

NOTICE OF MEETING

Governance & Audit Committee
Wednesday 29 March 2017, 7.30 pm
Council Chamber, Fourth Floor, Easthampstead House, Bracknell

To: The Governance & Audit Committee

Councillor Allen (Chairman), Councillor Thompson (Vice-Chairman), Councillors Heydon, Leake, McLean, Ms Miller, Mrs Temperton and Worrall

Independent Member

David St John Jones

cc: Substitute Members of the Committee

Councillors Mrs Hayes MBE, Hill, McCracken and Mrs McKenzie-Boyle

ALISON SANDERS
Director of Corporate Services

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Published: 20 March 2017



Governance & Audit Committee
Wednesday 29 March 2017, 7.30 pm
Council Chamber, Fourth Floor, Easthampstead House,
Bracknell

AGENDA

Page No

1. Apologies for Absence

To receive apologies for absence and to note the attendance of any substitute members.

2. Declarations of Interest

Members are asked to declare any disclosable pecuniary or affected interests in respect of any matter to be considered at this meeting.

Any Member with a Disclosable Pecuniary Interest in a matter should withdraw from the meeting when the matter is under consideration and should notify the Democratic Services Officer in attendance that they are withdrawing as they have such an interest. If the Disclosable Pecuniary Interest is not entered on the register of Members interests the Monitoring Officer must be notified of the interest within 28 days.

Any Member with an affected Interest in a matter must disclose the interest to the meeting and must not participate in discussion of the matter or vote on the matter unless granted a dispensation by the Monitoring officer or by the Governance and Audit Committee. There is no requirement to withdraw from the meeting when the interest is only an affected interest, but the Monitoring Officer should be notified of the interest, if not previously notified of it, within 28 days of the meeting.

3. Minutes - 25 January 2017

To approve as a correct record the minutes of the meetings of the Committee held on 25 January 2017.

5 - 12

4. Urgent Items of Business

Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.

5. Internal Audit Plan 2017/18

To approve the Internal Audit Plan for 2017/18.

13 - 24

6. Review of Constitution

To seek approval changes to the Council's Constitution

25 - 34

7. Annual Standards Report

To note the Standards output in 2016/17.

35 - 38

Date of Next Meeting

The next scheduled meeting of the Governance and Audit Committee will take place on 28 June 2017 at 7.30pm.

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**GOVERNANCE & AUDIT COMMITTEE
25 JANUARY 2017
7.30 - 9.15 PM**



Bracknell Forest Borough Council:

Councillors Allen (Chairman), Heydon, Leake, McLean, Ms Miller, Mrs Temperton, Thompson and Worrall

Present:

Independent Members:

David St John Jones

22. Appointment of Vice-Chairman

RESOLVED that Councillor Thompson be appointed Vice-Chairman of the Governance & Audit Committee for the year 2017/18.

23. Declarations of Interest

There were no Declarations of Interest received.

24. Minutes - 21 September 2016

RESOLVED that the minutes of the meeting of the Committee on 21 September 2016 be approved as a correct record and signed by the Chairman save for an amendment on page 3, point 5, that the correct name for the new Independent Member was David St John Jones and not David St John.

25. Urgent Items of Business

There were no urgent items of business.

26. Annual Audit Letter 2015/16

The Chairman advised the Committee that no external auditors (from Ernst & Young) were present at the meeting due to sickness and any questions the Committee had as a result of the Annual Audit Letter would be deferred to the next meeting.

RESOLVED that the Annual Audit Letter 2015/16 be noted.

27. Internal Audit Assurance Report

The Committee considered the Internal Audit Assurance Report of the work carried out between April-December 2016 by the internal audit contractors and the in-house team.

The Committee noted that 48 Memos/Reports had been issued in draft and a further 10 Memos/Reports issued were on the client side to be reviewed.

Limited Assurance Opinions had been issued on 15 audits which included Budget Savings, Schools, Construction and Maintenance, Disaster Recovery and Home to School Transport.

A programme of counter fraud training commenced during 2016/17 delivered by a specialist fraud investigator to teams in Adult Social Care, Health and Housing during quarter 2. The next round of training would be delivered to senior managers in Environment, Culture and communities on 9 February 2017.

The Committee noted the work undertaken by the Council's Benefits Team. During the period, 28 cases of overpayments in welfare in excess of £2k had been passed to the DWP for investigation. During the last financial year 76 cases were referred and the Council had so far been notified of 3 prosecutions and 2 administrative penalties.

With regard to Council Tax Single Person Discount (SPD), the Committee noted that a data matching exercise was carried out on all households which matched credit records to those households claiming SPD. As a result of the exercise, SPD was removed from 438 households who were not entitled to the discount which resulted in a reduction of £153k in SPD awards.

With regard to Construction and Maintenance, a limited assurance opinion was given again in 2016/17 due to errors in billing by the reactive maintenance contractor with regard to not billing in a timely manner and delays in quality control checks, as a result of which the provider had now been changed. The limited assurance opinion was also in respect of a lack of supporting documentation and wrong rates being billed by other contractors. A further audit of this area would now be carried out in the last quarter of 2016/17.

The Committee noted the follow up of previously issued limited assurance audit reports, some of which were due to be, or currently were being, re-audited. Five reports had already been re-audited and had resulted in a satisfactory opinion given comprising Council Wide Procurement and 4 schools including Kennel Lane and The Pines.

Key weaknesses identified during audits with a limited assurance opinion to date included an unexplained weakness in the IT system which had allowed one officer to authorise her own expenses. The Committee was advised that the officer had now left the organisation and her action had not been considered to be due to a fraudulent claim or inappropriate expenditure. Audit had been advised that this would be tested on implementation of Agresso version MS5 in June 2017. In the meantime Calvin Orr advised that this appeared to be an isolated case as it had not been possible to replicate self-authorisation of expenses..

A limited assurance opinion had been given on budget savings in relation to the target not being met in the review of ASC care and support packages.

The Committee expressed their concern on the limited assurance opinions given on five school audits during the period. Senior officers from the Education Authority were providing support to the Schools to enable them to address weaknesses in their control environments and the new Director of CYP&L was aware of any ongoing issues and the progress being made.

With regard to Disaster Recovery, the Report stated that the disaster recovery documentation was out of date and no longer relevant. The Committee expressed concern that this was an ongoing issue and reassurance sought previously that improvements would be made had not been received. The Committed was

reassured that disaster recovery testing found that the systems worked but the current documentation did not reflect the correct processes. Councillor Heydon said he would raise the issue at the next Corporate Services DMT and arrange for an officer from ICT to attend the next Committee meeting to update on the progress of the renewal of the documentation.

In regard to Home to School Transport, weaknesses had been identified in controls over Disclosure and Barring Service (DBS) checks on drivers and escorts. The audit had found that one driver's DBS renewal and checks on offences subsequently reported had not been completed on a timely basis by Licensing and Home to School Transport had not been made aware of this. Action was being taken to improve communication. In addition, Home to School Transport had not been advised by the taxi firm that one escort had returned from maternity leave and her DBS had lapsed whilst she was on maternity leave. The Committee was reassured that the taxi firm had since tightened up their procedures.

The Fraud and Error Reduction Incentive Scheme (FERIS) was launched in November 2014 allowing local authorities to opt into the scheme and bid for funding. FERIS was an incentive scheme that offered a financial reward to local authorities that found reductions to Housing Benefit entitlement as a result of claimant error or fraud. From April 2016 to November 2016 the Council had carried out targeted campaigns to 400 households in which approximately 81.3% had resulted in either a reduction or increase to Housing Benefit and approximately 79.3% had resulted in either a reduction or increase to Council Tax Reduction. A percentage break down differentiating between reductions and increases was not currently available but would be produced at the next meeting.

RESOLVED that the Internal Audit Assurance Report be noted..

