

Title of Report:	Petition Scheme for West Berkshire
Report to be considered by:	Council
Date of Meeting:	23 September 2010
Forward Plan Ref:	C2030

Purpose of Report: To adopt a 'Petition Scheme' as required under the Local Democracy, Economic Development and Construction Act 2009 ("The 2009 Act").

Recommended Action: That Council adopts the attached Petition Scheme and accompanying changes to the Council's Constitution while moving forward with the requirement to establish an e-petitions facility by 15th December 2010.

Reason for decision to be taken: Every local authority was required under the 2009 Act to adopt a Petition Scheme. (Each local authority will also be required to have an online petition facility as part of its Petition Scheme but Department for Communities & Local Government (DCLG) have extended the deadline for creating this facility to 15th December 2010. However, the Scheme does make reference to the e-petitions facility).

Other options considered: None as not adopting a Petition Scheme would be in breach of the statutory duty created by the 2009 Act.

Key background documentation: The Local Democracy, Economic Development and Construction Act 2009 (The 2009 Act), 'Communities in Control: Real People, Real Power (empowerment white paper), West Berkshire Council's Constitution.

The proposals contained in this report will help to achieve the following Council Plan Priorities:

- CPP1 – Support our communities through the economic recession** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce West Berkshire's carbon footprint** – to reduce CO₂ emissions in West Berkshire and contribute to waste management, green travel, transportation and energy efficiency

The proposals will also help achieve the following Council Plan Themes:

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**

- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**
- CPT14 - Effective People**
- CPT15 - Putting Customers First**
- CPT16 - Excellent Performance Management**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:

giving local people a right to a public response from the Council when they sign a petition. Petitions can potentially cover all areas of Council business, therefore these proposals will help to achieve all the Council Plan Themes.

Portfolio Member Details

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Date Portfolio Member agreed report:	

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Implications

Policy: This report will effect a change in the Council's Constitution in addition to changing the way in which the Council deals with petitions. It creates an additional obligation on the Council to host an e-petition facility, which does not currently exist.

Financial: This duty will impose a cost on the Council. However, all additional net costs incurred in fulfilling this obligation will be fully funded by DCLG in accordance with the Burdens Doctrine. Costs will depend on the number of petitions received which is difficult to ascertain in advance. There will be costs in terms of Officer time to set up the e-petition facility which will be met from within existing budgets. The Council already has IT software in place (Issue Manager) for managing the online petitions. There will therefore not be any cost attached to this element of the scheme.

Personnel: Proposals have staffing implications as there needs to be a designated officer to deal with petitions. Additionally there will be staffing requirements on ICT in setting up and maintaining the e-petitions facility. These will be met from within existing resources.

Legal/Procurement: These changes are required to comply with the Local Democracy, Economic Development and Construction Act 2009.

Property: N/a.

Risk Management: N/a.

Equalities Impact Assessment: Empowers local residents to communicate with the Council on issues of importance and improves public access to decision making process of the Council. Improves the accessibility and supporting framework for creating and submitting petitions to the Council.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval		<input checked="" type="checkbox"/>
Delays in implementation could have serious financial implications for the Council		<input type="checkbox"/>
Delays in implementation could compromise the Council's position		<input type="checkbox"/>
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months		<input type="checkbox"/>
Item is Urgent Key Decision		<input type="checkbox"/>

Executive Summary

1. Introduction

- 1.1 Every local authority is required under the Local Democracy, Economic Development and Construction Act 2009 to adopt a Petition Scheme which sets out how it will handle petitions. This was due to be introduced by 15th June 2010 but has been delayed
- 1.2 Each local authority will also be required to have an online petition facility as part of its Petition Scheme but the Department for Communities & Local Government (DCLG) have extended the deadline for creating this facility to 15th December 2010. However, the Scheme does make reference to the e-petitions facility.
- 1.3 West Berkshire Council and its partners recognise the importance of supporting citizens in communicating their needs and opinions about local issues. Petitions have a long tradition and can be a useful tool for the Council in gauging support for a particular issue.
- 1.4 The Council will support the use of petitions in appropriate circumstances and will offer advice through the Petitions Officer to interested persons as to how to make best use of this Scheme.

