



NOTICE OF MEETING

Governance & Audit Committee
Wednesday 31 October 2018, 7.30 pm
Council Chamber - Time Square, Market Street, Bracknell,
RG12 1JD

To: The Governance & Audit Committee

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

Independent Member

Mr D St John Jones

cc: Substitute Members of the Committee

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

GILL VICKERS
Executive Director: Delivery

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Published: 23 October 2018



Governance & Audit Committee
Wednesday 31 October 2018, 7.30 pm
Council Chamber - Time Square, Market Street, Bracknell,
RG12 1JD

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. 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 of previous meeting

To approve as a correct record the minutes of the meeting of the Committee held on 25 July 2018.

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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. Annual Audit Letter for the Year Ended 31 March 2018

To receive the Annual Audit Letter for the year ended 31 March 2018 from the Council's external auditor Ernst & Young.

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6. Interim Internal Audit Report April to September 2018

To note the Head of Audit and Risk Management report that provides a summary of Internal Audit activity during the period April to September 2018.

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7. **Review of the Constitution**
To review the recommended changes to the Constitution for approval by the Council. 57 - 82

8. **Governance: Bracknell Forest Council and the Voluntary Sector**
To review the Council's future role in the governance of voluntary sector organisations that may or may not be in receipt of revenue grant aid from the authority and to make recommendations to the Council. 83 - 88

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GOVERNANCE & AUDIT COMMITTEE
25 JULY 2018
7.30 - 8.20 PM



Bracknell Forest Borough Council:

Councillors Allen (Chairman), Thompson (Vice-Chairman), Heydon, Leake, McLean and Worrall

Apologies for absence were received from:

Councillors Ashman and Mrs Temperton
Mr D St John Jones: Independent Co-opted Member

Also Present:

Stuart McKellar, Borough Treasurer
Arthur Parker, Chief Accountant
Justine Thorpe, Audit Manager: Ernst & Young
Councillor Peacey

12. Declarations of Interest

There were no declarations of interest.

13. Minutes of previous meeting

It should be recorded that, for the Governance and Audit Committee meeting on 27 June 2018 apologies for absence had been provided in advance of the meeting by Councillors Leake and McLean.

RESOLVED that, subject to the amendments above, the minutes of the meeting of the committee held on the 27 June 2018 be approved as a correct record, and signed by the Chairman.

14. Urgent Items of Business

There were no urgent items of business.

15. Financial Statements 2017/18

The Committee considered the Financial Statements for 2017/18. Stuart McKellar, Borough Treasurer, and Arthur Parker, Chief Accountant, attended the meeting to brief members on the key points within the Statements.

The Borough Treasurer provided an introduction to the financial statements. The Committee were advised that it had been a hard year for the finance team. There had been a number of changes partway through the year, and some glitches had been experienced during the reconciliations, but the team had now resolved the issues and had rallied towards the end of the year. Despite the challenging timetable and pressures the team had responded well and overall it had been a successful

process. The Borough Treasurer gave thanks to Arthur Parker, Chief Accountant and his team for their achievements.

The Chief Accountant highlighted some of the key points of note within the financial statements.

- The actual outturn for the General Fund was within budget with an under spend of -£0.544m. As a result of the underspend, the Council only had to withdraw £2.024m from General Reserves rather than the budgeted £2.568m and finished the year with a healthy balance.
- There was an over spend within Children's Social Care of £3.027m but this had been reduced to £1.139m by an allocation from the Contingency.
- There was an over spend within Adult Social Care of £1.47m which had been offset by under spends on housing of -£0.531m and joint commissioning of -£0.310m primarily within the budget for grants and donations, and from additional Better Care and Health Care funding.
- Within Environment, Culture and Communities there had been under spends of -£0.638m on waste disposal.
- Higher cash balances had been sustained throughout the year resulting in lower borrowing and therefore interest payable plus a discount from paying pension fund contributions in advance resulted in a -£1.85m underspend.
- There had been an under spend against the Minimum Revenue Provision of -£0.686m.

The Chief Accountant highlighted some changes in the statements.

- The Comprehensive Income and Expenditure Statement includes a number of non cash items. The deficit on provision of services is approaching £44 million (£43.885m). The reason is that there was a £53 million loss on the disposal of property, plant and equipment which relates to 5 schools becoming academies where these assets were removed from the balance sheet. This shows as a loss but this doesn't impact on council tax and thus has no impact on the end of year underspend.
- The Movement in Reserves Statement shows that General Reserves have reduced by the £2m to just over £9m in 2017/18.
- Long term assets had increased significantly. 3 further investment properties had been purchased and there had been an increase in assets under construction with some still to be completed.
- Within current assets there had been a significant increase in short term debtors, estimated to be around £13m. About half of this increase is due to the CIL construction industry levy where significant sums are receivable but payments are in instalments.
- Under Liabilities, there had been a significant increase in long and short term borrowing. Increased borrowing had been required for the capital programme.
- Earmarked reserves had seen a significant increase with almost £9m going in to the Future Funding Reserve to help balance the budget in the medium term.

In response to Member's questions, the Chief Accountant explained how there could be a shortfall on the amount spent on interest by clarifying that the under spend on interest payments was partly due to the timing of the borrowing which had been later in the year than originally forecast. A prepayment of pension contributions to the pension fund had also helped to generate an under spend on interest.

The Chairman congratulated the Borough Treasurer and the Chief Accountant for their careful and prudent treasury management.

In response to a question, the Borough Treasurer explained that Minimum Revenue Provision (MRP) was lower than the original budget in 16/17 as capital receipts had been higher than forecast and capital spend was down. The MRP charge was impacted by this and it was significantly below forecast. The Chief Accountant confirmed that the Council would continue to use the recently introduced annuity approach to calculating MRP.

The purpose of Downshire Homes Limited (DHL) as described in the Narrative Report of the Financial Statements was questioned. The Committee queried the purpose of DHL and whether the purpose was to provide housing in general, not to just provide housing for the homeless and those with learning difficulties and that the definition in the narrative might give the wrong impression.

The Borough Treasurer was asked to provide some further explanation on his understanding of the purpose and governance arrangements of DHL.

In response to Members' questions the Borough Treasurer explained:

- The Chief Accountant's team would be aware of the use of the capital loan of £5.9m made to DHL as they provide financial support to DHL.
- The loan agreement describes how the loan money can be used within the Terms of the Agreement. If Downshire Homes Ltd were, for example, to buy a property abroad, they would be in breach of the loan agreement. The Borough Treasurer quoted from the loan agreement to support his point. "**Purpose**" means the use to which the loan will be put, namely the purchase of properties to house homeless people and individuals with specialist needs in Bracknell Forest as agreed by the Council's Executive on 31 March 2015, or as subsequently amended by the Council;
- The use of the loan is determined by the Council and Council would have to agree to any amendments. If DHL wanted to spend the money on something they would have to go to Council for agreement. If DHL wished to change the governance arrangements, this would have to be approved through Council. All decisions relating to the loan and the way it is used are matters for the Council to determine. Individual Executive Members who sit on the DHL Board cannot make decisions on behalf of the Council.
- At the point the narrative report was written, the governance statement was accurate.
- Governance arrangements need to be strong for a subsidiary company, and £6m or £7m loan is significant but the governance arrangements are suitable.
- The narrative report wording accurately reflected the purpose of DHL. Cllr Heydon confirmed that none of the directors of DHL have a financial interest in the company, while Cllr MacLean stated that, in their capacity as Directors of DHL, they have fiduciary responsibilities to the company and are not representing the council.

Councillor Heydon advised that DHL had changed its remit from buying homes for specific groups of people, which had been approved by the Executive in July.

The Chief Accountant provided some further explanation to the question around the materiality of Downshire Homes Limited.

- DHL existed prior to 17/18.
- DHL became operational in 2016/17 but its value was not material enough to warrant group accounts. Due to the additional loan in 2017/18 this was no longer the case and group accounts were now required.

RESOLVED that

- i) the Financial Statements for 2017/18 be approved as attached at Annexe A of the agenda report;
- ii) the Chairman of the meeting be authorised to sign and date the Statement of Accounts on behalf of the Committee;
- iii) the Chairman of the meeting be authorised to sign and date the Letter of Representation as set out in Annexe B of the agenda report.

16. External Audit Results Report

The Committee received a report by the Council's external auditor summarising the work carried out to discharge their statutory audit responsibilities.

Justine Thorpe, Audit Manager, Ernst & Young, attended the meeting to present the Audit Results Report to the Committee.

The external auditor confirmed that they had substantially completed their audit of Bracknell Forest Council (The Authority) for the year ended 31 March 2018. Subject to concluding the outstanding matters in the report, they confirmed that they expect to issue an unqualified audit opinion on the financial statements before the statutory deadline of 31 July 2018. They also had no matters to report on the Authority's arrangements to secure economy, efficiency and effectiveness in the use of the Authority's resources.

The Audit Manager explained to the Committee that clarity was needed as to whether the accounts prepared should use data provided to her by the auditor of the Pension Fund, which differed materially from that used to prepare the accounts, due to a timing difference and significant changes to Gilt values at the end of March. Officers believed they had the most accurate information available at the time which is what they used to base their figures on but would review the new information provided. Until this was clear, the accounts may need adjusting.

Subject to resolving this matter, it was expected that Helen Thompson, Associate Partner Ernst & Young would provide her formal opinion and sign the accounts on Friday 27 July 2018.

Given this uncertainty, the Chairman suggested that his preference would be to sign the final accounts as close to the deadline of 31 July as possible.

The external auditor confirmed that the Authority's financial team had provided high quality accounts and documentation and that overall it was a good audit for the team and the Council.

