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| Title of Report: | ANNUAL GOVERNANCE STATEMENT - STATEMENT IN SUPPORT BY THE MONITORING OFFICER |
| Report to be considered by: | Governance and Audit Committee |
| Date of Meeting: | 5 September 2011 |
| Forward Plan Ref: | GA2342 |

Purpose of Report: To provide evidence and independent verification of governance matters which may impact on the Annual Governance Statement from the viewpoint of the Monitoring Officer

Recommended Action: To note the report

Reason for decision to be taken: In accordance with CIPFA Guidance and current policy of the Council

Other options considered:

Key background documentation:

- Reports to Standards Committee relating to alleged breaches of the Code of Conduct during 2010/2011
- Action plans relating to risk
- Updates to the constitution
- Other reports on potential impacts of legislation

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

CPT16 - Excellent Performance Management

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:
Reviewing and providing assurance on the effectiveness of the Council's governance and other arrangements which may impact on the Annual Governance Statement

| Contact Officer Details | |
|--------------------------------|---|
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| Job Title: | Head of Legal & Electoral Services/Monitoring Officer |
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Implications

- Policy:** Established as part of CIPFA guidance and reporting arrangements adopted by Council in connection with the Annual Governance Statement.
- Financial:** No financial implication associated with this report.
- Personnel:** N/a
- Legal/Procurement:** In accordance with the provisions of the Local Government Acts 1972 and 2000 and the Local Government and Housing Act 1985 together with any amendments thereto. In addition the Local Government & Public Involvement in Health Act 2007 is applicable.
- Property:**
- Risk Management:** Insofar as is possible any risks have been assessed in accordance with the Risk Strategy.
- Equalities Impact Assessment:** Stage 1 completed as appendix A.
- Corporate Board's Recommendation:** The report was noted.

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| Is this item subject to call-in? | Yes: <input checked="" type="checkbox"/> | No: <input 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 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 Management 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 As part of the Annual Governance statement, CIPFA guidance recommends that the S151 and Monitoring Officers give assurance that the Council's systems and procedures for which they have responsibility regarding internal controls are effective and being complied with. The Monitoring Officer looks at the legality of actions by bodies within the Council as part of duties under Section 5 of the Local Government and Housing Act 1989 (the 1989 Act).

2. Proposals

- 2.1 Throughout the year the Governance and Audit Committee is referred to amendments to the Council's constitution and its rules of procedure where amendment is necessary. Subject to its view, matters are then referred to Council for adoption. This ensures that administrative processes remain effective, efficient and pertinent.
- 2.2 Ethics and matters of probity are covered by Standards Committee. The development the complaints regime as regards complaints about District and Parish Members has been reviewed and during the passage of the Localism Bill members have been updated on potential changes which may occur to Standards arrangements.
- 2.3 Reviews of risk registers have been carried out by the Monitoring Officer and S151 Officer in their roles as members of the Council's Corporate Board. In addition, liabilities likely to impact upon the Council's operations from a legal perspective where appropriate have been identified.

3. Conclusion

- 3.1 The Monitoring Officer's view of the Council's governance arrangements are that they are robust and effective. There has been no necessity to report formally to Council under Section 5 of the 1989 Act. Ethical matters are managed by the Standards Committee. The report is to be noted.

Executive Report

1. Background

- 1.1 As part of the Annual Governance Statement, CIPFA guidance recommends that the Monitoring Officer and Section 151 Officer provide "a key source of assurance that the Council's systems and procedures of internal control which are in operation are effective, efficient and being complied with". In essence this requires the Monitoring Officer, as the Officer charged with ensuring that the Council, and every part of it, acts legally and is not acting in a manner thought to constitute maladministration or injustice. In addition, the Chief Financial Officer/S151 Officer similarly ensures that all parts of the Council act in accordance with the budgetary and policy requirements in connection with the setting of the budget and financial administration standards within the Council.
- 1.2 This report reviews the Annual Governance Statement and its requirements, in particular relating to ethical and probity matters, any changes to the Constitution regarding regulation and guidance, together with an assessment of risks and liabilities.

2. The Role of the Monitoring Officer

- 2.1 Section 5 of the Local Government and Housing Act 1989 requires the Monitoring Officer to prepare a formal report to full Council where it appears that the Council, a committee or an Officer has acted or is likely to act illegally, or in a manner such as to constitute maladministration or injustice. The Monitoring Officer's role in essence is to ensure the legality of local governance arrangements based upon statutory requirements and guidance from Government and other outside bodies. As mentioned above, this role complements that of the Section 151 Officer and the Head of Paid Service (the Chief Executive) whose roles are also established by statute. The Monitoring Officer is part of the Council's Corporate Board and attends meetings of the Finance and Governance Group which looks at use of resources and has taken on the role of reviewing the constitution in a systematic way. If changes are necessary due to legislative impacts or administrative arrangements these are reported to Corporate Board, the Governance and Audit Committee and ultimately Council for member adoption. The process is open and transparent.
- 2.2 The formal report process under Section 5 is one which should be approached with extreme caution and should not be undertaken lightly. If such action is proposed it is generally the view that outside advice from Counsel should be sought by the Monitoring Officer. During 2010/11 there have been no reports or investigations necessary which fall within the requirements of Section 5 of the 1989 Act.
- 2.3 The Monitoring Officer's advice has been sought in connection with a number of day-to-day administrative matters and in particular advice in connection with the Code of Conduct for Members and Officers. Training has been provided for Members and Officers on the Council's Code of Conduct and Officer Code. In addition there have been several sessions arranged for Town and Parish Councils and on occasion for individual parishes following recommendations from Standards Committee if considered appropriate.

