

# DRAFT

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## OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION

### MINUTES OF THE MEETING HELD ON TUESDAY, 28 JUNE 2011

**Councillors Present:** Jeff Beck (Substitute) (In place of Virginia von Celsing), Brian Bedwell (Chairman), Jeff Brooks (Vice-Chairman), George Chandler (In place of Mike Johnston), Dave Goff, Manohar Gopal (In place of Dominic Boeck), David Holtby, Carol Jackson-Doerge (In place of Marcus Franks), Tony Linden (In place of Emma Webster), David Rendel, Tony Vickers and Quentin Webb

**Also Present:** Mel Brain (Housing Strategy Manager), Stuart Clark (Principal Engineer (Projects)), Joseph Holmes (Chief Accountant), Gary Lugg (Head of Planning & Countryside), Bryan Lyttle (Planning & Transport Policy Manager), Melvyn May (Highway Manager), Ian Priestley (Chief Internal Auditor), Jason Teal (Performance, Research & Consultation Manager), David Baker (LSP Performance Executive), Councillor David Betts, Councillor Keith Chopping and David Lowe (Scrutiny & Partnerships Manager)

**Apologies for inability to attend the meeting:** Councillor Dominic Boeck, Councillor Virginia von Celsing, Councillor Marcus Franks, Councillor Mike Johnston and Councillor Emma Webster

#### PART I

##### 19. Minutes

The Minutes of the meeting held on 9 June 2011 were approved as a true and correct record and signed by the Chairman.

##### 20. Declarations of Interest

*Councillor Dave Goff declared an interest in Agenda Item 10, but reported that, as his interest was personal and not prejudicial, he determined to remain to take part in the debate and vote on the matter.*

##### 21. Actions from previous Minutes

There were four main actions for review from previous minutes:

1. CCTV report and recommendations and supplementary information – 3 Towns CCTV . These actions were addressed under agenda Item 10.
2. Performance Indicator – Affordable Housing units. This was addressed under agenda Item 11.
3. Highways and Transport Update report. This was addressed under agenda Item 12.
4. School Severe Weather Plans. This action had been scheduled for the next Commission's meeting on Tuesday 2<sup>nd</sup> August.

**22. Items Called-in following the Executive on 16 June 2011**

The Commission considered a report (Agenda Item 5) concerning the Call In of Item EX 2166 - Provisional Outturn Report 2010-11 which was submitted to the Executive on 16 June 2011.

Councillor Brian Bedwell expressed surprise that this item had been called in for scrutiny.

Councillor David Rendel outlined the reasons for calling in the Provisional Outturn Report 2010-11 as follows:

1. There had been no proper discussion of why the underspend shot up between Month 9 and year-end by nearly £1million;
2. In particular, no explanation had been given in public about the underspend on "Levies and Interest" of over £1.7 million (approximately 37% of the budgeted amount);
3. There had been no proper discussion of what lessons needed to be learnt to avoid the next year's budget being set on the basis of such inaccurate figures in future;
4. There had been no indication that the Executive understood the importance to the local economy in a time of economic difficulty of spending its full budget;
5. There had been no acknowledgement by the Council that the report contained an error worth over £350,000 which had not been corrected at the time they took their decision to accept the report.

The Executive Member for Finance, Property and Health & Safety, Councillor Keith Chopping, responded as follows:

1. The budget underspend between Q3 and year end increased by less than £300k which represented less than 1/3 of one percent of the overall budget spend;
2. The month 10 report had been reviewed in public by the Resource Management Select Committee which included a half page explanation on Levies and Interest;
3. He did not accept that the 2011/12 budget assumptions were based on inaccurate figures;
4. The Council's four directorates had overspent their individual budgets by over £500K;
5. He accepted that the figure on page 19 of the report was wrong. This was clearly an error in presentation and not an error in calculation.

Councillor Tony Linden commented that an underspend did not imply there was money available that could be spent elsewhere. The Council was facing a very challenging year and there was a need to be prudent.

Councillor Quentin Webb stated the underspend was a very low variation at less than 0.6% on the Council's net budget. The Opposition did not question the matter at the time and there was no decision to be made.

Councillor Jeff Brooks responded that the final quarter performance showed significant changes compared to the month 9 forecasts – three directorates had predicted overspends and these had disappeared by year end. The Chief Executive's directorate finished with a £427K underspend and this happened year after year. There was a need to improve the budget process and financial management to avoid major changes in expenditure in the last quarter. He proposed that the budget should be scrutinised by the Resource Management Working Group (RMWG).