2. Proposals

- 2.1 That Council adopts the Petitions Scheme as set out at Appendix A.
- 2.2 The Petition Scheme will replace the petitions element of Appendix C (Part 14 of the Council) and that authority is delegated to the Monitoring Officer to make any amendments to the rest of the Constitution where reference is made to 'petitions'.
- 2.3 That the Council moves forward with the requirements to create an online petition facility by the deadline set by DCLG of 15th December 2010.

3. Conclusion

- 3.1 The Petitions Scheme and associated amendments to the Council's Constitution will ensure people know how to voice their concerns to West Berkshire Council and that they also know how their concerns have been dealt with.
- 3.2 This Petition Scheme provides clear guidance for both the Council and public on demonstrating strong leadership and setting down robust processes for them to engage.

Executive Report

1. Introduction

- 1.1 As a response to the Local Petitions and Calls for Actions consultation which was undertaken by the Government between December 2007 and March 2008, an empowerment white paper was drawn up entitled 'Communities in Control: Real People, Real Power'.
- 1.2 This white paper applied a duty to respond to petitions on local authorities.
- 1.3 The petitions duty was subsequently included in the Local Democracy, Economic Development and Construction Act 2009. All local authorities are now obliged to draw up a petitions scheme giving local people a right to a public response when they sign a petition.
- 1.4 The scheme should also include a mechanism for petitions with significant support to trigger full Council debates and in addition provides for petitions to call for senior Council officers to attend Scrutiny meetings to answer questions about public service delivery in their areas.
- 1.5 Additionally, if a petition organiser feels that the response received to their petition is inadequate, they can ask the Overview and Scrutiny Management Commission to review this response.
- 1.6 Local authorities are also now required to provide a facility for e-petitions (electronic petitions).
- 1.7 Appendix A to this report is designed as a proposed Petition Scheme for West Berkshire Council.
- 1.8 Members are asked to adopt the Petition Scheme and amend the Constitution accordingly, in order that West Berkshire Council can begin to meet its obligation under the 2009 Act albeit's slightly delayed introduction.

Appendices

Appendix A – Petition Scheme for West Berkshire Council.

Consultees

Local Stakeholders: None.

Officers Consulted: Moira Fraser, David Holling, Andy Day, Katharine Sheehan. Also needs to go to David Lowe, Kevin Griffin.

Trade Union: Not consulted.

Appendix A – Petition Scheme for West Berkshire Council

1. Introduction

- a. This is the Petition Scheme for West Berkshire Council made under Section 11(1) of the Local Democracy, Economic Development and Construction Act 2009 ('The 2009 Act').
- b. The Scheme was approved at the full meeting of West Berkshire Council on and is available on the Council's website – www.westberks.gov.uk.
- c. The Council may revise the Scheme under the legislation. Any revisions proposed will be consulted upon. The scheme will be reviewed in September 2013.
- d. The purpose of this scheme is to establish a clear process for petitions submitted to West Berkshire Council to be handled in accordance with the legislation (Sections 10-22 of the 2009 Act).
- e. The Council recognises the need to help citizens communicate their needs and concerns about local issues. Petitions have a long tradition and can be useful in suggesting levels of support for various propositions. West Berkshire Council therefore welcomes petitions. The sections below set out how West Berkshire Council will respond to petitions received.
- f. Advice on petitions can be sought from different departments across the Council but should in the first instance be directed to the Head of Policy and Communication, West Berkshire Council, Market Street Offices, Market Street, Newbury, RG14 5LD or email petitions@westberks.gov.uk.

