1 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.
- 3.9.7.2 Subject to the Articles of Government and the disciplinary procedures applicable in each specific case, to authorise disciplinary action as appropriate.

### **3.9.8 Staffing – in respect of Maintained Primary, Secondary and Special Schools**

- 3.9.8.1 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.
- 3.9.8.2 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.

- 3.9.8.3 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.
- 3.9.8.4 To appoint persons selected by Governing Bodies as their Clerks.
- 3.9.8.5 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.

### **3.9.9 All Educational Establishments**

To exercise the powers and duties under the Education (School Teachers' Appraisal) (England) Regulations 2012

### **3.9.10 Provision of Information Concerning Individual Performance of Pupils**

- 3.9.10.1 In accordance with Section 537 of the Education Act 1996, to provide performance information as specified.
- 3.9.10.2 In accordance with Section 38 of the Education Act 1997, to provide such information to the Chief Inspector as may be prescribed.

### **3.9.11 Governance**

- 3.9.11.1 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.
- 3.9.11.2 Training and support of governors: in accordance with Section 22 of the Education Act 2002, to provide information for governors and necessary training.

### **3.9.12 Miscellaneous**

- 3.9.12.1 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.
- 3.9.12.2 In accordance with the academy/free school presumption, to establish new schools.
- 3.9.12.3 Pursuant to Academies Act 2010 to enter into Commercial Transfer Agreement and property transfer/ lease agreements.
- 3.9.12.4 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.
- 3.9.12.5 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.
- 3.9.12.6 To approve minor amendments to the Council's Code of Conduct regarding the use of Fixed Penalty Notices for school non-attendance.

### **3.9.13 Post 16 Years - Education and Training Provision**

To exercise the powers and duties of the Council under:

- 3.9.13.1 the Education Act 1996 (as inserted by the Apprenticeships, Skills and Children and Learning Act 2009),
- 3.9.13.2 Part 3 of the Children and Families Act 2014,
- 3.9.13.3 the Education and Skills Act 2008
- 3.9.13.4 the Education and Skills Act 2008

## **3.10 Service Director (Children Social Care)**

3.10.1.1 Subject to the reservations and exceptions set out in this Scheme, Service Director (Children Social Care) 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:

- Care Act 2014
- Safeguarding Vulnerable Groups Act 2006
- 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 Service Director (Finance, Property and Procurement), 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. o 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

3.10.2 To support the framework of those Boards Serious Case Reviews arranged in accordance with the Children Act 1989 and associated Regulations.

### **3.10.3 Governance**

- 3.10.3.1 Pre- Appointment process to identify co-opted young persons to Children and Young Person Scrutiny Committee .
- 3.10.3.2 Training and support of co-opted young persons to provide information for individuals and necessary training to undertake their role

### **3.10.4 Child Protection**

3.10.4.1 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.

- 3.10.4.2 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.
- 3.10.4.3 To present an application to a Court for the variation or discharge of any care order or supervision order.
- 3.10.4.4 To present an application to a Court for a Child Assessment Order, an Emergency Protection Order or a Recovery Order.

### **3.10.5 Accommodation, Care, Fostering and Adoption**

- 3.10.5.1 To provide accommodation, care, fostering and adoption services for children in need
- 3.10.5.2 Make arrangement of interest free loans to foster parents in consultation with the Director (Finance, Property and Procurement).

### **3.10.6 Home Care Services: Financial Matters**

- 3.10.6.1 In accordance with procedures approved in advance by the Service Director (Finance, Property and Procurement) 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.
- 3.10.6.2 In accordance with procedures agreed in writing in advance, with the Service Director (Finance, Property and Procurement), 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.

## **3.11 Service Director (Finance, Property and Procurement)**

### **3.11.1 Designation**

The Service Director (Finance, Property and Procurement) will be the Council's designated Section 151 Officer under the Local Government Act 1972.

### **3.11.2 Responsibility**

- 3.11.2.1 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.
- 3.11.2.2 The Service Director (Finance, Property and Procurement) provides strategic financial advice to the Council.