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Councillor Tony Vickers commented, as the Chairman of the RMWG, he was looking forward to scrutinising the budget. There was a need to detail the reasons why the underspend had occurred and to provide an explanation that the public could understand.

Councillor David Rendel responded to Councillor Chopping's remarks:

1. The Outturn report should be taken to the RMWG and a proper explanation should be given to determine where and why the variances had occurred.
2. There was no proper explanation of the variance for Levies and Interest in the Outturn report or papers
3. It was important to use accurate figures in the budget process and there was a need to discuss and understand the lessons learnt.
4. The underspend was against the Council's full budget not the individual directorates.
5. The Outturn report contained an error of £350K.

Councillor Keith Chopping restated that there was only a typing error where a minus sign was omitted and the calculation was correct.

Councillor Quentin Webb commented that there was no value in further discussion and proposed that no case had been made to refer the Outturn report back to the Executive. Councillor Chopping seconded the proposal.

At the vote the proposal was carried.

**RESOLVED that:** no case had been made to refer the Outturn report back to the Executive.

Councillor Jeff Brooks proposed that budget should be scrutinised by the RMWG. Councillor Rendel seconded the proposal.

At the vote the proposal was defeated.

**RESOLVED that:** the budget would not be taken to the RMWG.

### 23. Councillor Call for Action

No new Councillor Call for Action (CCfA) items were raised for discussion.

### 24. Petitions

No petitions were brought to the Commission for consideration.

### 25. Council Plan Outcomes 2010/11: Quarterly Year End: Update on Achievement

The Commission considered a report (Agenda Item 8) concerning Council Plan Outcomes 2010/11 Year End: Update on Achievement. Jason Teal (Performance, Research and Consultation manager) introduced the report to the Commission. In summary there were 107 key activities or measures spread across the sixteen Council Plan themes for 2010/11. For 2010/11, 78 of these activities/measures (74%) were successfully achieved which compared similarly with 2009/10, where the Council achieved 77% of its key activities/measures by year end.

Paragraph 2.15 documented those targets that were missed and sections 1 & 2 of the report provided additional detail on each measure and the remedial action for those targets that were missed.

Several Councillors commented on the remedial reports listed in Section 2 of the report. They thought that too many of the remedial reports failed to provide any assessment of

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the risks associated with the remedial action. Also some of the commentaries listed in Section 1 of the report and the reasons for red in Section 2 were inconsistent and lacked adequate information or explanation.

Councillor David Rendel raised a number of concerns. The Q3 report reviewed on 31 March identified 16 red indicators which grew by 12 to reach 28 by the end of the year report. He was disappointed that officers could not provide more up to date information albeit as a verbal report. There were a number of examples where the proposed action was weak and remained unchanged between Q3 & Year End reports. There was a greater need for robust actions to mitigate or reduce the impact of failure and a much clearer attempt to qualify the risks involved.

Councillor Rendel proposed two recommendations:

1. That there was a need for OSMC to have access to the performance information sooner within the reporting cycle.
2. That OSMC takes on a more critical role in examining remedial reports and their associated risks and where necessary, calling the appropriate officers to account for the impact of the actions taken.

At the vote, proposal 1 was carried and proposal 2 was defeated.

### **RESOLVED that:**

1. That there was a need for OSMC to have access to the performance information sooner within the reporting cycle.

## **26. Preliminary Flood Risk Assessment**

The Commission considered a report (Agenda Item 9) concerning the Preliminary Flood Risk Assessment. Stuart Clark (Principal Engineer) introduced the Assessment which was required as part of legislation introduced under the Flood Risk Regulations 2009 and implemented the requirements of the European Floods Directive 2007. The Regulations established four stages of activity within a six year flood risk management cycle. The Preliminary Flood Risk Assessment covered the first two stages of the management cycle.

The Preliminary Flood Risk Assessment, provided a high level overview of flood risk across West Berkshire from local sources of flooding. This included surface water, groundwater, ordinary watercourses and canals. It also considered flooding from main rivers because of the interaction between main rivers and local sources of flooding. The methodology used to produce the report had been based on the Environment Agency's Final PFRA Guidance and Defra's Guidance on selecting Flood Risk Areas, published in December 2010.