The Value for Money conclusion was clean, although the risk around the sustainability of the medium term financial plan was a common issue for all authorities. It was noted that the Council has plans in place, with inevitable challenges.

The Chairman summarised that the Council had been let down by an external body. He gave thanks to and congratulated the Borough Treasurer and his team for the fact that the audit has nothing to note.

Clarity was sought as to where the “Key Audit Issues” section of the report was located. The external auditor clarified this was covered in the section titled “Areas of Audit Focus”.

Action: The external auditor to amend the titles so they match.

It was observed that, on page 9 of the report in the “What are our conclusions?” box text, there is a misleading dotted line box at the bottom right hand of the page.

Action: The external auditor agreed to remove the dotted box from its position.

RESOLVED that the report by the Council’s external auditor summarising the work carried out to discharge their statutory audit responsibilities be noted.

CHAIRMAN

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**TO: GOVERNANCE AND AUDIT COMMITTEE
31 OCTOBER 2018**

**ANNUAL AUDIT LETTER FOR 2017-18
Borough Treasurer**

1 Purpose Of Report

- 1.1 To enable the Council's External Auditors to present to the Committee their Annual Audit Letter covering findings from the 2017/18 financial year.

2 Recommendation(s)

- 2.1 The Committee receives the Annual Audit Letter for the year ended 31 March 2018 from the Council's external auditor Ernst & Young.**

3 Reasons For Recommendations

- 3.1 To ensure that the Committee is aware of External Audit's work and findings.

4 Alternative Options Considered

- 4.1 None available.

5 Supporting Information

- 5.1 The Council's External Auditor Ernst and Young has provided for the Committee a report setting out the results of its recent work. Helen Thompson, Director, Ernst & Young will attend the meeting to present the report and answer questions.

6. Borough Solicitor's comments

- 6.1 Nothing to add to the report.

7. Borough Treasurer's comments

- 7.1 Nothing to add to the report.

8. Other Officers

- 8.1 Not applicable.

9. Equalities Impact Assessment

- 9.1 Not applicable.

10. Strategic Risk Management Issues

- 10.1 None arising from this report.

11. Principal Groups Consulted

- 11.1 Not applicable

12. Background Papers

12.1 None

13. Contact for further information

Stuart McKellar, Borough Treasurer - 01344 352180
stuart.mckellar@bracknell-forest.gov.uk

Bracknell Forest Council

Annual Audit Letter

Year ended 31 March 2018

August 2018

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EY

Building a better
working world

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Public Sector Audit Appointments Ltd (PSAA) have issued a 'Statement of responsibilities of auditors and audited bodies'. It is available from the Chief Executive of each audited body and via the PSAA website (www.psa.co.uk)

The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The 'Terms of Appointment (updated 23 February 2017)' issued by PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and statute, and covers matters of practice and procedure which are of a recurring nature.

This Annual Audit Letter is prepared in the context of the Statement of responsibilities. It is addressed to the Members of the audited body, and is prepared for their sole use. We, as appointed auditor, take no responsibility to any third party.

Our Complaints Procedure - If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may take the issue up with your usual partner or director contact. If you prefer an alternative route, please contact Steve Varley, our Managing Partner, 1 More London Place, London SE1 2AF. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. Should you remain dissatisfied with any aspect of our service, you may of course take matters up with our professional institute. We can provide further information on how you may contact our professional institute.



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01

Executive Summary

Executive Summary

We are required to issue an annual audit letter to Bracknell Forest Council following completion of our audit procedures for the year ended 31 March 2018. Below are the results and conclusions on the significant areas of the audit process.

Area of Work	Conclusion
Opinion on the Council's:	Unqualified - the financial statements give a true and fair view of the financial position of the Council as at 31 March 2018 and of its expenditure and income for the year then ended.
▶ Financial statements	
▶ Consistency of other information published with the financial statements	Other information published with the financial statements was consistent with the Annual Accounts.
Concluding on the Council's arrangements for securing economy, efficiency and effectiveness	We concluded that you have put in place proper arrangements to secure value for money in your use of resources.

Area of Work	Conclusion
Reports by exception:	
▶ Consistency of the Annual Governance Statement	The Annual Governance Statement was consistent with our understanding of the Council.
▶ Public interest report	We had no matters to report in the public interest.
▶ Written recommendations to the Council, which should be copied to the Secretary of State	We had no matters to report.
▶ Other actions taken in relation to our responsibilities under the Local Audit and Accountability Act 2014	We had no matters to report.

Area of Work	Conclusion
Reporting to the National Audit Office (NAO) on our review of the Council's Whole of Government Accounts return (WGA).	We had no matters to report.

Executive Summary (cont'd)

As a result of the above we have also:

Area of Work	Conclusion
Issued a report to those charged with governance of the Council communicating significant findings resulting from our audit.	Our Audit Results Report was issued on 25 July 2018.
Issued a certificate that we have completed the audit in accordance with the requirements of the Local Audit and Accountability Act 2014 and the National Audit Office's 2015 Code of Audit Practice.	Our audit certificate was issued on 31 July 2018.

By November 2018 we will also issue a report to those charged with governance of the Council summarising the housing benefit certification work we have undertaken.

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We would like to take this opportunity to thank the Council's staff for their assistance during the course of our work.

Helen Thompson

Associate Partner

For and on behalf of Ernst & Young LLP



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02

Purpose and Responsibilities

Purpose and Responsibilities

The Purpose of this Letter

The purpose of this annual audit letter is to communicate to Members and external stakeholders, including members of the public, the key issues arising from our work, which we consider should be brought to the attention of the Council.

We have already reported the detailed findings from our audit work in our 2017/18 Audit Results Report to the 25 July 2018 Governance and Audit Committee, representing those charged with governance. We do not repeat those detailed findings in this letter. The matters reported here are the most significant for the Council.

Responsibilities of the Appointed Auditor

Our 2017/18 audit work has been undertaken in accordance with the Audit Plan we issued on 31 January 2018 and is conducted in accordance with the National Audit Office's 2015 Code of Audit Practice, International Standards on Auditing (UK and Ireland), and other guidance issued by the National Audit Office.

As auditors we are responsible for:

➤ expressing an opinion:

- on the 2017/18 financial statements; and
- on the consistency of other information published with the financial statements.

▶ forming a conclusion on the arrangements the Council has to secure economy, efficiency and effectiveness in its use of resources.

▶ reporting by exception:

- if the annual governance statement is misleading or not consistent with our understanding of the Council;
- any significant matters that are in the public interest;
- any written recommendations to the Council, which should be copied to the Secretary of State; and
- if we have discharged our duties and responsibilities as established by the Local Audit and Accountability Act 2014 and Code of Audit Practice.

Alongside our work on the financial statements, we also review and report to the National Audit Office (NAO) on your Whole of Government Accounts return. The Council is below the specified audit threshold of £500 million, therefore we did not perform any audit procedures on the return.

Responsibilities of the Council

The Council is responsible for preparing and publishing its statement of accounts accompanied by an annual governance statement (AGS). In the AGS, the Council reports publicly each year on how far it complies with its own code of governance, including how it has monitored and evaluated the effectiveness of its governance arrangements in year, and any changes planned in the coming period.

The Council is also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.



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03

Financial Statement Audit

Financial Statement Audit

Key Issues

The Council's Statement of Accounts is an important tool for the Council to show how it has used public money and how it can demonstrate its financial management and financial health. We audited the Council's Statement of Accounts in line with the National Audit Office's 2015 Code of Audit Practice, International Standards on Auditing (UK and Ireland), and other guidance issued by the National Audit Office and issued an unqualified audit report on 31 July 2018. Our detailed findings were reported to 25 July 2018 Governance and Audit Committee.

The key issues identified as part of our audit were as follows:

Significant Risk

Conclusion

Misstatements due to fraud or error

As identified in ISA (UK and Ireland) 240, management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. We identify and respond to this fraud risk on every audit engagement.

We focused on:

- ▶ understanding the risks of fraud and the controls put in place to address those risks by management and how the Governance and Audit Committee oversees management's processes over fraud.
- ▶ considering the effectiveness of management's controls designed to address the risk of fraud.
- ▶ determining an appropriate strategy to address those identified risks of fraud.
- ▶ performing mandatory procedures in respect of journal entries, estimates and significant unusual transactions.
- ▶ reviewing management's calculation of the MRP (Minimum Revenue Provision), NDR provision and changes to accounting policies.

We:

- wrote to the Borough Treasurer, Chairman of the Governance and Audit Committee, Head of Internal Audit and Monitoring Officer in this regard and reviewed their responses.
- documented our understanding of the controls relevant to this significant risk and considered whether they have been appropriately designed.
- tested the appropriateness of journal entries recorded in the general ledger and other adjustments made in preparing the financial statements.
- reviewed accounting estimates for evidence of management bias, in particular the MRP and NDR Provision.
- evaluated the business rationale for any significant unusual transactions.

- We have not identified any material weaknesses in controls or evidence of material management override.
- We have not identified any instances of inappropriate judgements being applied. Our review of management's calculation of the MRP (Minimum Revenue Provision) and NDR provision did not identify any issues which required an amendment to the Council's financial statements.
- We did not identify any other transactions during our audit which appeared unusual or outside the Council's normal course of business.