2. What is a Petition?

- a. West Berkshire Council defines a petition as 'any communication which is signed or sent to us on behalf of a number of people. For practical purposes, we normally set a minimum requirement of at least 50 signatories before we treat it as a petition.
- b. Whilst the Council is keen to hear from people who live, study or work in West Berkshire, this is not a requirement. A petition from 10 visitors about, for example, the quality of leisure facilities in the district would also qualify under the Petition Scheme. The Petition must however relate to a matter over which the Council has some influence.
- c. A petition must include:
 - i. A clear statement of your concerns and what you want West Berkshire Council to do. The subject matter must relate to something over which the authority has some influence, or an area of its responsibility. Where the petition relates to a matter which is the responsibility of another public authority we will ask the petition organiser whether they would like us to redirect the petition to that authority. Where the petition relates to a matter over which West Berkshire Council has no influence or responsibility, we will return the petition to the petition organiser with an explanation for that decision;
 - ii. The name and contact details of the 'petition organiser' or the person who you would like to receive any correspondence about the petition. This can be either a postal address or an email address. This would not appear on the website. If the lead signatory chooses to relinquish their role as petition organiser another signatory can and must be elected as lead signatory.

- iii. The names of at least 10 petitioners, which may include the petition organiser. On a paper petition this can include an actual signature from each petitioner but this is not essential. Where the petition is electronic, a list of the names of the petitioners will suffice. If you want your petition to be debated at a meeting of the Council ('A Petition for Debate') or to trigger a public meeting of the Overview and Scrutiny Management Commission at which a specific officer will be required to report ('A Petition to hold an Officer to Account'), your petition will need to contain a higher number of signatures/petitioners. See sections 'A Petition for Debate' and 'A Petition to hold an Officer to Account' below.
 - iv. If you are submitting a petition in response to a consultation that the Council is conducting on a specific matter, please clearly identify the consultation it relates to so that it can be considered in conjunction with this exercise.
- d. Petitions which are considered to be vexatious, abusive or otherwise inappropriate (e.g. relating to information on an individual(s)) will not be accepted. In the period immediately before an election or a referendum Council Officers may need to deal with your petition differently. The reason will be explained to the petition organiser.
 - e. Where the guidelines are not followed the Council may decide not to do anything further with the petition.

3. Submitting a Petition

- a. When you submit a petition in response to a consultation by West Berkshire Council, please address it to the return address specified in the consultation details. This will ensure it is considered at the appropriate time in relation to the matter in which it was intended to be considered.
- b. Paper petitions should be addressed and sent to the Head of Policy and Communication, who will pass it on to the Petitions Officer who is responsible for receiving, managing and reporting all petitions sent to the authority. Please address petitions to: The Head of Policy and Communication, West Berkshire Council, Market Street Offices, Market Street, Newbury, RG14 5LD or email petitions@westberks.gov.uk. The Petitions Officer will send an acknowledgement that your petition has been received by the Council to the petitions organiser within five clear working days. The petition will then be entered on the Council's petitions website. The website will be regularly updated with information concerning the progress of the petition and this information will be publicly viewable. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). The Petition will remain open for 90 days unless otherwise agreed with the Petition Organiser.
- c. Petitions can be created, signed and submitted online by following this link [\[link\]](#) – as of the 15 December 2010. The Council will issue a formal acknowledgement within five clear working days of the initial submission. During this time the Petitions Officer will act as a 'moderator' and establish if there are any difficulties. The Petitions Officer will contact the organiser and endeavour to resolve these issues so that the petition can open for signatures.
- d. Petitions can also be presented to a meeting of the Executive. These meetings take place on a six weekly basis, dates and times can be found here [\[link\]](#). Where notice of a petition is given to the Head of Policy and Communication by 10.00am seven clear working days before the meeting details will be included in the summons or agenda. Members of the public may speak for up to five minutes on that petition at

the meeting. No further debate shall take place unless the relevant body receives a report on the matter. The petitioner will be notified within three clear working days, as to where the petition will be referred. However, if the petition relates to a matter on the agenda for the meeting of the Executive, it shall be dealt with at that meeting. Petitions can also be submitted by Elected Members at Full Council meetings. Dates and times can be found here [link](#)