The Environment Agency had used a national methodology, as set out by Defra, to identify indicative Flood Risk Areas across England. No national indicative Flood Risk Areas had been identified within West Berkshire. However, Thatcham was highlighted as being nationally important with regard to surface water flooding. Both Thatcham and Newbury had been identified as important locally significant flood risk areas.

Other duties required by the legislation included:

1. The development of a local strategy for flood risk management
2. To production and maintenance a register of drainage assets
3. The investigation and reporting of any flood events
4. The maintenance of the drainage system.

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Councillor Tony Linden was surprised that Purley and Pangbourne were not covered in the report. It was explained that these areas were affected by main rivers and were not part of the report.

Councillor Tony Vickers expressed surprise that West Berkshire Council was designated as the lead authority for West Berkshire under the Act.

Councillor Jeff Brooks asked about the maintenance drainage assets and the clearance of culverts. The officer confirmed that West Berkshire Council regularly maintained culverts that it owned and the register of drainage assets would identify private landowners assets and help ensure that owners were involved in the local flood risk strategy.

Councillor Brian Bedwell thanked the officer for his report and commented that the Commission had taken a significant interest in receiving regular updates since the last major flood event in 2007. The Commission had been responsible for raising and monitoring a number of key recommendations to improve flood risk management in West Berkshire.

### 27. **Transfer of the West Berkshire Council CCTV control room to the Royal Borough of Windsor and Maidenhead**

*Councillor Dave Goff declared an interest in Agenda Item 10, but reported that, as his interest was personal and not prejudicial, he determined to remain to take part in the debate and vote on the matter.*

The Commission considered a report (Agenda Item 10) concerning the transfer of the West Berkshire Council CCTV control room to the Royal Borough of Windsor and Maidenhead. Ian Priestley (Chief Internal Auditor) introduced the report that summarised the findings of the scrutiny work carried out by the Commission on 9<sup>th</sup> June 2011. Those findings had been discussed and reviewed at a meeting between with Councillors Brian Bedwell (Chairman), Jeff Brooks (Vice chairman) and the Chief Internal auditor. A set of five suggested recommendations had been drawn as outlined on page 114 of the agenda papers for the Commission to agree for forwarding to the Executive.

Councillor Brian Bedwell expressed his concern regarding a press release issued by Councillor David Rendel following the Commission's meeting on the 9<sup>th</sup> June 2011. He was of the view that at best the press release was misleading and that making politically motivated statements had no part to play in the scrutiny process. Returning to the report's recommendation he stated that the work carried out by the Commission on the CCTV project was an excellent example of what can be achieved.

Councillor Jeff Brooks supported the five recommendations as listed on page 114 of the agenda papers and endorsed the view that the Commission had completed an effective review of the project which was exactly what scrutiny was all about. Councillor Brooks proposed two minor changes (shown in bold type) to recommendations 3 and 5, so that they should read as:

3. *Risk Registers used on projects should consider the implications of projects being delayed and / or failing, and outline the measures that would be taken to maintain existing services until solutions can be found. **This would have highlighted the risks posed by the winter weather caused by the delay in starting the project.***
5. *Where a service / system is not classed as being business critical then consideration should be given to shutting down the service / system for a period before "shifting" to the new service / system in order to minimise cost and facilitate*

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*the shift. Alternatively where a service / system is considered to be business **critical** then a fully costed proposal to ensure business continuity should be included within the project plan.*

Councillor Quentin Webb asked if any meeting had been scheduled with BT. It was confirmed that a meeting had already taken place (the day before the Commission met).

Councillor David Rendel asked for a written report on the BT meeting. Councillor Rendel also wanted an addition made to recommendation 2 that would penalise tenders from companies whose terms and conditions did not allow for penalty clauses to be included in contractual arrangements.

Councillor Brian Bedwell stated that he thought there was no need to modify recommendation 2.

Councillors Brian Bedwell and Jeff Brooks proposed and seconded that the 5 recommendations including the modification to the wording to recommendations 3 and 5 documented above.

At the vote the proposal was carried.

### **RESOLVED that:**

The Commission agree to take the CCTV report recommendations forward to the Executive.

## **28. Performance Indicator: Affordable Housing units**

Gary Lugg, the Head of Planning and Countryside, Bryan Lyttle, Planning and Transportation Policy Manager and Mel Brain (Housing Strategy manager) were in attendance for this agenda item. Gary Lugg stated that the performance of the total housing provision and the number of affordable housing units had remained well below the target set for the year. The main issues still facing the council were:

- delivery of housing was being severely impacted by the recession,
- there were delays in the implementation of extant permissions, and
- the loss of affordable housing contributions due to economic viability.