Financial Statement Audit (cont'd)

The key issues identified as part of our audit were as follows: (cont'd)

Significant Risk	Conclusion
<p>First time preparation of group accounts</p> <p>The Council established a local housing company during 2016/17 to help the Council meet rising demand to provide homes for homeless households, households with learning disabilities and/or autism and care leavers. In 2016/17 the budgeted spend was £6.5m which was relatively low and therefore the Council did not prepare grouped accounts in 2016/17.</p> <p>For 2017/18, housing activity has increased and an extra £7 million of capital funding was granted to Downshire Homes in March 2017. Given the significant increase in expenditure in 2017/18, the Council are required to prepare group accounts as our planning materiality for the 2017/18 audit is £5.543m.</p> <p>We focused on:</p> <ul style="list-style-type: none">▶ agreeing the completeness of the components in the Council's Group Accounts;▶ understanding the Group accounting policies and disclosures and confirm their completeness and appropriateness; <p>We:</p> <ul style="list-style-type: none">• reviewed the Council's group accounts and relevant disclosures for its subsidiary, Downshire Homes Ltd.• assessed the appropriateness of any significant judgements and assumptions made.• tested the 2016/17 comparatives and proposed accounting policies and disclosures as part of our interim audit.• carried out year end testing of the 2017/18 transactions and balances generated, the consolidation of the components into the group accounts, and reviewed the elimination of intra-group transactions and balances.	<ul style="list-style-type: none">• Our testing identified no misstatements in the Council's group accounts and relevant disclosures.• We did not identify any other group transactions during our audit which appeared to be misstated, material or otherwise.

Financial Statement Audit (cont'd)

Other Key Findings	Conclusion
<p>Property, Plant and Equipment Valuation</p> <p>We:</p> <ul style="list-style-type: none"> ▶ considered the work performed by the Council's valuers, including the adequacy of the scope of the work performed, their professional capabilities and the results of their work. ▶ considered the annual cycle of valuations to ensure that assets have been valued within a 5 year rolling programme as required by the Code for PPE. We also considered if there were any specific changes to assets that had occurred and that these had been communicated to the valuer. ▶ reviewed assets not subject to valuation in 2017/18 to confirm that the remaining asset base is not materially misstated. 	<p>Our testing identified no material misstatement from inappropriate judgements being applied to the property valuation estimates.</p> <p>We did not identify any other assets during our audit which appeared to be misstated, material or otherwise.</p>
<p>Pension Liability Valuation</p> <p>We:</p> <ul style="list-style-type: none"> ▶ liaised with the auditors of the administering authority (Windsor and Maidenhead Borough Council), to obtain assurances over the information supplied to the actuary in relation to Bracknell Forest Council. ▶ assessed the work of the Pension Fund actuary including the assumptions they have used by relying on the work of PWC - Consulting Actuaries commissioned by National Audit Office for all Local Government sector auditors, and considering any relevant reviews by the EY actuarial team. ▶ reviewed and tested the accounting entries and disclosures made within the Council's financial statements in relation to IAS19. 	<p>The estimate used by the actuary to calculate Bracknell Forest's share of Berkshire Pension Fund's assets does not fully reconcile to the value of those assets at 31 March 2018. This is not material and relates to the fact that the actuary provides an estimate for the asset value of the fund at a point in time to be used appropriately in the preparation of the financial statements. At the time of our audit, the asset value at 31 March 2018 is known and the difference for the total fund is an increase of approximately £8.6m. This is not an error but a difference caused by the timing of the estimate made by the actuary of the fund and the actual values subsequently being available.</p> <p>Bracknell Forest's share of this difference has been estimated to be £1.073k. This was treated as an unadjusted audit difference.</p>
<p>Private Finance Initiative</p> <p>We:</p> <ul style="list-style-type: none"> ▶ reviewed assurances brought forward from prior years regarding the appropriateness of the PFI waste accounting model; ▶ reviewed the PFI waste accounting model for any significant changes. Following consideration of this we did not need to engage our internal experts as there were no significant changes in year; ▶ agreed the outputs of the model to the accounts, including balances and disclosures for Assets, Liabilities, and Expenditure and reviewed the completeness and accuracy of PFI disclosures. 	<p>We concluded our work on PFI Accounting and noted no material issues. Our PFI expert identified some non-material differences in the output from the Waste PFI model.</p> <p>We will discuss these differences with officers during our 2018/19 audit and will, if necessary, engage our internal experts.</p>

Financial Statement Audit (cont'd)

Our application of materiality

When establishing our overall audit strategy, we determined a magnitude of uncorrected misstatements that we judged would be material for the financial statements as a whole.

Item	Thresholds applied
Planning materiality	<p>We determined planning materiality to be £5.5million (2016/17: £5.5million), which is 2% of the net operating expenditure reported in the accounts of £277.7 million.</p> <p>We consider net operating expenditure to be one of the principal considerations for stakeholders in assessing the financial performance of the Council.</p>
Reporting threshold	<p>We agreed with the Governance and Audit Committee that we would report to the Committee all audit differences in excess of £278,000 (2016/17: £277,000).</p>

We evaluate any uncorrected misstatements against both the quantitative measures of materiality discussed above and in light of other relevant qualitative considerations.



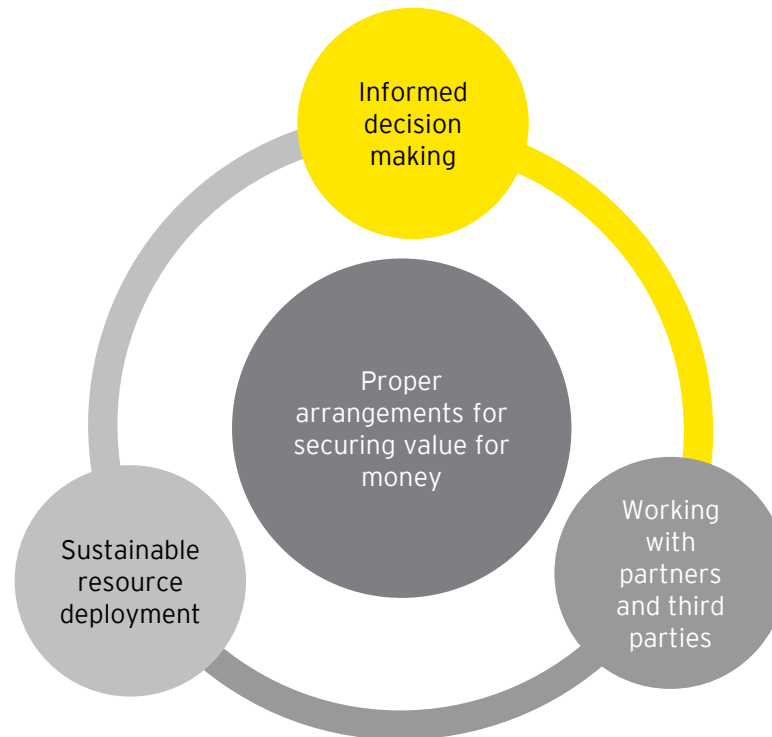
04 Value for Money

Value for Money

We are required to consider whether the Council has put in place 'proper arrangements' to secure economy, efficiency and effectiveness on its use of resources. This is known as our value for money conclusion.

Proper arrangements are defined by statutory guidance issued by the National Audit Office. They comprise your arrangements to:

- ▶ Take informed decisions;
- ▶ Deploy resources in a sustainable manner; and
- ▶ Work with partners and other third parties.



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We identified the delivery of a sustainable medium term financial strategy as a significant risk to our Value for Money Conclusion in our audit planning report, which we presented to the Governance and Audit Committee in January 2018. We reviewed the Council's production of its Medium Term Financial Plan and have set out our findings overleaf.

We have performed the procedures outlined in our audit plan. We did not identify any significant weaknesses in the Council's arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people

Value for Money (cont'd)

Significant Risk

Delivery of a sustainable medium term financial strategy

The Council's financial planning currently covers three years and is documented in its "Medium Term Financial Strategy (MTFS) 2017/18 to 2019/20" and its four year "Efficiency Plan 2016 to 2020". These both document how the Council intends to cover the identified £20 million funding gap to March 2020.

The Council's significant financial challenge is also recorded in the Strategic Risk Register which includes an action to revise the MTFS by the end of Quarter 2. The Council needs to update its MTFS, as one document, to ensure that its financial planning recognises the key risks around financial sustainability over a longer period, taking account of cuts in government funding, fluctuations in income through the business rates retention scheme, uncertainties around the New Homes Bonus, the revenue cost of borrowing and the achievement of efficiency savings required through transformational change.

The Council's transformational change programme is critical in enabling the Council to delivering the level of savings needed for a sustainable financial future. However, there are no predictions as to what the funding gaps are in 2020/21 and 2021/22 will be, and therefore the savings required to continue to deliver a balanced budget in future years. We reviewed the Council's Medium Term Financial Strategy to assess whether the financial planning in place is sufficient to position the Council on a sustainable financial footing in the medium term.

Conclusion

The delivery of the Council's strategic priorities has been underpinned by good financial forecasts, risks and assumptions which have been disclosed and reported by management to Council and Members throughout the 2017/18 financial year. The Council had appropriate processes for setting its 2017/18 and 2018/19 budgets. Budget assumptions are reasonable, although these are best estimates as there still are many uncertainties, particularly surrounding the impact of the new arrangements with Business Rates, the New Homes Bonus and the continuing uncertain economic climate.

The medium term financial planning process is comprehensive and reported on an annual basis. The figures in the plan can be agreed to detailed working papers with reasonable assumptions. This is the first year that the Council has put together a plan which now forecasts over four years. The level of reserves are reasonable: at the end of 2017/18, the General Fund reserves were £9.047 million which is more than double the minimum level of reserves at £4 million. However, there are significant financial pressures to come in future years and the current level of reserves provides the Council with a transitional opportunity to prepare for those future pressures without the need for sudden reductions in service levels.