28. **Treasury Management Report 2017/18 and 2016/17 Mid Year Review**

Calvin Orr presented the Treasury Management Report 2017/18 and 2016/17 Mid Year Review and drew Member's attention to the following:

The Council held £17.091m of investments as at 31 December 2016 and the investment portfolio yield for the first nine months of the year was 0.42% against a benchmark (Local Authority 7-Day Rate) of 0.24%.

The Local Government Act 2003 required the Council to "have regard to" the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council's capital investment plans were affordable, prudent and sustainable. The report outlined the Council's prudential indicators for 2017/18 – 2019/20 and set out the expected treasury operations for this period.

The Bank Rate remained at 0.5% until the action taken by the Bank of England to settle financial markets following the EU Referendum result in June 2016. Interest rates were cut to 0.25% and markets expected a further reduction to 0.10% by December 2016 based on the projections provided by the Bank of England in the November Inflation report. The Committee was advised that the Bank Rate was expected to stay stable through to 2019 and a rise to 1% was not expected for 1-2 years. The current low rate was beneficial to the Council with respect to their expected external borrowing in February 2017.

The Committee noted the Report table which showed the change in forward projections of interest rates and which was based on past UK Base Rates. However,

the Committee was advised that interest rates may be affected by changes to the US Federal Funds Rate.

The Committee reviewed the revised estimates for capital expenditure and the changes since the capital programme was agreed by Full Council and noted that any projected overspends would be addressed before the end of the financial year.

It was **RESOLVED** that:

- 1 The Committee consider and review the Mid-Year Review Report.
- 2 The Committee agree that the Mid-Year Review Report be circulated to all Members of the Council.
- 3 The Committee review the Treasury Management Report for 2017/18 prior to its approval by Council.

29. **Strategic Risk Management Update**

The Committee received the Strategic Risk Management Update to review the Strategic Risk Register. The Register was last reviewed by the Strategic Risk Management Group (SRMG) on 30 November 2016 and by CMT on 11 January 2017. The following changes were agreed at CMT:

- Risk 1 - the score for likelihood was reviewed for the financial and economic risk to consider if this was too high given the actions taken to identify savings, the efficiency plan and the 4 year settlement. CMT agreed that this should be reduced from 5 to 3 to reflect that the actions to date had already mitigated the risk.
- Risk 3 - amended wording to reflect the impact of the Transformation Programme on staff resources.
- Risk 6 - given that separate risk registers were now routinely developed and maintained for major projects and these were monitored by the individual project boards, it was agreed that a separate risk was not required for major projects and hence this risk could be removed.
- Risk 11 - this risk had been reframed to focus on how the national and global economy might impact on the local Bracknell Forest economy with a risk score of 3 for both likelihood and impact.

A summary of the Risk Register was included within the update and the following projects were highlighted and discussed by the Committee:

- *Additional employment opportunities in the new town centre affected the Council's ability to attract and retain staff to deliver services:* The Risk was around potential salaries that would be on offer comparable to low level administrative positions in the Council. In particular it was felt this could impact on Provider support staff commissioned by the Council who may be able to obtain better paid jobs in retail and it was agreed the wording would be amended to reflect this.
- *Council unable to implement major projects and delays in the Town Centre Regeneration project led by Bracknell Regeneration Partnership (BRP) working in partnership with Bracknell Forest Council - failure of the Council to monitor and control their respective elements of the project had been removed from the Register.* The Committee felt that the removal of these

projects from the Register could lead to delivery failure or unmet targets going unnoticed. Stuart McKellar, Borough Treasurer assured Members that the projects were being well managed and risks were regularly reviewed by individual project boards but would be added back onto the Register if any disruption to project delivery was perceived..

- The Committee felt that the threat remained of companies relocating from the UK as a result of the Brexit vote leading to a loss of rates and revenue to the Council and a negative impact on the local economy. The Committee expressed that this should have been reflected more strongly in the Report.
- *Binfield Learning Village at Blue Mountain, School's places programme school's backlog maintenance and Coral Reef roof replacement and enhancements to facility* had been removed from the Register. Members expressed their concern that these projects, in particular Coral Reef and the Binfield Learning Village should remain on the Register given the significant investment involved and that the Committee should have continued oversight of them. The Committee was advised that both of these projects were anticipated to be delivered on time and on budget and that the scale of issues was now between £10k and £30k instead of £14m and £30m respectively. However, the Committee felt that whilst Binfield Learning Village had been a bigger risk before construction started, the issue of governance arrangements still remained and Coral Reef remained a risk to the Council during the market testing exercise to commission services from a private contractor.
- *Council unable to deliver the Transformation Programme* had been removed from the Risk Register. Concern was expressed by Members that if this project did not progress as expected then the Council would be unable to deliver the necessary efficiencies and therefore the project should remain on the Register and subject to continued oversight. In particular risks remained around the sale of Easthampstead House and the Northern Retail Quarter which was still in the early stages of development.

The Chairman therefore proposed that the following projects should be put back on the Risk Register:

- Binfield Learning Village at Blue Mountain
- School's places programme school's backlog maintenance
- Coral Reef roof replacement and enhancements to facility
- Council unable to deliver the Transformation Programme

Sally Hendrick agreed to the return of these projects to the Risk Register and to look at including mitigating factors and to discuss the purpose of the Risk Register and how the Committee used it at the next meeting.

30. **Appointment of Local External Auditors**

The Committee considered a report regarding the appointment of Local External Auditors.

At its meeting on 30 March 2016 the Governance and Audit Committee received a report from the Borough Treasurer setting out changes to the process for appointing External Auditors under the Local Audit and Accountability Act 2014, following the closure of the Audit Commission which had previously undertaken this role for local authorities and the NHS. The report set out in detail the context that had led to the

new national arrangements and the Government's delegation of powers to Public Sector Audit Appointments Ltd (PSAA) to appoint External Auditors for a transitional period that ends following audit of the 2017/18 accounts. In July 2016, the Secretary of State for Communities and Local Government officially recognised PSAA as an "appointing person" able to act on behalf of local authorities in auditor appointments. This had happened with the support of the LGA, which had an objective of "establishing a national sector-led body which is able to deliver high quality, economic and efficient external audit arrangements for all authorities that choose to opt into its scheme".

PSAA issued a prospectus in August 2016 and subsequently invitations to all authorities on 27 October 2016 to opt in to its collective arrangements. To date, 215 of the 493 eligible local authorities had formally opted in to PSAA, including 31 Unitary and County Councils.

Members were advised that there would be no upfront cost associated with opting into the scheme as the PSAA would negotiate with the audit companies and a surcharge would be applied to their fees. PSAA currently only contracted with five audit firms for the delivery of public sector external audits and there would be a reduction in costs to Bracknell Forest which would be achieved from the audit companies only having to make one tender bid.

RECOMMENDED to Council that Bracknell Forest joins the Public Sector Auditor Appointments collective procurement arrangement to appoint an External Auditor from the 2018/19 financial year on the grounds that this approach is most likely to achieve best value in a relatively restricted market and avoids the need and cost of the Council itself undertaking a complex and time consuming procurement process and establishing and administering a new independent Auditor Panel.

31. **Establishment of Code of Conduct Panels**

The Committee considered a report which asked them to formalise the establishment of Code of Conduct Panels, to confirm their terms of reference and the appointment of members to sit on them.

The report set out the Terms of Reference and Members were advised that the report did not affect the role and appointment of the Independent Person who did not sit on the Code of Conduct Panel but was present at any hearing to provide advice and guidance to the Panel.

Nominations had been sought from the parish/town councils for two representatives. They had agreed the order in which nominations would be made and that each representative would remain in the pool for two years after which the nominations would rotate to other parish/town councils.

Code of Conduct Panels had no power to suspend or disqualify a councillor or co-opted member, or to withdraw basic or special responsibility allowances. Sanctions available to the Panel included the request for an apology and censure. A full list of available sanctions would be circulated to Members.