There was an adequate five year land supply available within West Berkshire but developers lacked access to capital funds and they were delaying completions whilst the market for the sale of new properties remained depressed.

The latest performance data for 2010/11 outturn showed there was a total of 198 houses completed, of which 28 were affordable units.

Councillor Tony Vickers commented that it was a sad story and it was likely to persist for quite some time. There was very little that the Council could do to influence the impact that land and money markets were having on new housing provision.

Councillor Jeff Brooks was concerned that the percentage of affordable housing units completed was now significantly below the stated 30% target. Officers commented that it was the larger developments which were so important to achieving the 30% affordable unit target and it was the larger developments (of 15 or more units) that were being most impacted by the recession. Officers were working hard to maintain the 30% mix on each specific development site. Future planning policy would also look to drive affordable housing allocation into smaller housing development applications as low as 5-9 dwellings.

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Councillor Brian Bedwell asked if other authorities doing anything differently to address the problem. Officers advised that they did meet regularly with other Berkshire and South East Regional local authorities where it was recognised that West Berkshire was leading the way in developing planning policy on affordable housing.

Councillor Jeff Brooks asked if incremental and phased developments which kept under the 15 dwellings limit were being controlled. Officers confirmed that new planning policy would help address this.

Officers advised that two aspects of the Localism Bill ( Neighbourhood Development Plans and Community Right to Build), currently at the Committee stage, were being monitored as they may open up new opportunities for affordable housing development.

Councillor Brian Bedwell thanked officers for their comments and that the Commission supported the efforts being made to best manage the number of affordable housing units completed.

### 29. Highways and Transport: Actions from previous minutes

Melvyn May (Highways Manager) provided a verbal report to the Commission on two action points:

1. 1 March 2011 – the Council's response to the severe weather of winter 2010/11; that further efforts should be made by Highways and Transport to engage local farmers in assisting with the clearance of snow from roads during adverse weather. It was reported that a meeting took place on 21<sup>st</sup> April 2011 of the Thames and Kennet Machinery Ring (TKMR) which addressed four main themes:

- Insurance of 3<sup>rd</sup> parties;
- The minimum training requirements required for snow clearance on public roads;
- Equipment;
- General management.

The meeting concluded that farmers were not interested in completing training for snow clearance work mainly because of the costs involved. The group had some examples of informal snow clearance working and cited Wiltshire and Hampshire as authorities that were worth approaching. Costs that farmers were expecting to charge ranged from £40 to £50/ hr. Additional advice on legal and insurance matters would be required.

Councillor Jeff Brooks was pleased that officers were continuing to investigate the use of the farming community in snow clearance during adverse winter weather conditions.

Councillor Quentin Webb asked what type of training was necessary. Melvyn May confirmed that there was a recognised NVQ course which covered the skills required to permit farmers to operate snow ploughs safely and effectively on public roads. Without appropriate training there was a real risk that road damage might be incurred.

Councillor David Betts confirmed that officers were continuing to look at ways of involving farmers in snow clearance, informally such work does take place, formally, it was more difficult to drive forward.

2. 18 May 2011 – the Three Year Highway Improvement Programme 2011/12 – 2013/14. A request had been made for a training session for Members. It was reported that a workshop was being planned in the early autumn to provide a greater understanding of how the road network condition was assessed and the process used to prioritise road repairs under the Highways Improvement Plan.

**30. West Berkshire Forward Plan June - September 2011**

The Commission considered the West Berkshire Forward Plan (Agenda Item 13) for the period covering June to September 2011.

**RESOLVED that:**

The Forward Plan would be noted.

**31. Overview and Scrutiny Management Commission Work Programme**

The Commission considered its work programme and that of the Health Scrutiny Panel and Resource Management Working Group for 2011/12 (Agenda Item 14).

**RESOLVED that:**

The work programme would be noted.

Councillor Quentin Webb stated that the Health Scrutiny Panel was meeting on 19<sup>th</sup> July 2011. Two main items of business to be addressed were:

1. Six lives: the provision of public services to people with learning disabilities.
2. Dignity and respect for elderly people in health and social care.

*(The meeting commenced at 6.30 pm and closed at 9.07 pm)*

**CHAIRMAN** .....

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