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05 Other Reporting Issues



Other Reporting Issues

Whole of Government Accounts

We performed the procedures required by the National Audit Office on the accuracy of the consolidation pack prepared by the Council for Whole of Government Accounts purposes. We had no issues to report.

Annual Governance Statement

We are required to consider the completeness of disclosures in the Council's Annual Governance Statement, identify any inconsistencies with the other information of which we are aware from our work, and consider whether it is misleading. We completed this work and did not identify any areas of concern.

Report in the Public Interest

We have a duty under the Local Audit and Accountability Act 2014 to consider whether, in the public interest, to report on any matter that comes to our attention in the course of the audit in order for it to be considered by the Council or brought to the attention of the public.

We did not identify any issues which required us to issue a report in the public interest.

Written Recommendations

We have a duty under the Local Audit and Accountability Act 2014 to designate any audit recommendation as one that requires the Council to consider it at a public meeting and to decide what action to take in response.

We did not identify any issues which required us to issue a written recommendation.

Other Reporting Issues (cont'd)

Objections Received

We did not receive any objections to the 2017/18 financial statements from members of the public.

Other Powers and Duties

We identified no issues during our audit that required us to use our additional powers under the Local Audit and Accountability Act 2014.

Independence

We communicated our assessment of independence in our Audit Results Report to the Governance and Audit Committee on 31st January 2018. In our professional judgement the firm is independent and the objectivity of the audit engagement partner and audit staff has not been compromised within the meaning regulatory and professional requirements.

Control Themes and Observations

It is the responsibility of the Council to develop and implement systems of internal financial control and to put in place proper arrangements to monitor their adequacy and effectiveness in practice. Our responsibility as your auditor is to consider whether the Council has put adequate arrangements in place to satisfy itself that the systems of internal financial control are both adequate and effective in practice.

As part of our audit of the financial statements, we obtained an understanding of internal control sufficient to plan our audit and determine the nature, timing and extent of testing performed. As we have adopted a fully substantive approach, we have therefore not tested the operation of controls. Although our audit was not designed to express an opinion on the effectiveness of internal control we are required to communicate to you significant deficiencies in internal control.

We have not identified any significant deficiencies in the design or operation of an internal control that might result in a material misstatement in your financial statements of which you are not aware.



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07 Focused on your future



Focused on your future

The Code of Practice on Local Authority Accounting in the United Kingdom introduces the application of new accounting standards in future years. The impact on the Council is summarised in the table below.

Standard	Issue	Impact
IFRS 9 Financial Instruments	<p>Applicable for local authority accounts from the 2018/19 financial year and will change:</p> <ul style="list-style-type: none"> ▶ How financial assets are classified and measured; ▶ How the impairment of financial assets are calculated; and ▶ The disclosure requirements for financial assets. <p>There are transitional arrangements within the standard and the 2018/19 Accounting Code of Practice for Local Authorities has now been issued, providing guidance on the application of IFRS 9. In advance of the Guidance Notes being issued, CIPFA have issued some provisional information providing detail on the impact on local authority accounting of IFRS 9, however the key outstanding issue is whether any accounting statutory overrides will be introduced to mitigate any impact.</p>	<p>IFRS 9 Financial Instruments: The 2018/19 Code introduces IFRS 9 on financial instruments. Your view is that the impact on the Council's financial statements will be immaterial. The Council will need to keep this standard under continued focus during 2018/19 because statutory overrides may be introduced by central government.</p>
IFRS 15 Revenue from Contracts with Customers	<p>Applicable for local authority accounts from the 2018/19 financial year. This new standard deals with accounting for all contracts with customers except:</p> <ul style="list-style-type: none"> ▶ Leases; ▶ Financial instruments; ▶ Insurance contracts; and ▶ For local authorities; Council Tax and NDR income. <p>The key requirements of the standard cover the identification of performance obligations under customer contracts and the linking of income to the meeting of those performance obligations.</p> <p>Now that the 2018/19 Accounting Code of Practice for Local Authorities has been issued it is becoming clear what the impact on local authority accounting will be. As the vast majority of revenue streams of Local Authorities fall outside the scope of IFRS 15, the impact of this standard is likely to be limited.</p>	<p>IFRS 15 Revenue from Contracts with Customers: Similarly the 2018/19 Code of Practice on Local Authority Accounting for the United Kingdom determines how IFRS 15 Revenue from Customers with Contracts will be adopted by local government bodies. In your view, IFRS 15 will not have a material impact on the single entity financial statements as the vast majority of your income streams are taxation or grant based.</p>



Focused on your future (cont'd)

Standard	Issue	Impact
IFRS 16 Leases	<p>It is currently proposed that IFRS 16 will be applicable for local authority accounts from the 2019/20 financial year.</p> <p>Whilst the definition of a lease remains similar to the current leasing standard; IAS 17, for local authorities who lease a large number of assets the new standard will have a significant impact, with nearly all current leases being included on the balance sheet.</p> <p>There are transitional arrangements within the standard and although the 2019/20 Accounting Code of Practice for Local Authorities has yet to be issued, CIPFA have issued some limited provisional information which begins to clarify what the impact on local authority accounting will be. Whether any accounting statutory overrides will be introduced to mitigate any impact remains an outstanding issue.</p>	<p>Until the 2019/20 Accounting Code is issued and any statutory overrides are confirmed there remains some uncertainty in this area.</p> <p>However, what is clear is that the Council will need to undertake a detailed exercise to identify all of its leases and capture the relevant information for them. The Council must therefore ensure that all lease arrangements are fully documented.</p>



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Audit Fees

Audit Fees

Services provided by Ernst & Young

As part of our reporting on our independence, we set out below a summary of the fees paid for the year ended 31 March 2018.

Our fee for 2017/18 is in line with the scale fee set by the PSAA and reported in our 31st January 2018 Audit Plan.

	Final Fee 2017/18	Planned Fee 2017/18	Scale Fee 2017/18	Final Fee 2016/17
	£	£	£	£
Total Audit Fee - Code work	104,726	104,726	104,726	104,726
Total non-audit services - Housing Benefit Subsidy	25,125*	25,125	25,125	20,100
Total	129,851	129,851	129,851	124,826

* The final fee will be confirmed once we have completed our procedures on the Housing Benefit subsidy claim which is due by 30 November 2018

We confirm we have not undertaken any non-audit work outside of the PSAA's requirements.

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ED None

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**TO : GOVERNANCE AND AUDIT COMMITTEE
31st OCTOBER 2018**

**INTERNAL AUDIT INTERIM REPORT
April –September 2018**

(Head of Audit and Risk Management)

1. Purpose Of Report

- 1.1 This report provides a summary of Internal Audit activity during the period April to September 2018.

2. Executive Summary

- 2.1 The report summarises progress and outcome of work carried out by both internal audit contractors and the in-house team in accordance with the Annual Internal Audit Plan approved by the Governance and Audit Committee. Any significant developments since the time of writing will be reported verbally to the Committee and included in future assurance reports.

3. Recommendation

- 3.1 The Governance and Audit Committee are asked to note the attached report.**

4. Reasons For Recommendation

- 4.1 To ensure that the Governance and Audit Committee are aware of the internal audit work performed and conclusions reached.

5. Alternative Options Considered

- 5.1 No alternative options available.

6. Supporting Information

- 6.1 Under the Council's Constitution and Scheme of Delegation the Borough Treasurer is responsible for the administration of the financial affairs of the Council under Section 151 of the Local Government Act 1972. Professional guidance issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) requires the provision of an effective Internal Audit function to partly fulfil his responsibilities under Section 151.

- 6.2 The provision of Internal Audit services is largely outsourced to Mazars Public Sector Internal Audit. Mazars are responsible for delivering approximately two thirds of the audits set out in the Annual Internal Audit Plan approved by the Governance and Audit Committee in March 2018. IT audits are undertaken by TIAA Limited. The remaining audits are delivered by Wokingham internal audit team under an agreement under Section 113 of the Local Government Act 1972 which provides for the sharing of staff resources or are undertaken in house. The attached report summarises delivery to date on the audits approved under the Plan and other assurance activities carried out in-house within Audit and Risk Management.

7. Borough Solicitor's Comments

7.1 Nothing to add.

8. Borough Treasurer's Comments

8.1 Nothing to add.

9. Other Officer's Comments

9.1 Not applicable.

10. Equalities Impact Assessment

10.1 Not applicable.

11. Strategic Risk Management Issues

11.1 Internal Audit provides assurance on the Council's control environment based on the work undertaken and areas audited. Internal control is based upon an ongoing process designed to identify and prioritise risks and to evaluate the likelihood of those risks being realised and the impact should they arise. The system of internal control is designed to manage risk to a reasonable level rather than to eliminate risk of failure altogether. No system of control can provide absolute assurance against material misstatement or loss, nor can Internal Audit give that assurance

12. Principal Groups Consulted

12.1 Not applicable.

13. Background Papers

13.1 Annual Internal Plan 2018/19

13.2 Strategic Risk Register

14. Contact for further information

Sally Hendrick - Head of Audit and Risk Management - 01344 352092

sally.hendrick@bracknell-forest.gov.uk



HEAD OF AUDIT AND RISK MANAGEMENT REPORT

APRIL – SEPTEMBER 2018

1. BACKGROUND

- 1.1 The Council is required under the Accounts and Audit (Amendment) (England) Regulations to “maintain an adequate and effective system of internal audit of its accounting records and of its systems of internal control in accordance with the proper practices in relation to internal control.” This report summarises the activities of Internal Audit for the period April to September 2018 drawing together progress on the Annual Internal Audit Plan, risk management and other activities carried out by Internal Audit.

