

# DRAFT

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

## GOVERNANCE AND AUDIT COMMITTEE

### MINUTES OF THE MEETING HELD ON MONDAY, 10 FEBRUARY 2014

**Councillors Present:** Jeff Beck (Chairman), Paul Bryant, Sheila Ellison, Tony Linden, Gwen Mason (Substitute) (In place of Julian Swift-Hook), Geoff Mayes and Quentin Webb

**Also Present:** Andy Day (Head of Strategic Support), Julie Gillhespey (Audit Manager) and Moira Fraser (Democratic and Electoral Services Manager)

**Apologies for inability to attend the meeting:** Councillor Julian Swift-Hook

#### PART I

##### 20. Minutes

The Minutes of the meeting held on 25 November 2013 were approved as a true and correct record and signed by the Chairman subject to the names of Councillors Geoff Mayes and Julian Swift-Hook not being written in italics in the attendance list.

##### 21. Declarations of Interest

There were no declarations of interest received.

##### 22. Interim Internal Audit Report 2013/14 (GA2815)

The Committee considered a report (Agenda Item 4) which set out the results of the work of the Internal Audit Team over the first half of the 2013/14 financial year.

Julie Gilhespey in introducing the report explained that although the Council was only required to produce an annual report this interim report was produced to address any emerging issues within the year.

Members were informed that no fundamental weaknesses were identified in the Council's internal control framework through the work carried out by Internal Audit. No 'weak' opinions had been issued during the first six months of the year. Julie Gilhespey also explained that the delivery of the audit plan was on track for the current year and she was pleased to note that the team was fully staffed at present.

**RESOLVED that the report be noted.**

##### 23. Amendments to the Constitution - Scheme of Delegation (C2770)

The Committee considered a report (Agenda Item 5) which set out the annual review of Part 3 (Scheme of Delegation) of the Council's Constitution. Andy Day in introducing the report noted that there were relatively few changes to the Scheme of Delegation (SoD) which had been circulated to all Heads of Service and had also been considered by the Finance and Governance Group.

The Chairman noted that Members were required to review the Scheme of Delegation on an annual basis and he thanked Officers for the work that they had put into producing the document.

A number of minor typographical errors had been corrected. In addition the following key changes were being proposed:

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### *Head of Highways and Transport*

- Paragraph 3.12.2, fifth bullet point – insert the words ‘including de-minimus arrangements’;
- Paragraph 3.12.3, last bullet point – insert the words ‘and current guidance’;
- Amend the text in 3.12.7 pertaining to the Land Drainage Act 1991;
- Amend the text in 3.12.13 in relation to the Flood and water management Act 2010.
- Insert text in new paragraph 3.12.10 in relation to the Goods Vehicles (Licensing Operators) Act 1985.

### *Head of Culture and Environmental Protection*

- Removal of reference to legislation that was no longer relevant or that had been superseded.

### *Head of Strategic Support*

- Insertion of a paragraph at 3.9.5 delegating authority to the Head of Service to deal with Assets of Community Value.

### *Head of Legal Services*

- Insertion of a paragraph under the heading miscellaneous (3.13.4) which will allow the Monitoring Officer to make minor amendments and corrections to the Constitution;
- Insert a new paragraph 3.13.12 (Localism Act 2011) to align the procedures for dealing with complaints made under the Standards regime with the Scheme of Delegation.

### *Head of Human Resources*

- Amend the final bullet point of paragraph 3.3.3 to take into account the requirements of the Education Act 2002.

Members agreed the proposed changes and requested that the following additional changes made at the meeting be included:

Item/ Ref	Page	Amendment
Paragraph 3.12.7	68	Remove ‘extra’ bullet point
Paragraph 3.12.10	69	Head of Service should be written with a capital ‘H’ (twice) and Legal should be written with a capital ‘L’
Paragraph 3.13.12	73	Capital ‘L’ in the word Localism, Capital ‘C’ in Councillor and Capital ‘D’, ‘C’ and ‘T’ in District, Town and Council

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Paragraph 3.14.5 & 3.14.12	77 & 80	Reference to be made to the Fire 'Service' and not 'Brigade' and 'Authority'.
Paragraph 3.17.6	92	The paragraph should be headed 'Weight Measurement and Children's Sexual Health'
Paragraph 3.17.9	92	The word 'children's' to be written with a lower case 'c'

**RESOLVED** that Full Council be recommended to approve the proposed changes to the Scheme of Delegation as amended above.

### 24. Changes to the Constitution - Part 13 Codes and Protocols (C2771)

The Committee considered a report (Agenda Item 6) which set out proposed amendments to sections of Part 13 (Codes and Protocols) i.e. Appendices A (West Berkshire Code of Conduct for Planning), D (Gifts and Hospitality: A Code of Conduct for Councillors), E (Procedure for Local Determination of Allegation) and G (West Berkshire Code of Conduct for Licensing) in light of legislative changes, policy changes and recently issued government guidance.