- e. Petitioners will be notified within 10 clear working days what the Council plans to do with the petition and when they could expect to hear from the Council again. If the petition has enough signatures to trigger a Council debate or a senior officer giving evidence then the acknowledgement will confirm this and tell you when the meeting will take place. Ward Members will be notified in writing that a petition has been submitted.
- f. The Council will have the right to verify signatures.
- g. Petitions relating to planning and licensing applications will normally be received by Officers during the planning or licensing consultation process.
- h. If the petition forms part of a statutory process, or where there is an existing appeal mechanism in place (for example council tax banding) other procedures will apply.
- i. Petitions can not be a duplicate or a near duplicate of a similar petition received or submitted less than twelve months ago.

4. Types of Petition and next steps

- a. There are five different types of petition which are outlined below. How the Council deals with a petition will depend on which category it falls into.
 - i. Ordinary Petitions
 - ii. Consultation Petitions
 - iii. Statutory Petitions
 - iv. Petitions for Debate
 - v. Petitions to Hold an Officer to Account
- b. Ordinary Petitions. These are petitions which do not fall into any of the following specific petition categories. Please note that any petitions raising the issue of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Standards Committee and not dealt with under this Petition Scheme.
- c. Consultation Petitions. These are petitions in response to an invitation from the Council to comment on a particular proposal, policy or application. For example, planning or licensing applications or proposals concerning speed limits. Consultation petitions which are received by the closing date of the consultation will be reported at the relevant meeting or to the relevant person taking the decision in question.
- d. Statutory Petitions. Certain Acts of Parliament require the Council to consider petitions. Examples of statutory petitions include those for a directly-elected Mayor or for a review of Parish Councils. When a Statutory Petition is submitted then it will be processed in accordance with statutory requirements.
- e. Petitions for Debate. If you want your petition to be reported to a Full Council meeting for debate by the elected Members of West Berkshire Council, it must contain a minimum of 1,500 signatories/petitioners. Where a petition relates to a local issue, affecting no more than two electoral wards in West Berkshire, this requirement is reduced to 750. Where a Full Council meeting debate is triggered the speaker will have up to five minutes to present their petition and the petition will then be discussed by Councillors for a maximum of 15 minutes, The Council may decide to take the action the petition suggests, not to take the action requested for

reasons put forward for debate or to commission a further investigation into the matter.

- f. Petitions to Hold an Officer to Account. If you want your petition to be considered at a meeting of the Overview and Scrutiny Management Commission (OSMC) where an officer identified either by name or by post will be required to answer questions on a particular matter, your petition will need to contain a minimum of 750 signatories/petitioners. Where a petition relates to a local issue, affecting no more than two electoral wards in West Berkshire, this requirement is reduced to 375. A petition falling into this category must relate to the Chief Executive, a Corporate Director or a Head of Service. Please note that where a petition raises issues of competence or misconduct, the petition will be referred to the Chief Executive (or the Head of HR in the case of the Chief Executive) for consideration under the Council's Capability Procedure and/ or Disciplinary Procedure. Such petitions will not be dealt with under this Petition Scheme.

5. The Petitions Website

- a. West Berkshire Council keeps a petitions website at <http://petitions@westberks.gov.uk>. When a petition is received, the Petitions Officer will open a new public file on the website within five working days and place in that file the subject of the petition, the date it was received and the number of signatories or petitioners.
- b. The petition organiser's name and contact details will only be included on the website if he or she has requested.
- c. Once it has been determined who within West Berkshire Council will consider the petition and when that consideration will take place, this information will be entered on the website and sent to the petition organiser at the same time.
- d. As soon as the petition has been considered, the authority's decision will be notified to the petition organiser and put on the website within five working days of the decision being taken.

6. Ward Councillors and petitions

- a. Petitions received which affect a specific electoral ward will be copied by the Petitions Officer to each relevant Ward Councillor at the same time as he/she acknowledges receipt of the petition to the petition organiser.
- b. When the petition is referred to the person or body within the authority who can take a decision on the subject matter of the petition, the Ward Councillor(s) will be invited to attend and address the decision-taker for no more than three minutes (each), immediately after the petition organiser.