### **3.11.3 Finance General**

- 3.11.3.1 Subject to the reservations and exceptions set out in this Scheme, the Service Director (Finance, Property and Procurement) 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:

- 3.11.3.2 In consultation with the Service Director (Finance, Property and Procurement), the Service Director (Strategy and Governance) 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.
- 3.11.3.3 Local Government Finance Act 1992
- 3.11.3.4 Local Government Finance Act 1988.
- 3.11.3.5 The power to administer and enforce the collection of council tax.
- 3.11.3.6 The power to calculate the Council's council tax base for the purpose of the calculation of its council tax.
- 3.11.3.7 The power to administer and enforce the collection of business rates (NDR)
- 3.11.3.8 The power to opt to tax certain properties for VAT purposes (in consultation with Service Director (Strategy and Governance)).
- 3.11.3.9 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))
- 3.11.3.10 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.
- 3.11.3.11 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).
- 3.11.3.12 Agreement as to reduction in rateable value.
- 3.11.3.13 Investment of surplus funds in accordance with the Council's approved investment policies.
- 3.11.3.14 To make any necessary changes to the Constitution consequent upon amendments to the European thresholds on Procurement (see Contract Rules of Procedure).

#### **3.11.4 Loans and Borrowing**

- 3.11.4.1 Raising of loans in sterling to meet the capital requirements of the Council for such amounts and on such terms as are considered necessary.
- 3.11.4.2 Borrowing in sterling from banks up to a prescribed limit by way of overdraft.
- 3.11.4.3 Raising and repayment of temporary loans in sterling.
- 3.11.4.4 Valuation
- 3.11.4.5 Service on Valuation Officer of Notice of Objection to any proposals for alteration of the Valuation List.
- 3.11.4.6 Making proposals for the alteration of the Valuation List or for the inclusion of particular properties in the Valuation List.

### **3.11.5 Matters Relating to Children and Young Persons**

Where requested by the Service Director (Childrens Social Care), to take joint action to take out letters of administration with or without the will annexed for:

- 3.11.5.1 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;
- 3.11.5.2 the estates of children or young persons who die whilst in the care of the Council;
- 3.11.5.3 and to administer such estates in the manner directed by the appropriate probate registry.
- 3.11.5.4 Jointly with the Service Director (Childrens Social Care) 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.
- 3.11.5.5 Jointly with the Service Director (Strategy and Governance) and the Service Director (Children’s Social Care) 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.

### **3.11.6 Property Matters**

- 3.11.6.1 The day-to-day management of the Council portfolio of land and buildings, including lease renewals, assignments and rent reviews.
- 3.11.6.2 Making proposals to the Valuation Office Rating List.
- 3.11.6.3 Agreeing to reductions in rent affecting Council-owned property.
- 3.11.6.4 Reaching an agreement on compulsory purchase and home loss payment claims up to £15,000.
- 3.11.6.5 Determination of rents of new properties in line with rents of other Council properties.
- 3.11.6.6 All matters pertaining to rent collection and the recovery of arrears.
- 3.11.6.7 Service of Notices to secure possession where there are arrears of rent.
- 3.11.6.8 Authority to approve applications for consent to transfer existing mortgages into joint names of Mortgagor and other members of the Mortgagor’s family.

### **3.11.7 Insurance**

All insurance arrangements and settlement of claims.

## **3.12 Service Director (Strategy and Governance) or Service Lead (Legal and Democratic Services)**

### **3.12.1 General**

- 3.12.1.1 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 Service Director (Strategy and Governance)/ Service Lead (Legal and Democratic Services) considers that such an action is necessary to protect the Council's interests.

- 3.12.1.2 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.
- 3.12.1.3 to instruct external Solicitors or Barristers to represent the Council.
- 3.12.1.4 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.
- 3.12.1.5 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.
- 3.12.1.6 This role also provides advice and support to the Council on procurement and the development and delivery of efficiency programmes.
- 3.12.1.7 Sealing of all documents on behalf of the Council and to be authorised signatory of behalf of the Council.
- 3.12.1.8 Where appropriate exercise powers in consultation with relevant officers.

### **3.12.2 Local Government Act 1972**

- 3.12.2.1 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.
- 3.12.2.2 Section 229(5) - Certification of photographic copies of documents.
- 3.12.2.3 Section 234(1) and (2) - Sealing of documents.