3. Robustness of corporate governance arrangements

- 3.1 As Members will be aware, this Committee considers reports throughout the year regarding certain amendments which have been required in connection with changes to the Constitution.
- 3.2 During 2010/11 following an audit of the Constitution and its processes the Finance and Governance Group of Officers which includes the Monitoring Officer, S151 Officer, Chief Internal Auditor and Head of Policy and Communication began a systematic review of each part of the Constitution. This process has resulted in a number of changes to various parts some brought about due to legislative changes and others as a result of administrative arrangements within the Council. This process will continue into 2011/12 and will undoubtedly take into account implications arising from the Localism Bill and other legislation proposed by the Coalition Government.
- 3.3 This systematic review of the Constitution will ensure that the Council's administrative arrangements remain effective and efficient bearing in mind changes imposed by government and other bodies as well as improving transparency and openness.

4. Ethics & Probity

- 4.1 As in previous years, ethics and probity matters were considered by the Council's Standards Committee. Training sessions for Members of West Berkshire Council and Parish and Town Councils have been held in order that the Council fulfilled its role as "Responsible Authority" under the Local Government Act 2000.
- 4.2 Whilst there were complaints and references to the Standards Committee throughout 2010/11 none of them required full investigation either by an Ethical Standards Officer on behalf of standards for England or by reference to the First Tier Tribunal. All complaints have been considered at local level although one matter was appealed successfully to the First Tier Tribunal.
- 4.3 The number of complaints has remained relatively static. The Council's website provides a complaints form which is initially referred to an Assessment Sub-Committee. It determines if there is any breach of the Code and if so can refer matters for investigation by the Monitoring Officer, or his representative, or take no further action. If an investigator is appointed the individual reports back to a separate Hearing Sub-Committee to determine the matter. The expertise is developing and a review of practice and process has occurred during the year. As a result additional training is being arranged for members of the Committee.
- 4.4 Changes to the Standards arrangements within District and Parish Councils proposed in the Localism Bill will have an impact on processes and procedures during 2011/12 (subject to enactment of the legislation). Discussion within the Standards Committee and with other bodies has already started in order to try and ensure an effective transition to the recommended regime in future. Members are being updated as and when information is received.

5. Implementation of Action Plans from Strategic Risk Register

- 5.1 All strategic risks are placed on a risk register and reviewed by Corporate Board and Management Board throughout the year. All major risks were considered by

individual groups of Officers dealing with particular projects and actions arising from the “red risks” on service risk registers have been reviewed to ensure that the council’s risks items are considered at the highest level. Both the Monitoring Officer and S151 Officer sit on the Corporate Board and attend Management Board.

- 5.2 Governance arrangements in respect of partnerships have been monitored during the year and Officer Groups have looked at risk registers for the local strategic partnership and its sub-groups where appropriate.

6. Potential Liabilities

- 6.1 Whilst there have been cases considered by various courts during the year, none of these were of significance to warrant particular risks being identified. There have been major cases in the Crown Court and judicial reviews of certain decisions. These cases will be closely monitored by Legal staff and where appropriate referred to the relevant Risk Register. As a result of reductions in funding in certain areas there has been a slight increase in threats of Judicial Review and overall there has been an increase in the number of instructions received by Legal Services from services throughout the Council.

7. Conclusion

- 7.1 It is the Monitoring Officer’s assessment that the Council’s governance arrangements are robust and effective. Due to regular reviews of legislation, from Government which are covered off either by Governance and Audit Committee or the Standards Committee, the Constitution and its associated rules are pertinent and up to date. There have been no formal reports required by either the Monitoring Officer or S151 Officer to Council under the relevant legislation. Ethical matters relating to probity are being managed on a day to day basis by the Monitoring Officer and the Standards Committee. This will require updating as a result of proposals in the Localism Bill once the legislation is enacted and will require monitoring in future. The Risk Register does not highlight any specific legal or procedural matters which require investigation.

Appendices

Appendix A – Equality Impact Assessment.

Consultees

Local Stakeholders: N/a

Officers Consulted: Andy Day, Ian Priestley, Andy Walker, Corporate Board

Trade Union: N/a

APPENDIX A

Equality Impact Assessment – Stage One

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| Name of item being assessed: | Annual Governance Statement – Statement in Support by the Section 151 Officer |
| Version and release date of item (if applicable): | |
| Owner of item being assessed: | David Holling |
| Name of assessor: | David Holling |
| Date of assessment: | 25/07/2011 |

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| 1. What are the main aims of the item? |
| To provide evidence and independent verification of governance matters which may impact on the Annual Governance Statement from the viewpoint of the Monitoring Officer. |

| 2. Note which groups may be affected by the item, consider how they may be affected and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender, Race, Religion or Belief and Sexual Orientation.) | | |
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| Group Affected | What might be the effect? | Information to support this. |
| None | | |
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| Further comments relating to the item: | | |
| | | |

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| 3. Result (please tick by double-clicking on relevant box and click on 'checked') | |
| <input type="checkbox"/> | High Relevance - This needs to undergo a Stage 2 Equality Impact Assessment |
| <input type="checkbox"/> | Medium Relevance - This needs to undergo a Stage 2 Equality Impact Assessment |
| <input type="checkbox"/> | Low Relevance - This needs to undergo a Stage 2 Equality Impact Assessment |
| <input checked="" type="checkbox"/> | No Relevance - This does not need to undergo a Stage 2 Equality Impact Assessment |

For items requiring a Stage 2 equality impact assessment, begin the planning of this now, referring to the equality impact assessment guidance and Stage 2 template.

| 4. Identify next steps as appropriate: | |
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| Stage Two required | |
| Owner of Stage Two assessment: | |
| Timescale for Stage Two assessment: | |
| Stage Two not required: | |

Name: David Holling

Date: 25th July 2011