2. INTERNAL AUDIT

- 2.1 The basic approach adopted by Internal Audit falls broadly into four types of audit:
- System reviews provide assurance that the system of control in all activities undertaken by the Council is appropriate and adequately protects the Council’s interests.
 - Regularity (financial) checking helps ensure that the accounts maintained by the Council accurately reflect the business transacted during the year. It also contributes directly towards the external auditor’s audit of the annual accounts.
 - Computer/IT audits, carried out by specialist audit staff, provide assurance that an adequate level of control exists over the provision and use of computing facilities
 - Certification as required by relevant Government departments that grant monies have been spent in accordance with grant terms and conditions.
- 2.2 Recommendations are made after individual audits, leading to an overall assurance opinion for the system or establishment under review and building into an overall annual assurance opinion on the Council’s operations. The different categories of recommendation and assurance opinion are set out in the following tables.
- 2.3 We categorise our audit opinion as set out below according to our assessment of the controls in place and the level of compliance with these controls:



Significant Assurance

There is a sound system of internal controls to meet the system objectives and manage risks and testing performed indicates that controls tested are consistently complied with.



Satisfactory Assurance

There is basically a sound system of internal controls to manage risk although there are some minor weaknesses in controls and/or there is evidence that the level of non-compliance may put some minor systems objectives at risk.



Limited Assurance

There are some weaknesses in the adequacy of the internal control system and management of risks which put the systems objectives at risk and/or the level of compliance or non compliance puts some of the systems objectives at risk.



No Assurance

Control is weak and management of risks is inadequate leaving the system open to significant error or abuse and/or there is

significant non-compliance with basic controls.

2.4 We categorise our **recommendations** according to their level of priority.



Priority 1

Fundamental weakness in the design of controls or consistent non-compliance with controls that puts the achievement of systems objectives at risk.



Priority 2

Weakness in the design of controls or inconsistency in compliance with controls puts the achievement of systems objectives at risk.



Priority 3

Recommended best practice to improve overall control.

3. SUMMARY OF INTERNAL AUDIT RESULTS TO DATE

3.1 The Annual Internal Audit Plan for 2018/19 was considered and approved by the Governance and Audit Committee on 28th March 2018. The delivery of the individual audits is largely undertaken by our contractors Mazars Public Sector Internal Audit. In addition, IT audit is undertaken by TIAA Ltd and 9 reviews will be carried out under the Section 113 arrangement with Wokingham Borough Council's Internal Audit Team. In addition five reviews and all grants are scheduled to be audited in house.

3.2 During the period April to September 2018, 3 grants were certified, 4 memos and reports without an opinion were finalised, 9 reports were finalised, 4 reports had been issued in draft awaiting management responses, 5 reports were received for client side review and in 9 cases audit work was in progress. A summary of performance to date is set out below. Details on the status and outcome of all audits are attached at Appendix A.

ASSURANCE	FINAL AND DRAFT APRIL- SEPTEMBER 2018	FINAL AND DRAFT 2017/18
Significant	0	1
Satisfactory	11	31
Limited	3	13
Total for Audits Including an Opinion	14	45
Grant Claim Certifications	3	6
Reports/Memos with Priority 1 Recommendation and no Opinion	4	3
Other Memos/Reports with no Opinion	0	28
Total	21	82

	Client Questionnaires		Draft Report /Memo Produced within 15 Days of Exit meeting
	Received	Satisfactory	
April to September 2018	5	100%	72%
2017/18	34	100%	76%

3.3 As noted above and at Appendix A, delivery against the planned programme is on track with the quarter 1 and 2 audits finalised, issued in draft, or in progress. The majority of assurance opinions given were satisfactory.

Major Control Issues

3.4 Audits which have identified major weaknesses will generally be revisited in 2019/20, to ensure successful implementation of agreed recommendations. The key weaknesses identified during audits with a limited assurance opinion and/or priority 1 recommendations are as follows:

DIRECTORATE	AUDITS WITH MAJOR ISSUES IDENTIFIED
COUNCIL WIDE AUDITS	<p><u>OFFICERS EXPENSES IT SYSTEM (ALSO LIMITED IN 2016/17 and 2017/18)</u> Two priority 1 recommendations were raised due to IT system weaknesses in both the audit trail for authorisation and the treatment of VAT for expense claims. Audit has been advised that the audit trail issue has been highlighted as a key priority to be extensively tested as part of the system upgrade this year. Functionality to address the VAT issue will be included in the upgrade and the systems team is currently reviewing whether these changes for VAT could also be made to the existing system.</p>
PEOPLE	<p><u>SEN RESOURCE PROVISIONS (FOLLOW UP MEMO. ALSO LIMITED IN 2017/18)</u> Three priority 1 recommendations were re-raised on the absence of formal agreements, lack of targets and outcomes and ambiguity in the calculation of funding. Audit has been advised that the recommendations are being addressed as a priority in partnership with the commissioning team across the newly formed People Directorate. An initial scoping exercise is currently being completed to determine the most effective form of contract management and performance review arrangements needed, through an external review. This is expected to be completed by December 2018 with priorities to be addressed and implemented by March 2019.</p>
	<p><u>PERSONAL EDUCATION PLANS (FOLLOW UP MEMO. ALSO LIMITED IN 2017/18)</u> Two priority 1 recommendations were raised. The first is a re-raised recommendation on the absence of manager quality review checks which were still to be introduced at the time of the audit and the second is a new priority 1 recommendation to address weaknesses in policy and guidance documents. Audit has been informed that the Virtual School has now</p>

DIRECTORATE	AUDITS WITH MAJOR ISSUES IDENTIFIED
	launched a new ePEP system (Electronic online system) from September 2018 which incorporates the audit recommendations around quality review.
	<p><u>FORESTCARE (FOLLOW UP MEMO. ALSO LIMITED IN 2017/18)</u> Two new priority 1 recommendations were raised on outstanding contract terminations and rising debt and weaknesses in debt collection. Audit has been informed that the Forestcare Finance Officer and the Corporate Finance team will be working together on outstanding billing issues and debt management.</p>
	<p><u>ADULT SOCIAL CARE PATHWAY (QTR 4 2017/18 AUDIT)</u> One priority 1 recommendation was raised on the number of overdue reviews and weaknesses in management information on the number of overdue reviews. Audit has been informed that each area of Adults Services has been addressing annual reviews to strengthen performance through measures such as allocating additional resources where required, prioritising and re-scheduling reviews to avoid pressure points such as summer holidays. Improvements are being made to improve tracking and accuracy of management information on status of reviews.</p>
	<p><u>HOUSING RENTS AND DEPOSITS</u> Six priority 1 recommendations were raised to address weaknesses in authorisation of rent advance loans, lack of clarity in determining repayment terms, absence of checks on continuing residency, weaknesses in debt collection for both current and former tenants and poor reconciliation processes. Officers are developing more comprehensive guidance for staff and enhanced checklists to improve controls and approval processes. This will be introduced following training sessions to be held for teams in quarter 3. Audit has been advised that action will now be taken to review the reconciliation process.</p>
DELIVERY	<p><u>HOME TO SCHOOL TRANSPORT (FOLLOW UP MEMO ISSUED. ALSO LIMITED IN 2016/17)</u> A priority 1 recommendation was raised again due to weaknesses in DBS checks for drivers. Unlike DBS for escorts, these checks are administered outside of the Home to School Team and hence the team has limited control over this. Audit has advised the Team how this risk can be mitigated and action is being taken to implement this.</p>

Council Wide Financial Control

3.5 There has been some weakening in financial control during 2017/18 and into 2018/19 as illustrated by the audits where major weaknesses were found as set out above for example around debt management around the Council. In response to this and concerns raised by the Director of Finance, a Council wide debt management is now being undertaken. The control environment is also being strengthened to support the move to self service following transformation.

Update of 2017/18 Audits with Limited Assurance Opinions and/or Priority 1 Recommendations

3.6 An update on the limited assurance opinions given in 2017/18 is shown at Appendix B. This shows that as at September 2018, follow up audits had

been finalised in 5 cases and in all cases, priority 1 recommendations were raised again.as detailed in section 3.4.

Follow Up of Recommendations

- 3.7 Follow up of recommendations on audits where a satisfactory opinion is given is undertaken twice a year and was last reported to the Governance and Audit Committee in June 2018. A further update will provided at the next interim Internal audit report to the Governance and Audit Committee.

Quality Assurance and Improvement Programme

- 3.8 As shown above in section 3.2, 100% of the client questionnaires indicated the auditees were satisfied with the service. In 74% of cases internal audit providers delivered the first draft report within 15 days of the exit meeting.

4. RISK MANAGEMENT

- 4.1 Between April and September 2018, the Strategic Risk Register was reviewed twice by the Strategic Risk Management Group (SRMG) and once by the Corporate Management Team and Governance and Audit Committee in June 2018. Directorate risk registers continue to be monitored regularly at Departmental Management Teams. Action will now be taken to align the risk registers with the revised corporate structure and ensure these are all in the standard template used for risk management.

5. COUNTER FRAUD ACTIVITIES

National Fraud Initiative (NFI)

- 5.1 The NFI is a biennial data matching exercise first introduced in 1996 and conducted by the Audit Commission to assist in the prevention and detection of fraud and error in public bodies. Bracknell Forest Council is obliged to participate in this. The core mandatory data for submission in the autumn of 2018 is:
- payroll
 - pensions
 - trade creditors
 - housing waiting lists
 - housing benefits (provided by the DWP)
 - council tax reduction scheme
 - council tax (required annually)
 - electoral register (required annually)
 - private supported care home residents
 - transport passes and permits (including residents' parking, blue badges and concessionary travel)
 - licences – market trader/operator, taxi driver and personal licences to supply alcohol
 - personal budget (direct payments)
- 5.2 Matches for investigation will start to come through in early 2018.