### **3.12.3 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.

### **3.12.4 Miscellaneous**

To take all necessary steps to take out letters of administration with or without the will annexed either alone or jointly with the Service Director (Finance, Property and Procurement) and Service Director (children's social care)() for:

- 3.12.4.1 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;

- 3.12.4.2 the estates of children or young persons who die whilst in the care of the Council;
- 3.12.4.3 and to administer such estates in the manner directed by the appropriate probate registry.
- 3.12.4.4 To exercise the Council's powers to be a Trust Corporation.
- 3.12.4.5 To act for all Trading Standards Officers authorised as Inspectors.
- 3.12.4.6 The Monitoring Officers or their Deputy appointed in writing may make minor amendments to the Constitution in order to ensure that legislative provisions are current and any typographical or other errors are corrected.

### **3.12.5 Berkshire Act 1986**

- 3.12.5.1 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.
- 3.12.5.2 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.

### **3.12.6 Road Traffic Regulation Act 1984**

- 3.12.6.1 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 Service Director (Environment)).
- 3.12.6.2 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.
- 3.12.6.3 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.

### **3.12.7 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 Service Director (Development and Housing), subject to the conditions below:

- 3.12.7.1 Article 4: the making, service and confirmation of directions restricting permitted development;
- 3.12.7.2 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:

- 3.12.7.3 The action shall be taken after consultation with the Service Director (Finance, Property and Procurement) Property to consider any financial implications.
- 3.12.7.4 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.
- 3.12.7.5 The action taken shall be reported to the next meeting of the appropriate Area Planning Committee.
- 3.12.7.6 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.

### **3.12.8 Localism Act 2011**

The Monitoring Officer or their deputy appointed in writing 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 Councilors' (District, Town or Parish) behavior in relation to the Code of Conduct is determined in accordance with the complaints procedure adopted by the Council.

### **3.12.9 Property Matters**

To enter into, in consultation with Service Director (Finance, Property and Procurement),

- 3.12.9.1 Agreements for easements and wayleaves to an unlimited value.
- 3.12.9.2 Agreement for leases and licences up to a value of £100,000 per annum.
- 3.12.9.3 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.
- 3.12.9.4 Agreements to acquire and dispose of land up to consideration of £300,000.
- 3.12.9.5 Surrenders.
- 3.12.9.6 Lifting of all restrictive covenants up to a value of £300,000.
- 3.12.9.7 Agreements relating to deferred payments (including registration of a legal charge) pursuant to the Care Act 2014.

### **3.12.10 Anti-social Behaviour, Crime and Policing Act 2014**

- 3.12.10.1 The Service Director (Strategy and Governance), in consultation with the relevant Service Director, be authorised to seek a civil injunction in accordance with Part 1 of the Anti-social Behaviour, Crime and Policing Act 2014.
- 3.12.10.2 The Service Director (Strategy and Governance) 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.

### **3.12.11 Local Land Charges**

To authorise the issue of official certificates of search of the Council's Land Charges Register.

## **3.13 Electoral Matters**

Designation of Polling Places (in consultation with the Returning Officer and Ward Members).

### **3.13.1 Localism Act 2011 - Part 5 Chapter 3 - Assets of Community Value**

To delegate to the Service Director (Strategy and Governance) 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 Service Director (Strategy and Governance) shall be authorised to determine applications which have been properly made.

## **3.14 Director of Public Health**

Subject to the reservations and exceptions set out in this Scheme, the Director of Public Health 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:

### **3.14.1 General**

Those matters which the Director of Public Health, working through the Director of Public Health are required to be responsible for under the National Health Service Act 2006 (as amended by the Health and Social care Act 2012).

### **3.14.2 Dental Health**

Dental health functions for which the Council has responsibility.

### **3.14.3 Health of Prisoners**

The duty to co-operate with the prison service to secure and maintain the health of prisoners.

### **3.14.4 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.

### **3.14.5 Violent Offenders**

Arrangements for assessing the risks posed by violent and sexual offenders.

### **3.14.6 Health Protection**

To include the provision of screening and immunisation programmes, sexual health services, infectious disease control and emergency planning.

### **3.14.7 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.

### **3.14.8 Health Care Public Health**

The provision of specialist public health advice to Integrated Care Boards (ICBs) in the following areas which will be the subject of the “core offer”:

- 3.14.8.1 production of the Joint Strategic Needs Assessment;
- 3.14.8.2 reviewing service provision and providing advice to ICBs to reduce health inequalities;
- 3.14.8.3 advising ICBs on priorities based on appropriate data; and
- 3.14.8.4 procuring services and advising on the cost effectiveness of interventions.