Each Panel would comprise any three councillors drawn from the Governance & Audit Committee based on their availability.

RESOLVED that:

- 1 Code of Conduct Panels be set up as required to determine complaints about councillors or co-opted members, and to apply or recommend sanctions if appropriate, with the terms of reference and composition as set out in paragraph 5 of the report.
- 2 The following people be appointed to the pool of co-opted members:

David St John Jones in his capacity as the independent co-opted member of the Governance and Audit committee (independent co-opted member)
Heather Quillish (independent co-opted member)
Khan Juna (independent co-opted member)
Cllr Diana Henfrey (parish/town council representative)
Cllr Bob Shurville (parish/town council representative)
- 3 The Borough Solicitor be delegated authority to make appointments to the pool of independent co-opted members as vacancies arise, in consultation with the Governance & Audit Committee Chairman.

CHAIRMAN

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**TO: GOVERNANCE AND AUDIT COMMITTEE
29TH MARCH 2016**

INTERNAL AUDIT PLAN 2017/18 AND RISK MANAGEMENT (Head of Audit and Risk Management)

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to set out the underlying principles applied in the Internal Audit planning process and seek the Governance and Audit Committee's approval of the Internal Audit Plan for 2017/18 and clarify responsibilities for risk management..

2 RECOMMENDATION

- 2.1 **To approve the Internal Audit Plan for 2017/18 attached at Appendix 1.**
- 2.2 **To note for information on risk management responsibilities.**

3 REASONS FOR RECOMMENDATION

- 3.1 To ensure that the Council meets its statutory responsibilities for internal audit and advise the Committee of risk management responsibilities across the Council.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 There is no alternative option.

5 SUPPORTING INFORMATION

INTERNAL AUDIT PLAN

Internal Audit Requirements

- 5.1 All local authorities must make proper provision for internal audit in line with the 1972 Local Government Act (S151) and the Accounts and Audit Regulations 2015. The latter states that authorities must "undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance." The Council delegates its statutory responsibilities for the provision of the internal audit service under the Accounts and Audit (England) Regulations 2015 to the Borough Treasurer.
- 5.2 More specifically, Internal Audit aims to: -
- satisfy the legal requirements of a Local Authority Internal Audit Service and provide an annual opinion on the adequacy of the Council's control environment risk management and governance processes;
 - comply with Public Sector Internal Audit Standards;
 - examine, evaluate and report independently and objectively on the adequacy of management's arrangements to secure the proper use of resources (economy, efficiency and effectiveness);

Unrestricted

- assist management in achieving its objectives, managing its risks and establishing and maintaining adequate systems of internal control;
- assist management, where appropriate, in the investigation of alleged fraud, theft, corruption or other irregularity; and
- ensure External Audit can place reliance on Internal Audit's work to inform their planning, avoid duplication and minimise audit fees.

- 5.3 Internal Audit provides independent assurance on the control environment but for Internal Audit to provide full assurance on all activities and transactions across the organisation, the Council would need to commit significantly more resources to internal audit services than is realistically available. Historically, the Council has taken the view that spend on internal audit should be limited to only what is necessary to undertake sufficient audit work to enable an annual evidence based opinion to be given. In the current financial climate that approach has and will be maintained. Full assurance could only ever be achieved by checking every transaction and this would not deliver value for money. Internal Audit's work is planned so that Members and Officers can rely on Internal Audit to detect significant control weaknesses for the areas audited and transactions sampled and is hence directed to areas of greatest risk.
- 5.4 Managing the risk of fraud and corruption is the responsibility of managers. Internal Audit will however be alert in all its work to the risk of fraud and corruption. In addition, a number of probity audits are included in the Plan to provide assurance over the proper administration of the Authority's activities. In drawing up the annual Internal Audit Plan, focus has been placed on ensuring there is coverage of areas where there is potential risk of internal or external abuse of processes for fraudulent purposes. In addition, a number of days have been targeted for proactive Counter Fraud work and training during 2017/18.

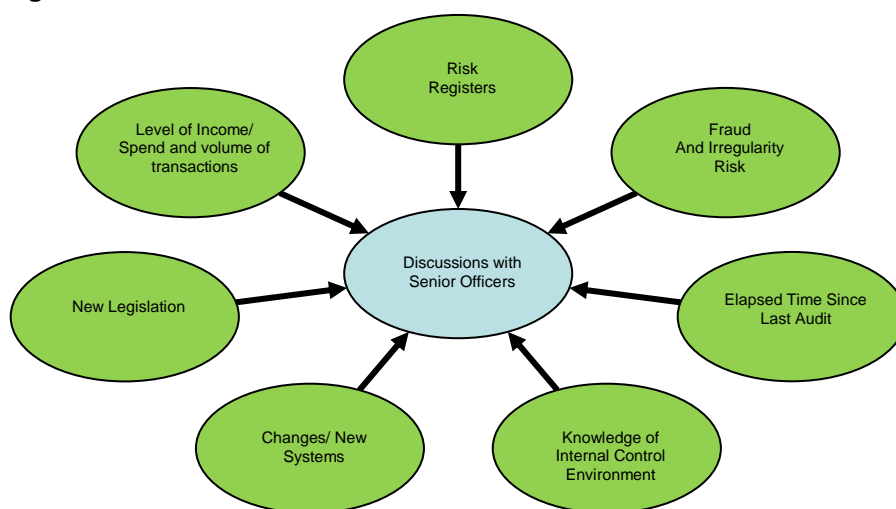
Development of the Annual Internal Audit Plan

- 5.5 Given the finite resources available to spend on internal audit, the Internal Audit Plan seeks to optimise the limited resources available to provide assurance on the control environment. It is largely risk driven to ensure optimum use of audit resources.
- 5.6 The process begins with listing audits that have been given a limited assurance opinion in the previous 12 months as our procedure is to re-visit these in the following year and grants requiring audit sign off as a condition of funding. Expenditure and income streams in each directorate are then reviewed to identify those areas of highest value. Directorate risk registers are used to identify significant risk areas. Key IT systems particularly those with direct financial and financial reporting impact are identified. Minutes are reviewed to identify potential changes such as upgrades or new IT systems.
- 5.7 Fraud and irregularity is a key risk for all local authorities. Whilst as noted above, the responsibility for managing this risk rests with managers, the potential risk of fraud and irregularity is taken into account when developing the audit plan thus ensuring there is adequate audit coverage of areas of greatest risk such as where there is cash income. In addition for 2017/18, to address potential fraud risks that are often common to all local authorities, the Plan includes a number of days for proactive counter fraud work and for fraud awareness training in Corporate Services and Children, Young People and Learning following on from the training provided in Adult

Social Care Health and Housing and Environment, Culture and Communities during 2017/18.

- 5.8 Heads of Internal Audit are required to give an opinion on the effectiveness of governance and risk management arrangements. This will be addressed through audits such as compliance with IDR35 and GDPR, audit of expenses and performance indicators .
- 5.9 Having identified these potential areas for audit focus these are then listed and plotted against audit coverage over the last few years to establish a preliminary view of where audit resources might be directed for the forthcoming year. This is then discussed at one to one meetings with officers. This is a vital element of the methodology for developing the plan. Discussions are held with the Chief Executive, Borough Treasurer, Directors, Chief Officers, Group Accountants and IT officers. These discussions provide the opportunity for the Head of Audit and Risk Management to confirm her knowledge of new legislation and systems and their potential impact, seek input officers on the areas that would benefit from audit review and ensure proposed audits cover all major risks and areas of concern that could impact on delivery of the Council’s strategic themes.