7. Process when a petition is received

When a petition is received by West Berkshire Council:

- a. Within five working days of its receipt, the Petitions Officer will acknowledge receipt to the petition organiser. The Ward Member will be notified of the submission.
- b. In some instances the Petitions Officer may be able to resolve the petitioners' request directly by getting the relevant Executive Member or officer to take direct action. An example of this could be a case of fly-tipping. The Petitions Officer will then ask the petitions organiser whether they consider the matter to have been resolved.

- c. Unless the matter has been resolved directly as described in 7b above, the Petitions Officer will within ten working days of receipt of the petition provide a response to the petition organiser which sets out:
- Who the petition will be reported to for consideration;
 - When and where that consideration will take place;
 - An invitation for the petition organiser to attend and address the meeting for up to three minutes on the issue covered by the petition;
 - NB The invitation to the petition organiser to address that meeting is in addition to any other existing public speaking rights at that meeting.
- d. When responding to the petitions organiser (7c), the Petitions Officer will also notify the same information to the relevant Executive and Shadow Executive Members and Ward Councillors.
- e. The Petitions Officer will open a new public file for the petition on the petitions website within five working days of receipt of the petition. The petition file will include:
- The subject matter of the petition;
 - The date the petition was received;
 - The number of petitioners;
 - The name and contact details of the petition organiser only if she/he has requested they are included.
- f. The Petitions Officer is responsible for updating the website to reflect each stage of the consideration of the petition to ensure that its progress can be tracked.
- g. At this point the process varies depending on the different types of petition.

8. Process when a Consultation Petition is received

- a. Submitted in response to an invitation from the Council to contribute on a particular proposal or application, Consultation Petitions will be reported to the relevant person or body at the meeting when they are due to take the decision on that application or proposal. The Council's Constitution sets out who will take different types of decisions under the Scheme of Delegation, terms of reference of Committees and Sub-Committees.
- b. All planning applications (except where powers are delegated to officers under the Constitution) will be determined by the Planning Committee, all licensing applications by the Licensing Committee and traffic regulation orders by Individual Decision of the Executive Member for Highways & Transport.

9. Process when a Statutory Petition is received

- a. Where a petition is submitted under a specific statute, for example a petition for a directly-elected Mayor, it will be reported to the next available meeting of the Council, in accordance with the requirements of the statute in question.

10. Process when a Petition for Debate is received

- a. Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council unless they are convened to consider the subject matter of the petition.

- b. The petition organiser will be invited to address the meeting for up to three minutes on the subject of the petition.

11. Process when a Petition to hold an Officer to Account is received

- a. Petitions to hold an officer to account will be reported to the next convenient meeting of the Overview and Scrutiny Management Commission (OSMC).
- b. In advance of the Commission meeting, the petition organiser will be invited to submit a list of questions which she/he would like to put to the officer at the meeting. These questions will be provided to the Chairman and Vice Chairman of the Commission, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.
- c. At the meeting of the OSMC, the Chairman will invite the petition organiser to address the Committee for a maximum of three minutes on the issue (this right is not stipulated in the 2009 Act). The relevant officer will then be asked to respond to the Commission on the subject matter of the petition. OSMC Members may question the officer and the Chairman may invite questions from the petition organiser to be put to the officer through the Chairman.

12. Process when an Ordinary Petition is received

- a. The Petitions Officer will arrange for each ordinary petition to be reported to the next convenient meeting of the Executive, Executive Member, Council, Committee or Sub-Committee of Council which has the power to take a decision on the matter.