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.

## **3.15 Service Director (Community Services)**

- 3.15.1 Subject to the reservations and exceptions set out in this Scheme, the Service Director (Community Services) 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

3.15.2 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.

3.15.3 appoint the Council's Chief Inspector of Weights and Measures ;

#### **3.15.4 Culture General**

3.15.4.1 To grant a licence and associated consents for the annual Michaelmas Fair.

3.15.4.2 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.

3.15.4.3 Letting of recreation facilities and premises (also Service Director (Environment) and Service Director (Development and Housing)

3.15.4.4 Admission and exclusion of public to recreation facilities and premises (also Service Director (Environment) and Service Director (Development and Housing)) .

3.15.4.5 Acquisition of items under Museum acquisition scheme.

3.15.4.6 Administer Archive Service on behalf of all six Unitary Authorities in Berkshire.

3.15.4.7 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.

#### **3.15.5 Anti-social Behaviour, Crime and Policing Act 2014**

To delegate to the Service Director (Community Services) 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 Service Director (Community Services), in consultation with the Service Director (Strategy and Governance) or Service Lead (Legal and Democratic Services), is authorised to serve Community Protection Notices in accordance with Part 4 of the Anti-social Behaviour, Crime and Policing Act 2014.

### **3.16 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 Service Director (Finance, Property and Procurement), and from time to time vary, the fees payable for the granting or refusal of applications for the approval of said premises.

### **3.17 Civil Contingencies**

Subject to the reservations and exceptions set out in this Scheme, the Service Director (Community Services) 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:

3.17.1 Put in place emergency plans;

- 3.17.2 Put in place Business Continuity Management arrangements;
- 3.17.3 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;
- 3.17.4 Share information with other local responders to enhance co-ordination;
- 3.17.5 Co-operate with other local responders to enhance co-ordination and efficiency; and
- 3.17.6 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.

### **3.18 Monitoring Officer or their Deputy appointed in writing**

#### **3.18.1 Local Government Act 1972**

- 3.18.1.1 Section 225(1) – to receive and retain documents deposited.
- 3.18.1.2 Schedule 12 Paragraph 4(2)(a) – to publish the time and place, within five clear working days, of the Council meeting.
- 3.18.1.3 Schedule 12 Paragraph 4(2)(b) – to sign the summons to attend the Council meeting
- 3.18.1.4 Schedule 12 Paragraph 4(3) – to receive notices regarding addresses to which summons to meetings are to be sent.
- 3.18.1.5 Schedule 14 Paragraph 25(7) – to certify copies of resolutions for the purposes of legal proceedings.
- 3.18.1.6 Section 248 – to retain a roll of Freeman.

### **3.19 Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended)**

To delegate authority to the Service Director (Strategy, and Governance) in consultation with the Leader of the Council and Group Leaders, to appoint members to the Independent Remuneration Panel.

### **3.20 Service Director (Environment)**

- 3.20.1 Subject to the reservations and exceptions set out in this Scheme, the Service Director (Environment) 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 Regulation 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  
Local Government Act 2003  
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  
Controlled Waste Regulations 2012  
Environment Act 1995  
Environment Act 2021  
Environmental Protection Act 1990  
European Communities Act 1972  
Refuse Disposal (Amenity) Act 1978  
Waste (Household Waste Duty of Care) (England and Wales) Regulations 2005

Waste Regulations 2011

The Removal and Disposal of Vehicle Regulations 1986

Bus Services Act 2017

### **3.20.2 Agreements, Notices and Orders**

- 3.20.2.1 To enter into agreements with other public authorities for the provision of services and the recoupment of charges.
- 3.20.2.2 To enter into agreements relating to placing etc of certain apparatus in or under a highway.
- 3.20.2.3 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.
- 3.20.2.4 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
- 3.20.2.5 To extinguish rights of way, where appropriate, and in consultation with Ward Members
- 3.20.2.6 To divert public rights of way, where appropriate, and in agreement with Ward Members.
- 3.20.2.7 To enter into maintenance agreements, where appropriate, and in consultation with Ward Members.