Benefits Investigations

- 5.4 The Council's Welfare Service passes cases of overpayments in excess of £3k and cases where fraud is suspected to the Department for Works and Pension's (DWP) Single Fraud Investigation Service (SFIS) for investigation. Members of the public are directed to contact the DWP directly where fraud is suspected and so SFIS receives further fraud information requests where fraud has been reported from another source.
- 5.5 If a claimant is notified that they have been overpaid Housing Benefit by £250 or more, which must have occurred wholly after 1st October 2012, Bracknell Forest Borough Council is able to impose a set Civil Penalty of £50. The £50 Civil Penalty applies if benefit is overpaid because the claimant negligently gave incorrect information and didn't take reasonable steps to correct their mistake or failed to tell the Council about a change or failed to give them information without a reasonable excuse. The Council also applies similar penalties of £70 in respect of Council Tax Reduction where claimants fail to advise the Council that discount should have ended or that there has been a change in circumstances impacting on discount entitlement or makes a false application.
- 5.6 Statistics on the benefit fraud cases are reported to the Governance and Audit Committee twice a year with the last update included in the Head of Audit and Risk Management's Annual Report in June 2018.

Single Person Discount

- 5.7 In order to identify potential mis-claiming of Council Tax Single Person Discount (SPD), the Revenues team procured external consultants to carry out a data matching exercise in 2014 and 2016 and have again arranged for consultants to undertake this. The data matching exercise will commence in October 2018.

Counter Fraud Training

- 5.8 The Internal Audit Plan includes some days for fraud awareness training targeted to teams in areas of higher fraud risk and discussions are ongoing with our providers to undertake this in the last two quarters of 2018/19.

AUDIT	Start Date	Date of Draft Report	*Key Indicator Met	Assurance Level			Recommendations Priority			Status
				Significant	Satisfactory	Limited	1	2	3	
										Audit
Delegations										Quarter 4 Audit
Cleaning Contract	25/6/18	17/8/18	✓		✓			6		Final
Council Wide Debt Management										Work in progress. New Quarter 3 Audit to replace the Debtors audit originally in the Plan.
Gifts and Hospitality										Quarter 3 Audit
Counter Fraud Training										To be determined
Proactive fraud work										To be determined
COUNCIL WIDE IT AUDIT Social Media	26/6/18	21/8/18	✓							Draft received for review
GRANTS Troubled Families June 2018	26/6/18	30/6/18	N/A	N/A – Grant certification						Certified
Troubled Families September 2018	17/9/18	18/9/18	N/A	N/A – Grant certification						Certified

AUDIT	Start Date	Date of Draft Report	*Key Indicator Met	Assurance Level			Recommendations Priority			Status
				Significant	Satisfactory	Limited	1	2	3	
purchasing systems										
<u>PLACE, PLANNING AND REGENERATION</u> Concessionary Fares	30/7/18	26/9/18	X							Draft received for review
CIL/S106	18/9/18									Work in Progress
Highways Capital Spend	14/5/18	18/6/18	✓		✓			2		Final
Highways Adoptions										Qtr 4 Audit
Development Controls										Qtr 4 Audit
Land charges										Qtr 3 Audit
<u>PEOPLE</u> Residential Care contracts										Draft received for review
Direct payments										Qtr 3 Audit
Financial Assessments	17/9/18	8/10/18	✓							Draft received for review
Forestcare Follow Up (Ltd 2017/18)	17/7/18	27/7/18	✓	No opinion as memo issued but 2 priority 1 recommendations raised			2	4	1	Final
Housing Benefit and Council Tax Reduction										Qtr 3 Audit
Housing Rents and	25/6/18	27/7/18	✓			✓	6	12		Draft issued

AUDIT	Start Date	Date of Draft Report	*Key Indicator Met	Assurance Level			Recommendations Priority			Status
				Significant	Satisfactory	Limited	1	2	3	
Deposits including Downshire Homes										
Public Health	3/9/18									Work in Progress
Adoption Services (shared services to be audited by Oxfordshire County Council Internal Auditors)										Qtr 4 Audit
Allowances for Fostering, Adoption and Special Guardianships										Qtr 3 Audit
Residential placements (Children's)										Qtr 3 Audit
Supervision including under the Family Safeguarding Model										Qtr 3 Audit
Margaret Wells-Furby House (Child Development Centre)	14/6/18	21/6/18	✓		✓			3		Final
SEN Resource Provision Follow up (Ltd 2017/18)	20/6/18	16/7/18	✓	No opinion as memo issued but 3 priority 1 recommendations raised			3	3		Final

FOLLOW UP OF AREAS PREVIOUSLY AUDITED WITH MAJOR CONTROL ISSUES

DIRECTORATE	AUDITS WITH MAJOR ISSUES IDENTIFIED	
COUNCIL WIDE AUDITS	<u>COUNCIL WIDE OFFICERS EXPENSES (ALSO LIMITED IN 2016/17)</u>	Re-audited in quarter 1 and a limited assurance opinion has been given again. See section 3.4.
CHILDREN, YOUNG PEOPLE AND LEARNING	<u>SEN RESOURCE PROVISIONS</u>	Re-audited in quarter 1 and further priority 1 recommendations were raised. See section 3.4.
	<u>PERSONAL EDUCATION PLANS</u>	Re-audited in quarter 1 and further priority 1 recommendations were raised. See section 3.4.
CORPORATE SERVICES	<u>HOME TO SCHOOL TRANSPORT (FOLLOW UP MEMO ISSUED. ALSO LIMITED IN 2016/17)</u>	Re-audited in quarter 1 and further priority 1 recommendations were raised. See section 3.4.
	<u>DISASTER RECOVERY (FOLLOW UP MEMO ISSUED. ALSO LIMITED IN 2016/17)</u>	Currently being re-audited.
	<u>CYBER SECURITY GAP ANALYSIS INCLUDING VOIP</u>	Currently being re-audited
	<u>BUSINESS RATES</u>	Audited annually as a key financial system and next audit due in Quarter 3.
	<u>COUNCIL TAX</u>	Audited annually as a key financial system and next audit due in Quarter 3.
	<u>CREDITORS</u>	Audited annually as a key financial system and next audit due in Quarter 4.
	<u>ITRENT APPRAISAL MODULE</u>	No follow up planned.

ADULT SOCIAL CARE , HEALTH AND HOUSING	<u>FORESTCARE</u>	Re-audited in quarter 1 and further priority 1 recommendations were raised. See section 3.4.
ENVIRONMENT,CULTURE AND COMMUNITIES	<u>CAR PARKS</u>	To be re-audited in quarter 4
SCHOOLS	<u>PRIMARY SCHOOL 1</u>	To be re-audited in quarter 3.
	<u>PRIMARY SCHOOL 2</u> <u>(Limited assurance in 14/15, 15/16 and 16/17. Follow up in 17/18 deferred due to staff sickness in the School)</u>	This School has now merged with the Infant's School and discussions will be held with the new head teacher for the joint schools to determine how this should be followed up. be re-audited in quarter 4.
	<u>PRIMARY SCHOOL 3</u>	To be re-audited in quarter 4
	<u>PRIMARY SCHOOL 4</u>	To be re-audited in quarter 4

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TO: GOVERNANCE & AUDIT COMMITTEE
31 October 2018

COUNCIL
28 November 2018

REVIEW OF CONSTITUTION Executive Director Delivery–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 Part 1/Section 8.1 (Officer roles and Statutory Officer Functions) set out in the Appendix A to this report.**

2.2 **Adopt the changes to Part 2/Section 4 (Employment Committee Terms of Reference) set out in Appendix B to this report.**

2.3 **Adopt the changes to Part 2/Section 6 (Powers exercisable by Officers) set out in Appendix C to this report.**

2.4 **Agree to the Borough Solicitor making such other consequential changes as are necessary to ensure that the constitution properly reflects the reshaped senior management structure.**

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.

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 amendments to the constitution set out in the appendices reflect the following changes to the Council's senior management structure;

- Deletion of post of Director-Resources
- Deletion of post of Director-Environment, Culture & Communities
- Deletion of post of Chief Officer-Environment & Public Protection
- Deletion of post of Head of Performance & Resources (ECC)
- Deletion of post of Chief Officer-Planning, Transport & Countryside
- Creation of post of Director- Place, Planning & Regeneration
- Creation of post of Assistant Director: Contract Services
- Creation of post of Executive Director-Delivery
- Deletion of post of Director Children, Young People & Learning

- Deletion of post of Director Adult Social Care, Health & Housing
- Creation of post of Executive Director-People
- Deletion of post of Chief Officer: HR
- Creation of post of Director: Organisational Development, HR & Transformation
- Redesignation of Borough Treasurer post to Director: Finance

5.2 A consequence of the revised senior management structure is that the current officer scheme of delegation is no longer fit for purpose reflecting as it does the existence of deleted posts. The amendments to the officer scheme of delegation (Appendix C) involve;

- An amalgamation of functions previously split between the Director of Children, Young People & Learning and the Director of Adult Social Care & Housing within those of the newly created post of Executive Director-People
- A redistribution of functions previously held by the Director of Resources and the Director of ECC between the Executive Director-Delivery and the Director of Place, Planning & Regeneration.