Figure 1



- 5.10 The proposed plan of audits developed from the discussion meetings as at Appendix 1 is finally cross-checked against the Strategic Risk Register to ensure that there is adequate audit coverage against all key risks. A summary of the main audits against each strategic risk is attached at Appendix 2.
- 5.11 The plan at Appendix 1 of audits indicates where the audit relates to a key financial system or is included to provide assurance on governance, risk management or address the risk of fraud (probity).
- 5.11.1 The key change for 2017/18 is in our approach to school audits. The role of the governing body is to:
- set the strategic direction, vision and ethos of the school;

Unrestricted

- monitor and challenge the progress of the school in achieving its priorities;
- recruit and performance manage the headteacher;
- exercise employer responsibility;
- ensure the school(s) meet its statutory responsibilities
- ensure financial probity;
- ensure the premises are well managed; and
- report to the school's stakeholders.

5.12 Senior management and Members have queried the previous approach to auditing schools whereby each school was visited for audit at least every 3 years and a robust audit of financial and governance controls undertaken. The necessity to do this was challenged and senior management were also keen that Audit undertake more themed audits such as on pupil premium. Given pressure on resources this could not be achieved without cutting individual school audits. However, it is in the interests of the Council for schools to be financially sustainable and therefore to have sound financial and governance controls and our audits over the past 2 years have highlighted some significant weaknesses which would not have been identified or addressed if the audits had not taken place. In the view of the Head of Audit and Risk Management it would not be appropriate to cease all individual school audits but a reduction in audits can be achieved by carrying out a risk assessment of each school due for audit on rotation to determine if an audit visit is not required. This approach is set out in the CYPL section of the audit plan in Appendix 1.

Resourcing Delivery of the Audit Plan

5.13 Delivery of the audits in the Council's internal audit plan is outsourced. Internal audit services are delivered via two main sources. Mazars LLP, who have been our main provider since 2012, are expected to deliver approximately two thirds of the 2016/17 general internal audit reviews. Whilst a small proportion of general audits are carried out in-house, the bulk of the remaining one third of the Annual Internal Audit Plan audits will be undertaken by in-house Internal Audit Teams at Wokingham Borough Council, via an agreement under a S113 of the Local Government Act 1972 which permits local authorities to provide staffing resources to other authorities. IT audit will be delivered by TIAA under a contract commencing on 1st April 2016.

RISK MANAGEMENT

Risk Management Responsibilities

5.13 The Council's statutory responsibilities for risk management and the responsibilities Borough Treasurer as responsible finance officer are set out in the Accounts and Audit Regulations 2015 which state

Responsibility for internal control

3. A relevant authority must ensure that it has a sound system of internal control which -,,,,,, c) includes effective arrangements for the management of risk.

Accounting records and control systems

4.—(1) Subject to paragraphs (3) and (4), and, in so far as they are not in conflict with those paragraphs, to any instructions given by a relevant

authority to its responsible financial officer, That officer must determine, on behalf of the authority—.....

b) its financial control systems.....

(4) The financial control systems determined in accordance with paragraph (1)(b) must include(a) measures—.....

(iii) to ensure that risk is appropriately managed;

- 5.14 Within the Council, the Financial Regulations clarify the responsibilities for risk management

Section 4.2

The Governance and Audit Committee is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management.

The Borough Treasurer is responsible for preparing the authority's risk management policy statement and for promoting the approved strategy throughout the authority.

Appendix C Section 3.

Responsibilities of the Borough Treasurer

To prepare and promote the authority's risk management policy statement.

To develop risk management controls in conjunction with other Directors.

To maintain the Council's Strategic Risk Register.

In practice the Borough Treasurer largely delegates these responsibilities to the Head of Audit and Risk Management.

- 5.15 The role of the Governance and Audit Committee in respect of risk management is as also set out in the Committee's terms of reference as follows:

- To monitor the adequacy of procedures and processes in place to manage risk
- To seek assurances that action is being taken on risk related issues
- To ensure that assurance statements, including the Annual Governance Statement, properly reflect the risk environment

This is consistent with the CIPFA guidance on audit committees which includes as one of the core functions of an audit committee the requirement to:

Consider the effectiveness of the authority's risk management arrangements and the control environment. Review the risk profile of the organisation and assurances that action is being taken on risk-related issues, including partnerships with other organisations.

The Purpose of the Strategic Risk Register

- 5.16 The Strategic Risk Register is a vital tool within the risk management arrangements the Council has put in place to meet its statutory responsibilities as set out above. . It serves as a central repository for the risks to the achievement of the Council's overarching objectives as set out in its strategic themes and performance measures. Its function is to provide senior management and Members with information on the main risks faced by the Council in seeking to deliver against the strategic themes. It provides users with a clear view of the status of each risk.

- 5.17 The Strategic Risk Register is used by senior management and Members to:

- understand the nature of the risks the Council faces and the extent of those risks.
 - identify the level of risk that the Council is willing to accept.
 - identify the likelihood of the risk occurring and its potential impact to the Council .
 - recognise the ability to control and reduce risk.
- 5.18 Ownership of the Strategic Risk Register rests with the Corporate Management Team (CMT). CMT therefore have primary responsibility for identifying and managing the risks and ensuring the Register is complete and a fairly presents the risks and their scores and mitigation. The Strategic Risk Management Group receives and reviews updates of the full Strategic Risk Register every quarter and prior to six monthly review at CMT. Mitigating actions are updated prior to the six monthly CMT review.
- 5.19 Following review at CMT, the Strategic Risk Register is presented to the Governance and Audit Committee to provide the Committee with information on the key risks as perceived by the senior management team and seek the Committee's input and to enable the Committee to satisfy itself that risks are fully identified, monitored and controlled and that effective risk management arrangements are in place.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The statutory basis for the Internal Audit process is set out in the main body of the report

Borough Treasurer

- 6.2 The work of Internal Audit is key to fulfilment of the section 151 responsibilities by identifying weaknesses in internal control arrangements that can then be rectified. The Internal Audit Plan will delivered within the financial budget allocated.

Equalities Impact Assessment

- 6.3 Not applicable.

Strategic Risk Management Issues

- 6.4 Robust internal audit arrangements are an important part of effective risk management. Audit plans should be targeted to areas of greatest risk to the Council and individual internal audit reviews should focus on controls in place to mitigate risk and highlight any gaps in assurance.

7 CONSULTATION

Principal Groups Consulted

- 7.1 The Chief Executive, Borough Treasurer, Directors and Chief Officers at the Council, the Council's external auditors and the Council's internal audit services contractors (Mazars and TIAA). The Strategic Risk Management Group (SRMG) and the

Corporate Management Team (CMT) were consulted on risk management responsibilities.

Method of Consultation

- 7.2 The development of the Annual Internal Audit Plan for 2017/187 has involved extensive consultation with a range of stakeholders, to ensure that their views on risks and current issues, within individual departments and corporately, are identified and considered. This was based on one to one discussion with the Borough Treasurer, Directors, chief officers and Group Accountants followed by discussions with the Corporate, Departmental Management and Operational IT Management teams. Feedback was also been sought from the Chief Executive and from Mazars and TIAA as our key internal audit service providers for general and IT audit and from our external auditors, Ernst & Young. Feedback on the content of the draft Plan and timing of audits has been taken into account in the Plan attached at Appendix 1. SRMG and CMT were consulted on risk management responsibilities through papers presented to meetings on 6th and 15th March respectively.

Representations Received

- 7.3 Not applicable.