### **3.20.3 Miscellaneous**

- 3.20.3.1 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.
- 3.20.3.2 To extinguish public rights of way (stop up) and dispose of land not exceeding 500sq m no longer required for highway purposes.
- 3.20.3.3 In consultation with the Service Director (Strategy and Governance) to accept dedications of land donated to the Council for highway purposes.
- 3.20.3.4 To approve and protect development and improvement lines.
- 3.20.3.5 To construct and/or light cycle tracks.
- 3.20.3.6 To alter or remove any cycle tracks.
- 3.20.3.7 To settle compensation claims in respect of drainage or sewerage schemes on behalf of the Council (in consultation with Service Director (Strategy and Governance)).
- 3.20.3.8 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.
- 3.20.3.9 to advise on the highway aspects of development control

- 3.20.3.10 To demolish property acquired for road schemes in advance of requirements subject always to due regard to planning considerations or consent as appropriate.
- 3.20.3.11 To arrange for the temporary use of land for the dumping or storing of highways materials or equipment.
- 3.20.3.12 To erect traffic signs and to arrange wayleaves for their erection on private property.
- 3.20.3.13 To adopt streets constructed to specification.
- 3.20.3.14 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 Service Director (Strategy and Governance) will be required.
- 3.20.3.15 To fix contributions to private street works and charges apportioned in flank and rear frontages in accordance with the Council's approved policy.
- 3.20.3.16 To apply for planning permission.
- 3.20.3.17 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.
- 3.20.3.18 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 Service Director (Strategy and Governance) and in consultation with the Service Director (Finance, Property and Procurement)), by the scale of the potential legal liability.

3.20.3.19 Selection of sites for street seats.

3.20.3.20 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.

3.20.3.21 Approval of applications for permission to hold events in Council car parks.

3.20.3.22 Approval of requests to waive car parking charges in the period leading up to Christmas or for the promotion of sustainable travel events.

3.20.3.23 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.

3.20.3.24 Following consultation with affected Ward Members and the relevant Executive Member/Portfolio Holder, to exercise powers under the Act to advertise Experimental Traffic Orders and subsequently implement them 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 in advance.

3.20.3.25 Following consultation with affected Ward Members and the relevant Executive Member/Portfolio Holder, to exercise powers under the Act to advertise Traffic Regulation Orders (for speed limits, prohibitions of movement, weight limits, etc.) and subsequently implement them 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 in advance.

3.20.3.26 In consultation with the Service Director (Finance, Property and Procurement) to issue licences and fix and collect fees in relation to the matters governed by the Highways Act 1980.

3.20.3.27 In consultation with the Service Director (Strategy and Governance) and the Service Director (Development and Housing) to submit objections to the Traffic Commissioner on behalf of the Council.

3.20.3.28 To act as the Traffic Manager in accordance with the requirements of the Traffic Management Act 2004.

### **3.20.4 Transport**

3.20.4.1 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

3.20.4.2 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**

- 3.20.4.3 All consultations on Transport issues (with the exception of those deemed significant and requiring referral to the Executive/Select Committee) be delegated to the Service Director (Environment) in consultation with the Leader, appropriate Portfolio Holder and Opposition Spokesperson.

**3.20.5 Countryside including Rights of Way functions**

- 3.20.5.1 Management of Recreation Facilities where these are public open spaces.
- 3.20.5.2 Admission and exclusion of public to recreation facilities and premises (also Service Director (Community Services)).
- 3.20.5.3 Letting of recreation facilities and premises (also Service Director (Community Services)).
- 3.20.5.4 To carry out powers in relation to The Hedgerow Regulations 1997.
- 3.20.5.5 To grant a licence and associated consents for the annual Michaelmas Fair.
- 3.20.5.6 To enter into maintenance agreements in relation to Public Rights of Way, where appropriate, and in consultation with the Service Director (Strategy and Governance)
- 3.20.5.7 To approve and protect development and improvement lines.
- 3.20.5.8 The exercise (in consultation with the Service Director (Strategy and Governance)), of the common law duty to ‘seek, prevent and remove obstructions’ (Bagshaw vs Buxton Local Board of Health 1875).
- 3.20.5.9 To keep the definitive maps and statement under review
- 3.20.5.10 In consultation with the Service Director (Community Services) to submit objections and such representations considered necessary or permitted in respect of closed churchyard applications under the Section 1 Burial Act 1853.
- 3.20.5.11 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.

**Commons Registration**

- 3.20.5.12 To exercise the Council’s powers and duties in relation to the registration of Commons and Towns and Village Greens.