5.3 The Employment Committee terms of reference are also amended (Appendix B) to reflect current arrangements.

6. Borough Solicitor's Comments

6.1 The Borough Solicitor is the author of this report.

7. Borough Treasurer's Comments

7.1 There are no financial implications arising from this report.

8. Equalities Impact Assessment

8.1 Not applicable.

9. Principal Groups Consulted

9.1 Corporate Management Team

9.2 Governance and Audit Committee

10. Contact for further information

Sanjay Prashar, Borough Solicitor - 01344 355607

sanjay.prashar@bracknell-forest.gov.uk

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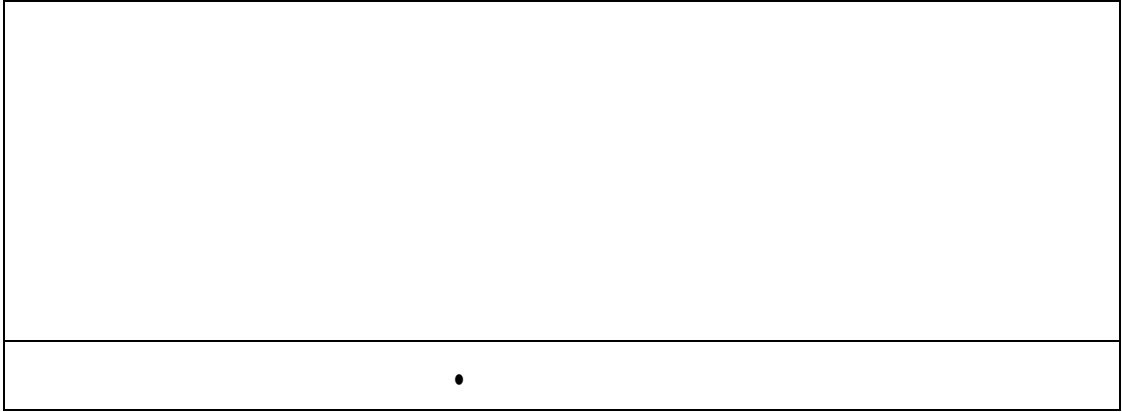
Appendix A

OFFICERS' ROLES AND STATUTORY OFFICER FUNCTIONS

8.1 Management Structure

The Council's Corporate Management Team comprises the following posts:-

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	<ul style="list-style-type: none"> • Overall corporate management and operational responsibility (including overall management responsibility for all Officers). • Provision of professional advice to all parties in the decision-making process. • Representing the Council on partnerships and external bodies (as required by statute or the Council).
Executive Director- Delivery	<ul style="list-style-type: none"> • Democratic and Registration Services, Legal, IT Services, , Property Services, Customer Services, Community Engagement and Equalities and Contract Services
Director Place, Planning & Regeneration	<ul style="list-style-type: none"> • Protecting well-being of local residents and those working in or visiting the Borough, by enhancing or protecting the environment. • Development of the planned and built environment. • Parks & Countryside services.
Executive Director - People	<ul style="list-style-type: none"> • Strategic development and resourcing of the Education Service. • Advice and support to schools. • Statutory and non statutory children's social services functions. • • Statutory and non statutory adult social care functions



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Director-Organisational Development, Transformation and Human Resources	• Management of functions relating to employment and development of Council's staffing resources
Director-Finance	• Administration of the Financial affairs of the Council

8.2 Head of Paid Service, Monitoring Officer and Borough Treasurer.

By law the Council is required to designate officers to the positions of Head of Paid Service, Monitoring Officer and Chief Financial Officer. Those designations are as follows:-

Post	Designation
Chief Executive	Head of Paid Service
Borough Solicitor	Monitoring Officer
Director-Finance	Chief Finance Officer

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if he/she is a qualified accountant. The Monitoring Officer cannot be the Chief Finance Officer or Head of Paid Service.

8.3 Functions of the Head of Paid Service

The Head of Paid Service will report to Council on the manner in which the discharge of the Council's Functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

8.4 Functions of the Monitoring Officer

(a) Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, Staff and the Public.

(b) Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the Council (or, in relation to an Executive Function, to the Executive) if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) Conducting Investigations

The Monitoring Officer will conduct investigations into matters which the Standards Framework refers to him and make reports or recommendations in respect of these to the Standards Framework.

(d) Proper Officer for Access to Information

The Monitoring Officer will ensure that Executive Decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

(e) Advising Whether Executive Decisions are Within the Budget and Policy Framework

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

(f) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

8.5 Functions of the Chief Finance Officer

The Chief Finance Officer is the officer responsible for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972. The functions which the Chief Finance Officer has responsibility for comprise:

(a) Ensuring Lawfulness and Financial Prudence of Decision-Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council (or to the Executive in relation to an Executive Function) and the Council's External Auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

(b) Administration of Financial Affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular as a member of Corporate Management Team, through the provision of professional financial advice.

(d) Giving Financial Information

The Chief Finance Officer will provide financial information to the Media, Members of the Public and the Community.

(e) Treasury Management

The Chief Finance Officer shall ensure that Council funds are managed in accordance with the Council's Treasury Management Strategy.

(f) Internal Audit and Risk Management

The Chief Finance Officer has responsibility for Internal Audit and Risk Management.

8.6 Duty to Provide Sufficient Resources to the Monitoring Officer and Borough Treasurer

The Council shall provide the Monitoring Officer and the Chief Finance Officer with such Officers, accommodation and other resources as are, in their opinion, sufficient to allow their duties to be performed.

8.7 Conduct

Officers must comply with the Officers' Code of Conduct and the Protocol on Officer and Member Relations, as set out in Part 4 of this Constitution.

8.8 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules, as set out in Part 4 of this Constitution.

APPENDIX B
Part 2-Section 4

<p>Employment Committee</p>	<p>To consider appeals against dismissal by employees of the Council. Excepting human resource policies, to determine all matters relating to the employment or dismissal of staff which do not fall to be dealt with by officers under the Scheme of Delegation. Redundancy dismissals relating to senior officers (ie Deputy Chief Officers or above) To formulate all human resource policies, including the matters set out below, and to make appropriate recommendations to the Council. (i) Scheme of Remuneration of Employees (ii) Performance Appraisal Policy of Staff</p>	<ol style="list-style-type: none"> 1. Staffing matters generally are dealt with by officers under the Scheme of Delegation. 2. A sub-committee will be appointed with power to vary human resource policies for school-based staff following consultation through the approved consultation processes
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Part 2-Section 6

(a) Management Delegations

Subject to the exclusions summarised at (c) below, the limitations set out in (d) below and full compliance with the procedure rules, regulations and policies and procedures referred to in 3 below, each Director/**Executive Director** is authorised to exercise the Council's powers (including those relating to Executive responsibilities) in relation to the day-to-day management of the Department for which he or she is responsible, including authority to:-

- (i) appoint, manage and dismiss staff, save in respect of appointments and dismissals of senior Officer (**ie Deputy Chief Officer or above**) posts reserved for Member appointments **and subject to prior consultation with the Chair of the Employment Committee in cases of 5 or more redundancy dismissals;**
- (ii)

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APPENDIX C (Clean)

A. CHIEF EXECUTIVE AND DIRECTORS - GENERAL POWERS

The Chief Executive and, for the purposes of those powers and duties which they are respectively authorised to discharge, Executive Directors and Directors, are authorised to take the following actions and measures:-

1. all actions and measures which are authorised by the Council's Contract Procedure Rules and Finance Procedure Rules.
2. authorising the Borough Solicitor to institute proceedings to recover monies due to the Council and/or to recover land owned by the Council.
3. authorising Officers to exercise powers to enter land, to exercise powers of inspection, seizure and to detain goods.
4. respond to requests under Data Protection and Freedom of Information legislation
5. make ex gratia payments to staff under Section 265 of the Public Health Act 1875 in respect of claims relating to damage or injury resulting from the actions of service users or in carrying out the Council's functions.
6. submit or authorise the submission of planning applications to the Council.

B. CHIEF EXECUTIVE

The Chief Executive is authorised to:-

1. take such measures as are appropriate in his or her capacity as the Head of the Paid Service.
2. take such steps as are properly required to ensure the effective implementation of the decisions of the Council, its Committees and Sub-Committees and the Executive.
3. act as Returning Officer.
4. witness and receive Declarations of Acceptance of Office and receive Declarations of Resignation of Office under Section 84 of the Local Government Act 1972.

In his/her absence the functions of the Chief Executive set out at paragraphs 1, 2 and 4 above will be vested in the Deputy Chief Executive. References to the Chief Executive in other parts of the Council's Constitution should in his/her absence be read and construed as referring to the Deputy Chief Executive.

The Chief Executive is designated as the Council's Electoral Registration Officer (the Head of Democratic and Registration Services is designated as the Deputy Electoral Registration Officer)

5. The Chief Executive (or Deputy Chief Executive in the Chief Executive's absence) may cancel a meeting of the Council, its Committees, the Executive or its Committees where the agenda has already been issued if it is considered expedient to do so. The Chief Executive (or Deputy Chief Executive) shall not exercise such

power without prior consultation with the Mayor, the Leader or the Committee Chairman (as appropriate). Any outstanding business will be held over to the next scheduled meeting on a date to be arranged.