Moira Fraser in introducing the item reported that West Berkshire Council's revised Code of Conduct for Councillors was adopted by full Council at the December 2013 Council meeting. It was therefore now necessary to re-write Appendix E (Procedure for Local Determination of Allegations) to reflect the revised governance arrangements and procedures for dealing with complaints made against District, Town and Parish Councillors.

It had also previously been agreed that an annual review of the Council's Constitution would be undertaken. A timetable has been established for the Finance and Governance Group to review individual sections of the Constitution. This report proposed amendments to sections of Part 13 (Codes and Protocols) namely: Appendices A (West Berkshire Code of Conduct for Planning), D (Gifts and Hospitality: A Code of Conduct for Councillors), E (Procedure for Local Determination of Allegations) and G (West Berkshire Code of Conduct for Licensing) in light of legislative changes, policy changes and recent government guidance.

The existing Protocol for Planning (Appendix A) and the Protocol for Dealing with Gifts and Hospitality by Councillors (Appendix D) had been substantially re-written and therefore the tracked changes were not been shown on the document.

Appendices D and E had already been considered by the Standards Committee on the 13 January 2014 and they proposed a few minor amendments to Appendix D. The Standards Committee had recommended approval of the two Appendices.

The following key changes had been made to the documents by Officers:

#### *Part 13 Codes and Protocol – Appendix A (West Berkshire Code of Conduct for Planning)*

- this Part of the Constitution had been aligned with the revisions to the Councillors Code of Conduct (Appendix H to Part 13 of the Constitution) and the Officers' Code of Conduct as set out in Part 13 of the Constitution.
- Amended the Code in light of the Localism Act 2011 and the document issued by the Local Government Association entitled "Probity in Planning". Two particular areas of the Localism Act were relevant to this Code. Firstly, with regard to pre-

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determination the Act made it clear that it was proper for Councillors to play an active part in local discussions and that they should not be liable to legal challenge as a result, provided they maintained an open mind. Secondly, and related to pre-determination, the act introduced a new requirement for developers to consult local communities before submitting planning applications for certain developments. This gave Councillors and local residents a chance to comment when there was still genuine scope to make changes to proposals at both pre-application and post submission stage.

### *Part 13 Codes and Protocol – Appendix D (Gifts and Hospitality: A Code of Conduct for Councillors)*

- The document had been substantially re-written with a view to making it easier to read and to ensure it accorded with the revised requirements for declaring interests, gifts and hospitality as set out in the Localism Act 2011.
- A number of discussions had taken place on the threshold for declaring gifts and hospitality. The Standards Committee had recommended retention of the current £25.00 limit on the basis that Councillors were familiar with this limit.
- The amended protocol took into consideration changes required following the enactment of the Bribery Act 2010 which came into force on the 01 July 2011 which created offences of 'bribing another person' or 'being bribed'.
- The revised protocol also gave examples of when it might be appropriate to accept gifts and hospitality.

### *Part 13 Codes and Protocol – Appendix E (Procedure for Local Determination of Allegations)*

- The appendix had been re-written to take into account the revised arrangements pertaining to the Standards Regime adopted at the 01 July 2012 Council meeting and reviewed at the December 2013 meeting.

### *Part 13 Codes and Protocol – Appendix G (West Berkshire Code of Conduct for Licensing)*

- The document had been amended with a view to making it easier to read.
- The document had been amended to reflect the changes that had recently been made to the Code of Conduct for Councillors, the Code of Conduct for Officers and changes to the protocol associated with gifts and hospitality.
- The Localism Act 2011 amended requirements in relation to interests that had to be declared and this had been reflected in the document.
- References to the Standards Board and the old national Code of Conduct had been changed to reflect the current Standards regime.

The following additional changes set out in the table below were also requested at the meeting:

Item/ Ref	Page	Amendment
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Item Appendix A - Paragraph 15.3	107	This paragraph did not reflect current practice and should be amended to read 'A site visit is used to assess the impact of the proposed development on any locality.'
Item Appendix A - Paragraph 16.2	107	Replace the word 'may' with 'must' in the first line.
Item Appendix D	111	Last paragraph remove the reference to the form
Item Appendix D - Gifts which are most likely to be considered as acceptable	115	Sentence to start with a capital 'M'
Item Appendix E – Paragraph 1.2	119	Remove the word 'the' before the 01 July 2012
Item Appendix E – Paragraph 5.3	123	Insert the word 'member' after 'subject' in the first line
Item Appendix E – Paragraph 6.2	123	Insert the word 'the' before Director of Public Prosecutions in the first line.
Item Appendix E – Paragraph 8.8	125	Penultimate line replace the word 'complaint' with 'complainant'
Item Appendix E – Paragraph 11.3 (v)	130	Insert a bracket after the word appropriate.
Item Appendix G paragraph 4.3	132/133	Delete the last it paragraph on page 132 as it has been repeated
Item Appendix G Paragraph 6	133	Should be headed 'Interests'
Item Appendix G Paragraph 13.3	136	Should refer to Licensing Policies

**RESOLVED** that Full Council be recommended to approve the changes to the Codes and Protocols as set out above.

*(The meeting commenced at 5.00 pm and closed at 6.15 pm)*

**CHAIRMAN**

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