Background Papers

Strategic Risk Register/Public Sector Internal Audit Standards

Contact for further information

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01344 352092

SUMMARY OF ANNUAL INTERNAL AUDIT PLAN 2017/18

AUDIT	DAYS BY QUARTER				TOTAL DAYS
	Q1	Q2	Q3	Q4	
COUNCIL WIDE AUDITS	26	18	22	15	81
CORPORATE SERVICES	24	30	76	33	163
ENVIRONMENT CULTURE AND COMMUNITIES	17	27	12	30	86
ADULT SOCIAL CARE, HEALTH AND HOUSING	12	19	37	30	98
CHILDREN, YOUNG PEOPLE AND LEARNING	44	28	40	15	127
TOTAL	123	122	187	123	555

COUNCIL WIDE AUDITS

AUDIT	Days	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Key System	Link to Strategic Risk	Probity	Governance
COUNCIL WIDE									
Officer expenses	7	7	0	0	0			✓	✓
Performance indicators	12	0	0	12	0		✓	✓	✓
Mileage	6	6	0	0	0			✓	
IR35 Compliance	10	0	0	0	10			✓	✓
GDPR Gap Analysis	10	10	0	0	0		✓		✓
Grants and payments to the voluntary sector	12	0	12	0	0	✓		✓	✓
Apprenticeship Levy	4	0	0	0	4				✓
Redundancy Payments	5	0	0	5	0				✓
Counter Fraud Training	5	0	3	2	0			✓	✓
Proactive fraud work	10	3	3	3	1			✓	✓
TOTAL COUNCIL WIDE AUDITS	81	26	18	22	15				

CORPORATE SERVICES

AUDIT	Days	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Key System	Link to Strategic Risk	Probity	Governance
Creditors including Controcc transactions	12	0	0	12	0	✓	✓	✓	✓
Debtors including Controcc transactions	9	0	0	9	0	✓	✓	✓	✓
Main Accounting including	10	0	10	0	0	✓	✓	✓	✓

Unrestricted

AUDIT	Days	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Key System	Link to Strategic Risk	Probity	Governance
reconciliations									
Treasury Management	5	0	5	0	0	✓	✓	✓	✓
Payroll and pre employment checks	15	0	0	15	0	✓	✓	✓	✓
Cash Management	10	0	0	10	0	✓	✓	✓	✓
Council Tax	10	0	0	10	0	✓	✓	✓	✓
Business Rates	10	0	0	10	0	✓	✓	✓	✓
Registration services	7	0	0	0	7		✓	✓	
Members Expenses and Allowances	7	7	0	0	0			✓	✓
Home to School Transport Follow Up (Ltd 2016/17)	3	3	0	0	0		✓	✓	✓
New Commercial Properties	7	0	0	0	7	✓	✓		
IT AUDIT						✓	✓		✓
Disaster Recovery (Ltd 2016/17)	3	3	0	0	0				
Back Ups (Ltd 2016/17)	3	3	0	0	0	✓	✓		✓
CRM -(Ltd 2016/17)	3	3	0	0	0	✓			✓
AGRESSO upgrade	7	0	0	0	7	✓	✓	✓	✓
ITRENT- performance management module	5	0	0	5	0		✓		✓
Cyber Security Gap Analysis including VOIP	10	0	10	0	0	✓	✓		✓
Helpdesk	7	0	0	0	7				
CONTINGENCY	20	5	5	5	5	✓	✓	✓	✓
TOTAL CORPORATE SERVICES	163	24	30	76	33				

ENVIRONMENT CULTURE AND COMMUNITIES

AUDIT	Days	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Key System	Link to Strategic Risk	Probity	Governance
The Look Out	5	5	0	0	0			✓	
Coral Reef- focused checks on cash and income	3	0	3	0	0			✓	
Car Parks	10	0	0	0	10	✓		✓	
Cemetery and crematorium	5	0	5	0	0			✓	
LED works- Phase 2	10	0	10	0	0	✓	✓	✓	
Maintenance planning	5	0	0	0	5		✓		
Highways capital spend	7	0	0	0	7		✓		
Tree Services	6	0	0	6	0			✓	
Building Control and land charges	7	7	0	0	0			✓	
IT AUDITS						✓			
Leisure Management System	6	0	0	6	0				
Library self service and	8	0	0	0	8		✓		

Unrestricted

AUDIT	Days	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Key System	Link to Strategic Risk	Probity	Governance
stock purchasing systems									
GRANTS Bus Service Operators Grant	1	0	1	0	0			✓	✓
Integrated Transport Block Allocation	3	0	3	0	0			✓	✓
FOLLOW UP	2	0	2	0	0	✓	✓	✓	✓
COUNTER FRAUD Leisure Cash Spot Checks	3	0	3	0	0			✓	✓
Library cash and income spot checks	5	5	0	0	0			✓	
ECC TOTAL	86	17	27	12	30				

ADULT SOCIAL CARE, HEALTH AND HOUSING

AUDIT	Days	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Key System	Link to Strategic Risk	Probity	Governance
Social care journey <ul style="list-style-type: none"> • RAS assessment • Care package approval • Financial assessment • Direct payment • Contracting • Brokerage 	20	0	0	0	20	✓	✓	✓	✓
Controcc (NB:This will be audited as part of the accounts payable and accounts receivable audits)	3	0	0	3	0	✓	✓	✓	
ASCHH Debt Management Follow Up (Ltd 16/17)	3	0	3	0	0	✓	✓	✓	
Matrix	5	5	0	0	0	✓			
Mental Health Follow Up (Ltd 15/16)	3	3	0	0	0		✓		
Bridgewell Follow Up (Ltd 15/16)	3	0	3	0	0		✓	✓	
Glenfield House Support Team	4	4	0	0	0			✓	
Emergency Duty Service	7	0	0	7	0	✓	✓		
Housing Benefit and Council Tax Reduction	15	0	0	15	0	✓	✓	✓	
Housing Applications and Allocations	8	0	8	0	0	✓		✓	
Forestcare	5	0	5	0	0		✓		
Contingency	10	0	0	0	10				
IT Audits	5	0	0	5	0	✓	✓		

Unrestricted

AUDIT	Days	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Key System	Link to Strategic Risk	Probity	Governance
Controcc									
LAS	7	0	0	7	0	✓	✓		
ASCHH TOTAL	98	12	19	37	30				

CHILDREN, YOUNG PEOPLE AND LEARNING

AUDIT	Days	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Key System	Link to Strategic Risk	Probity	Governance
Family Centre	3	0	3	0	0			✓	
Larchwood Unit	7	0	0	7	0		✓	✓	✓
Rowan's and Sycamore Children's Centre	3	0	3	0	0			✓	
Willows and Maples Children's Centres	3	0	3	0	0			✓	
Sandhurst (The Spot) YC	3	0	3	0	0			✓	
Great Hollands YC the Zone	3	0	3	0	0			✓	
Coopers Hill Youth Centre NRG	3	0	3	0	0			✓	
Education Centre	5	0	0	5	0			✓	
Open learning Centre	5	0	5	0	0			✓	
Pupil referral services exc PRU	5	0	0	5	0		✓		
SEN – cross cutting audit of the 4 units at Garth Hill, Meadow vale , GT Hollands and Ranelagh	8	8	0	0	0		✓		
Themed school audit- Pupil Premium	12	12	0	0	0		✓		
Personal Education Plans	12	12	0	0	0		✓		
SCHOOLS Follow-up and deferred 2016/17 audits.	15	15	0	0	0	✓	✓	✓	✓
IT AUDITS ONE system- review of new module to support assessment of eligibility for extension of early years funding to 30 hours	5	0	0	5	0	✓			
GRANTS Troubled Families	10	0	5	0	5				✓
SUB-TOTAL	102	44	28	25	5				
SCHOOL AUDIT CONTINGENCY *	25	0	0	15	10	✓	✓	✓	✓
CYPL TOTAL	127	44	28	40	15				

* School due for audit on rotation will be risk assessed based on outcome of self assessment by the school, Statement for Financial Value in Schools assessment ,whether there are any concerns within the Education Authority and Ofsted inspection rating to determine if an audit visit is not required. Any visits will then be funded from the school audit contingency