13. Meetings considering a petition

- a. Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting (**REQUIRES RULES OF PROCEDURE CHANGING FOR EACH COMMITTEE**).
- b. Petitions will be considered in the order in which they were received unless the Chairman of the Committee decides otherwise.
- c. A maximum of 30 minutes is permitted for the discussion of petitions prior to the normal business of each meeting. Any petitions not considered in this time will be held over to the next meeting.
- d. Petitions which do relate to a particular item of business will be taken with that item, in the order of business outlined on the agenda.
- e. The decision taker/Chairman may invite a relevant officer to set out the background to the issue before inviting the petition organiser to speak for up to three minutes. The Executive Member/Chairman may then ask questions of the petition organiser and invite any relevant Ward Members present to speak on the subject for up to three minutes each. The Executive Member/Chairman will then invite a relevant officer to advise the meeting, after which the matter will be opened to debate by the Committee. In the case of an Individual Executive Member Decision, the Executive Member will proceed to take a decision. Possible decisions may be:
 - To determine the matter;
 - To refer the matter for investigation and report back; or
 - To refer the matter up to a meeting of Council, Executive or a higher Committee for determination.
- f. In the case of a decision by an Executive Member, the Petitions Officer will notify the petition organiser of the decision within five working days, advising him/her that if she/he is not satisfied with that decision, she/he may require the matter to be

reported to the next meeting of the Overview and Scrutiny Management Commission for review (see section 14 below).

- g. At each stage of the process in section 13, the Petitions Officer will enter the relevant information on the website as it is sent to the petitions organiser.

14. Appeal to a Scrutiny Committee

- a. If the petition organiser is not satisfied with the outcome of the authority's consideration of the petition, she/he may appeal to the Overview and Scrutiny Management Commission by notifying the Petitions Officer of his/her intention to appeal. The Petitions Officer must receive notification of intention to appeal within 28 working days of the petitions organiser being notified of the authority's decision on the petition.
- b. Within five working days of receipt of intention to appeal the Petitions Officer:
- Will determine which is the relevant Scrutiny Committee;
 - Will notify the petition organiser of the date, time and place of the next convenient meeting of that Scrutiny Committee; and
 - Will invite the petition organiser to attend that meeting and address the Committee for up to three minutes on why he/she considers the authority's decision on the petition to be inadequate.
- c. At the meeting of the Scrutiny Committee:
- The Committee will invite the petition organiser to make representations and explain why she/he thinks the authority's response is inadequate (no more than three minutes);
 - The Committee will invite relevant Ward Councillors to make representations on the matter (no more than three minutes each);
 - The Committee cannot override the decision, but can make recommendations for the Executive Member/Executive to consider.

15. Petition Organiser

- a. Petition organisers will receive acknowledgement of receipt of the petition within five working days of its receipt by West Berkshire Council.
- b. When the petition is not accepted for consideration, the Petitions Officer will advise the petition organiser of the grounds for rejection.
- c. Where the petition is accepted for consideration, the Petitions Officer will advise the petition organiser who will consider the petition, the date, time and place of the meeting at which it will be considered, and will invite the petition organiser to address the meeting for up to three minutes. This information will be notified to the petition organiser within ten working days of receipt of the petition by West Berkshire Council. The petition organiser may be asked questions on the subject matter of the petition at the meeting.
- d. The petition organiser may nominate another person to address the meeting in his/her place.
- e. The Petitions Officer will keep the petition organiser regularly updated with developments on the petitions and will notify him/her of the outcome of the petition's consideration in writing within five working days of the decision.
- f. The petition organiser must notify the Petitions Officer of his/her intention to appeal to a Scrutiny Committee against the decision relating to the petition within 28 days of being notified of that decision. The petition organiser may attend and address

the meeting of the Scrutiny Committee for up to three minutes to explain why she/he considers West Berkshire Council's decision on the petition to be inadequate.

16. Petitions not being reported

- a. Duplicate petitions. Where more than one petition is received in time for a particular meeting each supporting the same outcome on the same matter, each petition organiser will be treated independently by only the organiser of the first petition received will be invited to address the relevant meeting.
- b. Repeat petitions. A petition will not normally be considered where it is received within twelve months of another petition being considered by West Berkshire Council on the same matter.
- c. Rejected petitions. Petitions will not be considered if, in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous, time-wasting or do not relate to something which is the responsibility of West Berkshire Council, or over which West Berkshire Council has some influence.