APPENDIX 2

Strategic Risk	Risk Rating	Proposed Audit(s) to Address Risk
Maintaining satisfactory service standards within a balanced budget.	Red	<ul style="list-style-type: none"> ➤ Key financial system audits
Council unable to predict and plan for future changes in demands for services arising from demographic changes and national policy initiatives.	Amber	<ul style="list-style-type: none"> ➤ SEND units ➤ Social care journey in adult social care
Loss of key senior staff. Managing services with reduced capacity	Amber	<ul style="list-style-type: none"> ➤ Payroll and pre-employment checks ➤ Redundancy payments
IT infrastructure or systems unavailable due to IT failure, non-compliance with PSN/PCI requirements, insufficient IT staff resources of the required calibre to deliver services/projects, an incident preventing the functioning of IT or IT suppliers being unable to deliver/maintain systems.	Red	<ul style="list-style-type: none"> ➤ IT application audits ➤ Follow-up of back-ups ➤ Follow up of disaster recovery ➤ Helpdesk
Council unable to comply with data protection/security requirements to secure data resulting in inappropriate disclosure, loss or theft of sensitive data.	Amber	<ul style="list-style-type: none"> ➤ New General Data Protection Regulations (GDPR) gap analysis ➤ Cyber security
Council unable to implement major projects.	Amber	<ul style="list-style-type: none"> ➤ Major project audits on Binfield learning Village and Coral reef carried out in 2016/17
Business Continuity Plans and procedures inadequate or not clearly communicated and understood.	Amber	<ul style="list-style-type: none"> ➤ Business continuity was audited in 2016/17 ➤ Follow-up of back-ups ➤ Follow up of disaster recovery
Factors outside the control of the Council may result in the injury, death or sexual exploitation of a vulnerable child or adult in the community. Weaknesses in Council procedures may contribute to the failure to safeguard a vulnerable child or adult.	Red	<ul style="list-style-type: none"> ➤ Social care journey in adult social care ➤ Larchwood
Council unable to maintain buildings/highways in accordance with health and safety and other legislative standards. .	Amber	<ul style="list-style-type: none"> ➤ Grant certification ➤ Construction and maintenance
Council unable to work effectively with key partners or involve residents in the development of our services.	Green	<ul style="list-style-type: none"> ➤ Transformation programme ➤ Major projects audits ➤ Procurement audits
Impact of the national and global economy on economic activity in the Borough including potential for businesses to relocate following Brexit. .	Amber	<ul style="list-style-type: none"> ➤ Business rates ➤ Car parking ➤ Individual audit areas
Council unable to implement legislative changes. Legal challenge on decisions relating to levels of service provision.	Amber	<ul style="list-style-type: none"> ➤ GDPR gap analysis ➤ Compliance with IR 35
Delays in the Town Centre Regeneration project led by Bracknell Regeneration Partnership (BRP) working in partnership with Bracknell Forest Council. Failure of the Council to monitor and control their respective elements of the project.	Amber	<ul style="list-style-type: none"> ➤ Maintenance planning
Council unable to deliver the transformation programme.	Amber	<ul style="list-style-type: none"> ➤ New commercial properties ➤ Library system ➤ Social care journey
Council unable to prevent a cyber attack and/or respond effectively to sustain services.	Red	<ul style="list-style-type: none"> ➤ Cyber security ➤ Follow-up of back-ups ➤ Follow up of disaster recovery
Additional employment opportunities in new town centre affects the ability of the Council and its outsourced providers to attract and retain staff to deliver services	Red	<ul style="list-style-type: none"> ➤ Resourcing on individual audit areas

TO: **GOVERNANCE & AUDIT COMMITTEE – 29 March 2017**
COUNCIL – 26 April 2017

REVIEW OF CONSTITUTION
Director of Corporate Services –Borough Solicitor

1 PURPOSE OF REPORT

1.1 The report recommends changes to the Constitution for approval by Council.

2 It is **RECOMMENDED that** Council:

2.1 Adopt the changes to the Delegations of Chief Officer: Property set out in **Appendices A and B** to this report.

2.2 Adopt the changes to the Protocol for Members in Dealing with Planning Matters set out in the **Appendix C** to this report.

2.3 Delegate to the Borough Solicitor the authority to make minor consequential changes to the constitution from time to time to reflect legislative amendments, alterations in post titles and such amendments as may be required to clarify the meaning and/or effect of constitutional provisions

3 REASONS FOR RECOMMENDATIONS

3.1 Part 7 of the Constitution requires the Monitoring Officer to monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect. Any changes considered necessary are subject to approval by Council.

3.2 The amendments proposed should also be read in the light of the Council's transformation programme with particular regard to the need for simplification of processes to achieve efficiencies. The enhanced delegations to the Chief Officer: Property are intended to reflect the need for officers to act swiftly in the property market when dealing with acquisitions and disposals in order to secure the best outcomes for the Council. The Chief Officer: Planning delegations provide clarity to constitutional changes introduced in 2016 increasing the threshold for the number of objections to planning applications that would be required to trigger a Planning Committee determination. Finally, a delegation to the Borough Solicitor to make minor consequential changes of the type set out in the report will reduce the burden on the Council's formal decision making structures which currently require the drafting and presentation of reports through Corporate Management Team, Governance & Audit Committee and Council.

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 None. Section 37 of the Local Government Act requires the Council to keep its Constitution under review.

5 SUPPORTING INFORMATION

5.1 The report covers proposed changes to Chief Officer delegations.

A. Chief Officer: Property Delegations

These are an adaptation of those which were initially presented to Governance & Audit Committee in June 2016 and are shown in **Appendices A and B** to this report.

5.2 The context of the proposed changes is essentially four fold.

- The existing delegations are no longer considered operationally fit for purpose. Property transactions are generally a consequence of strategic decisions previously taken by Members, which must then follow both policy and law.
- The reasons why the delegations are considered no longer fit for purpose are that the rent and land value levels themselves have moved on considerably in the Borough since the existing levels were set in the Council's constitution.
- Consequently, the ability for the Chief Officer: Property ("COP") and the Property Services team to manage the property estate is fettered in their every day duties. Some recent examples of this are listed below. The new delegation levels will make the operational performance and management of the investment and operational estate more efficient and serviceable for the Council and tenants alike. This will also link into the Commercial Property Investment Strategy as part of the overall transformation programme.
- Commercial Property investment decisions have recently been vested in the Executive Committee and this change needs to be reflected in the COP delegations accordingly so they can work together in the management of that increasing portfolio.

5.3 Examples of where the existing delegations are not operationally functioning are below. They are not that frequent, but they can be material and time delaying for external bodies affected by the Council's decision making processes.

Example 1

5.3.1 The Housing Service required a short term property to accommodate homeless families to alleviate financial pressures on the use of B&B accommodation. This necessitated a short term lease being taken, but the rent is above the delegation levels of COP. Time was of the essence and so an emergency powers application to the Leader to delegate the authority had to be requested as there was not time to take the decision to the Executive in the next cycle of meetings. This is purely a financial and operational decision to save the Council revenue expenditure and should not require these additional decision making arrangements.

Example 2

5.3.2 Within the current commercial portfolio there are 7 tenants currently paying rent at either more or close to the delegation levels which means even agreeing rent reviews would require an Executive decision to follow the legal obligations contained in existing contracts. Some of those tenants may seek lease renewals or new terms to

improve the income or security of income to the authority and accordingly the delegations need to reflect the ability to manage the current and expanding property commercial portfolio.

- 5.4 The delegation levels proposed broadly reflect the Contract Standing Order thresholds for the approval of Contract awards. They will require the approval of a higher authority than the Chief Officer Property in isolation where sums in excess of £400,000 are involved. (£200k in the case of Freehold or Long Leasehold disposals)
- 5.5 Furthermore, all property transactions have to go via some legal due diligence providing an extra layer of assurance. Commercial Investment acquisitions are delegated exclusively to the Executive Committee
- 5.6 The statutory requirement to obtain best consideration for property disposals remains and all transactions will be subject to scrutiny and external audit as well as public law challenge if appropriate.

B. Chief Officer: Planning Transport & Countryside

- 5.7 A marked version of the proposed delegations highlighting amendments for ease of reference is set out in **Appendix C** to this report.
- 5.8 Following changes to the constitution made in response to the overview and scrutiny review of planning in 2016, it has become apparent that one area of the Chief Officer: Planning Transport and Countryside delegations needs to be updated. This is in relation to the 3-5 objection procedure where officers seek the Chairman and the ward members to agree to a decision either to be delegated or to be considered by the Planning Committee where between 3-5 objections have been received. As currently written this procedure is not explicit and is ambiguous. **Appendix C** sets out the existing and the suggested changes to the delegations of the Chief Officer: Planning Transport and Countryside.

C Monitoring Officer

- 5.9 The constitution is a living document and as such to remain up to date, relatively minor amendments are frequently required to give effect to changes in the law, job titles as well as to clarify the meaning and/or effect of existing provisions. It is not always expedient for such minor consequential amendments to be referred to Council particularly in light of the forward planning process involving constitutional amendment reports having to be agreed in the first instance by CMT and Governance & Audit Committee. A recommendation is therefore brought forward for the Borough Solicitor to be authorised to make any such amendments as necessary in further satisfaction of his existing duty to ensure that the aims and principles of the constitution are given full effect.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 6.1 The Borough Solicitor is the author of this report

Borough Treasurer

6.2 There are no financial implications arising from this report

Equalities Impact Assessment

6.3 N/A

7 CONSULTATION

Principal Groups Consulted

7.1 Corporate Management Team,
Governance and Audit Committee

Background Papers

Executive response to the report of the Overview & Scrutiny Review of Procedures for Planning Applications and Enforcement (ECC O&S Panel : 5 July 2016)

Contact for further information

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Appendix A**Proposed delegation levels for Property Transactions**

1	To authorise the acquisition of a freehold purchase in accordance with the Council approved release of funding, pursuant to that objective. (Except for all commercial investment based property acquisitions which are delegated to the Executive Committee)	<u>Up to £400,000</u> Chief Officer: Property		<u>£400,001-£1m</u> Director: Corporate Services and Executive Member with advice from Chief Officer: Property	<u>Over £1M</u> Executive Member with advice from Chief Officer: Property and Director: Corporate Services
2	To authorise the disposal of a freehold or long leasehold (a lease of more than 21 years at commencement) subject to: i) the property being declared surplus by the Directorate responsible for the asset and ii) Asset Management Group having no alternative use to recommend	<u>Up to £200,000</u> Chief Officer: Property	<u>£200,001-£400,000</u> Executive Member with advice from Chief Officer: Property and Director: Corporate Services	<u>£400,001- £1m</u> Reserved to Executive	<u>Over £1M</u> Reserved to Executive
3	To authorise the grant of leases, agreements for leases or tenancy agreements, or options for any term at a rent or a licence fee up to £100k per annum.	Chief Officer: Property following agreement with the Director of Corporate Services			
4	To authorise the grant of leases, agreements for leases or tenancy agreements, or options for any term at a rent or a licence fee above £100k per annum.	Chief Officer: Property following agreement with the Director of Corporate Services and Executive Member			
5	To negotiate and complete consents, rent reviews and lease renewals (whatever the term) and give and receive statutory notices under all Landlord and Tenant legislation.	Chief Officer: Property			

Unrestricted

6	To grant a wayleave or easement to statutory undertakers at the best terms reasonably available.	Chief Officer: Property following agreement with the Director of Corporate Services
7	To grant or take a grant of any Licence or Tenancy At Will: (a) up to £100,000 p.a. (b) over £100,000 p.a.	Chief Officer: Property Chief Officer: Property following agreement with the Director of Corporate Services

In addition the following delegations to the Chief Officer Property are proposed to replace existing delegations;

- Agree all payments in connection with the acquisition of land under Compulsory Purchase Powers, including home loss and disturbance payments.
- Authorise the service of Notices under Landlord and Tenant legislation and other Agreements in respect of land.
- To negotiate and enter into any necessary arrangements for the surrender of leasehold interests to or by the Council on the best terms available.
- To take any action under the terms of a transfer of land to or by the Council, lease or licence, relating to the use, ownership or the occupation of land.
- To maintain the Council's terrier land records and other related property information.

Existing Chief Officer: Property Delegations as set out in Council Constitution

1. Subject to the exceptions and limitations in Paragraph 2 below, the Chief Officer: Property is authorised to:
 - 1.1 Grant disposal, create or acquire land or interest in land (including wayleaves and easements).
 - 1.2 Grant land disposals which are contractually required of the Council.
 - 1.3 Grant or secure licences relating to the occupation and use of land.
 - 1.4 Determine rent reviews and grant consents and/or take any other action under the terms of a transfer of land to, or by the Council, lease or licence relating to the use, ownership, and/or occupation of land
 - 1.5 Agree all payments in connection with the acquisition of land under Compulsory Purchase Powers, including home loss and disturbance payments.
 - 1.6 Authorise the service of Notices under Landlord and Tenant legislation and other Agreements in respect of land.
2. **Exceptions and Limitations**
 - 2.1 The authority to grant any lease, licence, wayleave or easement does not apply if:
 - (a) the consideration includes a premium of £50,000 or more, or
 - (b) the consideration includes a rental or other consideration of more than £50,000 per annum

Rent reviews providing for a rental of £50,000 or more shall be reported to the relevant Executive Member.
 - 2.2 The authority to take any lease, tenancy, licence, wayleave or easement by the Council does not apply to those cases where:-
 - (a) the consideration includes a premium of £50,000 or more, or
 - (b) the consideration includes a rental or other consideration of more than £10,000 per annum, or
 - (c) the duration of the interest will exceed five years.
 - 2.3 The acquisition of any freehold interest in the land is subject to the acquisition having been previously agreed, in principle, by, or on behalf of, the Executive and the consideration not exceeding £100,000.
 - 2.4 Authority to dispose of amenity land is limited to land not exceeding 0.1 hectares.
 - 2.5 Authority to dispose of the Council's interest in surplus land is limited to land not exceeding 0.2 hectares and to the disposal having been previously agreed, in principle, by, or on behalf of, the Executive.

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J. CHIEF OFFICER: PLANNING, AND TRANSPORT AND COUNTRYSIDE

1. Subject to the exceptions and reservations set out in paragraph 2 below the Chief Officer: Planning, and Transport and Countryside is authorised to exercise the functions of the Council as Local Planning Authority and contained in all other legislation relating to Town and Country Planning (including Listed Buildings and Conservation Areas) save for functions in respect of Tree Preservation Orders and hedgerows.

2. Exceptions and Limitations

(a) ~~applications (including applications to vary planning obligations or for a building to be listed but not including applications for Certificate of Lawful Use) which any single Member of the Council expressly requests should be determined by the Planning Committee, provided that the request is supported, in writing, by a valid planning reason. This exception does not apply to determination of Prior Approvals under paragraph A4 of Part 1 Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 1995 (or any order revoking or re-enacting that Order with or without modification).~~

(b) applications (including applications to vary planning obligations but not including applications for Certificate of Lawful Use) attracting more than five valid planning objections from different households or other organisations before a delegated decision is made, may not be allowed by the Chief Officer: Planning, Transport and Countryside. This exception does not apply to determination of Prior Approvals under paragraph A4 of Part 1 Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification).

(c) applications (including applications to vary planning obligations or for a building to be listed but not including applications for Certificate of Lawful Use) attracting between three and five valid planning objections from different households or other organisations before a delegated decision is made, where valid planning objections arise from not more than five households and/or organisations, may only be allowed by the Chief Officer: Planning, Transport and Countryside. Where there are between three and five valid planning objections from households and/or organisations, applications may only be allowed by the Chief Officer: Planning, Transport and Countryside if he^[MB1] considers it appropriate to do so following reference^[BP2] to the Chairman of the Planning Committee and Ward Councillors. This exception does not apply to determination of Prior Approvals under paragraph A4 of Part 1 Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 1995 (or any order revoking or re-enacting that Order with or without modification).

(d) Determination of whether an application under 2 (a) or (b) above from a member of Council staff whose role involves working directly with the Planning division should be referred to the Planning Committee. (Refer to Protocol for Members dealing with Planning matters for consideration of Applications from any Council Chief Officer)

(e) vary or release agreements made pursuant to Section 52 of the Town & Country Planning Act 1971 (whether made pursuant to other legislation or not) which either any single Member requests should not be determined by the Chief Officer or objections arise from more than three^[BP3] households and/or organisations

(f) applications which, if approved, would be contrary to the Development Plan.
~~(f) applications for buildings to be listed where there is significant public interest.~~

(~~gg~~) applications for schemes which the Chief Officer – Planning, ~~and~~ Transport and Countryside is responsible for promoting.

(~~hh~~) authority to authorise the Borough Solicitor to issue/withdraw/waive or relax Enforcement Notices, Stop Notices and Listed Building Enforcement Notices shall only be given following consultation with the Chairman of the Planning Committee.

(~~ii~~) the final approval of Local Development Documents and in respect of Development Plan Document approval for submission for examination in public.

(~~jj~~) the designation of Conservation Areas.

(~~kk~~) the revocation of planning permission.

(~~ll~~) the approval of a Supplementary Planning Document for public inspection.

(~~mm~~) decisions to modify a planning permission under Section 97 of the 1990 Act are not delegated, and

(~~nn~~) non-material amendments to a planning permission or approved plans should not be approved other than pursuant to an application under Section 96A of the 1990 Act.

(~~oo~~) confirmation of decisions to remove or restrict Permitted Development rights.

**TO: GOVERNANCE & AUDIT COMMITTEE - 29 March 2017
COUNCIL - 26 April 2017**

**STANDARDS – ANNUAL REPORT
(Director of Corporate Services – Legal)**

1. PURPOSE OF REPORT

1.1 The attached report advises Council of activity within its Standards framework during the 12 months to 31 March 2017

2. RECOMMENDATIONS

2.1 That the Council **NOTES** the Standards output in 2016/17 as set out in this report

3. REASONS FOR RECOMMENDATIONS

3.1 To keep Council apprised on an annual basis of activity relating to its Standards Regime

4. SUPPORTING INFORMATION

4.1 The Standards Framework comprises a number of elements including the code of conduct for Councillors, rules around disclosure of interests, procedure for dealing with complaints and sanctions for breach. Until its dissolution in November 2016 responsibility for oversight of the Standards Framework vested in the Standards Committee. Subsequently this has transferred to the Governance & Audit Committee.

4.2 The attached report appraises the Council of Standards related activity in from 1 April 2016 to 31 March 2017. It highlights a significant rise in complaints against Councillors during that period.

5. ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

5.1 The Borough Solicitor is the author of this report.

Borough Treasurer

5.2 There are no financial implications arising.

6. STRATEGIC RISK MANAGEMENT ISSUES

6.1 None.

Background Papers

None.

Contact for Further Information

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STANDARDS ANNUAL REPORT 2016/17

1. A Standards Framework Working Group was set up in May 2016 chaired by Councillor Iain McCracken with the following Terms of Reference:
“To review the effectiveness of the Standards Framework for Councillors currently operating in Bracknell Forest Council, having regard to:
 - *Local and national experience*
 - *The role and desirability of a Standards Committee*
 - *The effectiveness of available sanctions*
 - *The Councillor Code of Conduct”*
2. The Working Group met on three occasions between May and July 2016. It considered a report from the Borough Solicitor setting out proposals for changes to the Standards Framework which were agreed subject to a number of amendments at its final meeting on 6 July 2016.
3. The changes to the Standards Framework entailed;
 - Dissolution of the Standards Committee
 - A revised procedure for dealing with Member Code of Conduct Complaints
 - An updated process for the granting of dispensations to Members who would otherwise be prevented from participating in public meetings due to the existence of
4. As a consequence of the changes which were endorsed by Council on 30 November 2016 it was agreed that Standards Hearings should be conducted before a Panel of Governance and Audit Members (Code of Conduct Panel) including a non voting Independent Member with the Independent Person also being available to further advise the Panel. This was an alternative to the previous procedure which involved an initial “determination” by the Standards Committee which was then recommended for approval by the Governance and Audit Committee. Those arrangements were arguably unwieldy in requiring two separate meetings of Members in situations where disputes often required timely disposal.
5. As there is no statutory requirement for the Council to retain a Standards Committee. A consequence of adopting a procedure which culminates in a hearing outside the ambit of the Standards Committee was to throw into doubt the continuing viability of that Committee leading to its dissolution by Council on 30 November 2016.

Complaints

6. Under the current procedure for the handling of complaints alleging a breach of the Code of Conduct for Members, a complaint is first considered by the Monitoring Officer. The options available to the Monitoring Officer at that stage are:-

- refer for investigation
- refer for some other form of action (“other action”)
- determine that no further action is required.(“no action”)

If a complaint is referred for investigation the ensuing report is considered by the statutory Independent Person and the Monitoring Officer. At that stage the options are:-

- refer to a Code of Conduct Panel for consideration.
- refer for resolution by some other form of action (e.g. if the investigation finds that there has been a breach and the Member agrees to apologise)
- no further action required (investigation finds no breach which conclusion is agreed by the independent person and Monitoring Officer)

7. In the period between 1 April 2016 and 31 March 2017 the Monitoring Officer received 7 complaints alleging breaches of Codes of Conduct for Members. The grounds of each complaint and its outcome are set out in the table below.

	Date of Complaint	Status of Complainant	Borough or Parish Councillor	Grounds of Complaint	Outcome
1	June 2016	Resident	Borough	Participation at Planning meeting notwithstanding alleged conflict of interest	No action - Deputy Monitoring officer enquiries in consultation with Independent Person concluded there was no breach of the Code of Conduct
2	July 2016	Resident	Borough	Failure to treat others with respect/bringing office into disrepute at public consultation meeting	No action. Monitoring Officer enquiries revealed that neither officer cited in the complaint (by a third party) expressed any grievance against the Councillor arising from the behaviour alleged. In the circumstances deemed not in public interest to investigate.
3	July 2016	Resident	Borough	Alleged inappropriate postings of	No action (Not in official capacity therefore Code of Conduct not engaged)

Unrestricted

				facebook	
4	July 2016	Resident	Borough	Bringing office into disrepute	No action (Not in official capacity therefore Code of Conduct not engaged)
5	October 2016	Resident	Town Councillor	Neighbour dispute –alleged bullying	No action (Not in official capacity therefore Code of Conduct not engaged)
6	November 2016	Resident	Borough	Bringing office into disrepute- Complaint against written statement provided by Councillor to one party in family law court case.	No action (Councillor apologised at outset to complainant and complainant accepted apology)
7	December 2016	Resident	Borough	Alleged failure by four Councillors to declare interests at Planning meeting and/or include property in their respective register of Interests	Other action. Councillors accepted oversight and updated their register entries. Deputy Monitoring Officer provided advice and guidance around declarations of interests and participation in meetings to prevent future breaches.

In addition, a complaint which was issued in 2015/16 involving two councillors and Members of staff at a local primary school was referred for investigation and thereafter referred to a Standards hearing. The hearing took place on 28 November and the complaint was resolved on the day between the parties without recourse to a Panel finding.

The number of complaints received represents a significant increase compared to previous years;

Year	No. of Complaints	Upheld
2008/09	0	0
2009/10	6	2
2010/11	1	0
2011/12	2	0
2012/13	4	0
2013/14	6	0
2014/15	5	0
2015/16	2	0

Councillors are reminded of their duties both in respect of the rules relating to the registration and disclosure of Interests set out in the Code of Conduct and their behavioural obligations under the Code.