6. Has responsibility for Community Engagement and Equalities
7. Has responsibility for the provision of grants to voluntary organisations

C. EXECUTIVE DIRECTOR OF DELIVERY

Operational and Corporate Management

The Director of Delivery is authorised to:-

- 1 secure and make arrangements for the provision of the following services to the Council:-
 - (a) Legal
 - (b) Information and Communications Technology
 - (c) Democratic and Registration Services, including administrative support to the Council, Scrutiny Bodies and Regulatory Committees, the Executive, appeals and review processes; the management, repair and maintenance of the Council's Civic Offices, the provision of catering services for the Civic Offices and the provision of a courier service for the delivery of Council documents
 - (d) Property Services, including Facilities Management
 - (e) Customer Services, including Revenue Services
 - (f) Contract services (save for those that are otherwise expressly delegated to other Directors)
 - (g) Services relating to Leisure, Arts & Culture including Library functions under the Public Libraries and Museums Act 1964
 - (h) Services related to the disposal of the dead, cemeteries and crematoria
 - (i) Forestcare
 - (j) Bracknell Market
- 2 Secure the provision of the following Public Protection Partnership functions
 - (a) Management of caravan sites, including allocation of pitches and removal of caravans
 - (b) Functions under the Building Act 1984, and all other legislation relating to dangerous buildings and structures, protection of buildings, ruinous and dilapidated buildings and neglected sites and building control save for functions under the Town and Country Planning Acts.

- (c) That excepting the power to designate whether an area should be (a) subject to additional licensing (Section 56), and (b) subject to selective licensing (Section 80), to exercise all the powers and perform all of the duties of the Council under Parts 1,2,3,4 and 7 of the Housing Act 2004
- (d) Functions relating to licensing (including as responsible authority), registration and permits.
- (e) General duties under the Regulatory Enforcement and Sanctions Act 2008
- (f) Functions relating to weights and measures, fair trading, trade descriptions, consumer safety and trading standards
- (g) Enforcement and inspection functions, and related powers, under legislation relating to Health and Safety at work.
- (h) Functions relating to public health protection (excluding any functions which are the responsibility of the Director of Public Health or otherwise fall to be discharged by the Council under legislation relating to the National Health Service) including food safety and quality (including certificates in respect of the export and import of food products) pest control and notifiable diseases.
- (i) Functions relating to water quality, contaminated land, smoke control, pollution control, statutory nuisances, clean air and air quality.
- (j) Functions relating to the recycling, the collection, disposal, management and regulation of waste.
- (k) Functions relating to the processing and licensing of scrap metal merchants.
- (l) Functions relating to street maintenance and grounds maintenance.
- (m) Functions relating to weighbridges.
- (n) Functions relating to Emergency Planning
- (o) Functions relating to dogs and animal welfare
- (p) Functions under the Berkshire Act 1986
- (q) Under Antisocial Behaviour legislation relating to:-
 - Antisocial Behaviour Orders where the securing of such Orders is considered appropriate in connection with any other functions delegated to the Director of Environment and Leisure.
 - Fixed Penalty Notices for graffiti and fly-posting.
 - The sale of aerosol paints to children.
- (r) Functions relating to the Coroner's Service.
- (s) Functions relating to Explosives.

- (t) Functions relating to public conveniences, septic tanks, cesspools and private sewers.
 - (u) Functions relating to dealing with objections to the granting of bookmakers permits and betting office licences
 - (v) Functions under Part 1 of the Health Act 2006 and under the Smoke Free (Premises and Enforcement) Regulations 2006.
- 3 Make arrangements for Mayoral transport and other Member support.
 - 4 Maintain a Register of Members' Interests and Members' Allowances.
 5. Make arrangements for collection of Council Tax and Non Domestic Rates

6. Exceptions and Limitations

- 6.1 Functions which the Licensing Act 2003 requires, or guidance issued by the Secretary of State there under advises, should be carried out by the Council, a Committee or Sub-Committee. Including the approval of model conditions^{2.6}
- 6.2 the setting of stall rentals or the letting of contracts for the operation of Bracknell market.
- 6.3 the approval of the Emergency Plan.
- 6.4 the designation of litter control areas.
- 6.5 the designation of smoke control areas.
- 6.6 the approval of policies as to waste receptacles.

D EXECUTIVE DIRECTOR OF PEOPLE

1. Subject to the exceptions, limitations and reservations set out below the Executive Director of People is authorised to exercise all the powers and perform all the duties of the Council in respect of the following functions:-

1.1 **Children and Young People**

Those functions:-

- (a) which the Council is required to appoint a Director of Children's Services for under Section 18 of the Children Act 2004 but including those functions which are referred to in Section 18(3)(a) to (d) of the said Section 18 and any functions which may be prescribed pursuant to Section 18(3)(e).

1.2 **Youth Service**

The Council's functions in respect of the provision of a youth service.

1.3 **Complaints**

The taking of action (including the making of compensatory awards) on the recommendation of a Complaints Review Panel established in respect of any function for which the Director is responsible under paragraph 1.1 above.

1.4 **Adult Social Care**

Those functions which are “social services functions” within the meaning of the Local Authority Social Services Act 1970 other than those functions which are delegated to the Director of People including arranging for the removal to suitable premises of persons in need of care and attention under Section 47 of the National Assistance Act 1948

1.5 **Health Services**

Functions under legislation relating to Health services save insofar as they are delegated to any other Director.

1.6 **Complaints**

The taking of action (including the making of compensatory awards on the recommendation of a Complaints Review Panel established in respect of any function for which the Director is responsible under paragraph 1.1 above.

1.7 **Housing**

- (a) As local housing authority and under legislation relating to housing.
- (b) Relating to Housing Benefits.
- (c) The negotiation and conclusion of nomination agreements with registered social landlords or similar organisations under which the Council secures the maximum nomination rights allowed by law and any relevant consents.
- (d) Under Parts VI, IX, X and XI of the Housing Act 1985.

1.8 **Miscellaneous**

- (a) Varying and waiving charges to service users or their parents
- (b) Discretion to pay an applicant’s legal expenses in applying for and obtaining Orders under Section 8 of the Children Act 1989 and Adoption Orders in respect of a child in care.
- (c) Discretion to make payments to holders of Residence and Adoption Orders for children previously in care where agreed prior to the Order being applied for and (in exceptional circumstances) subsequent to an Order.

- (d) Giving consent for the marriage of a young person in care under Section 3 of the Marriage Act 1949.
- (e) Determining applications of children and young persons in care who wish to join Her Majesty's Forces.
- (f) To act as a receiver in all matters in respect of persons under 18.
- (g) To nominate potential governors in consultation with the Executive Member for Children, Young People & Learning and relevant local members, plus former members of the Education Governor Nominations Committee.
- (h) Administering the Disabled Persons Badge Parking Scheme.
- (i) To act as a receiver in all matters in respect of persons aged 18 or over.

2 Exceptions and Limitations

2.1 In respect of all of the functions referred to above:-

- (a) The approval of all statutory plans.
- (b) The formulation and approval of all policies (other than those concerning day to day management of the People Directorate including those relating to:-
 - (i) Home to School Transport
 - (ii) Denominational School Transport
 - (iii) School Admissions
 - (iv) School Meals
 - (v) Student Awards
 - (vi) Special Educational Needs
- (c) Approving bids for expenditure qualifying for Government grants.

2.2 In paragraph 1.1 above:-

- (a) Significant variations to the Scheme of Local Management of Schools and Special Education and the suspension or withdrawal of delegated budgets to schools.
- (b) Reorganisations deriving from reviews of primary, secondary and special education and the publication of statutory notices in connection therewith and the consequent necessary recommendations to the School Organisation Committee.

- (c) Arrangements for Member-level liaison and consultation of school governing bodies, head teachers and staff associations and other bodies involved in the provision of education.
- (d) Authorising the constitution of the Secure Accommodation Review Panel.
- (e) Approving day care reviews under Section 19 of the Children Act 1989.
- (f) Hearing Stage 3 complaints under Section 26 of the Children Act 1989.
- (g) Approving further delegations of the Education Service budget to schools.
- (h) The introduction of a Direct Payment Scheme.
- (i) The formulation and approval of all policies (other than those concerning day to day management of the Adult Social Care, Health and Housing Department).
- (j) Approving bids for expenditure qualifying for Government grants.

2.3 In respect of Paragraph 1. 7 above-

- (a) setting of rent levels.
- (b) section 17, Housing Act 1985 (acquisition of land for housing purposes).
- (c) section 19, Housing Act 1985 (appropriation of land).
- (d) section 23, Housing Act 1985 (Making of byelaws).
- (e) consideration of periodical review of housing needs.
- (f) section 27A, Housing Act 1985 (management agreements).
- (g) disposal of land other than council houses under the “Right to Buy” legislation, freehold reversions, small land sales and licences to occupy or access council land.
- (h) section 102, Housing Act 1985 (variation of terms of secure tenancies).
- (i) determination of arrangements for consultation with tenants, pursuant to section 105, Housing Act 1985.
- (j) determination of Housing Allocation Scheme.
- (k) warrants for possession of dwellings may only be sought after consultation with a designated member of the Executive.

F. DIRECTOR OF PLACE, PLANNING & REGENERATION

1 Subject to the exceptions and limitations set out in Paragraph 2 below, the Director of Place, Planning & Regeneration is authorised to exercise the functions of the Council:-

1.1 Relating to trees and hedgerows.

1.2 As Highways Authority, Street Authority, Traffic Authority, Local Traffic Authority and all other legislation relating to highways, transportation (including car and lorry parks), street management, street works and/or management and rights of way save for functions otherwise reserved to the Executive Director Delivery

1.3 Under the Building Act 1984, and all other legislation relating to dangerous buildings and structures, protection of buildings, ruinous and dilapidated buildings and neglected sites and building control save for functions under the Town and Country Planning Acts.

1.4 Relating to recreation and open spaces

1.5 To appoint independent surveyors in the event of a Party Wall dispute.

1.6 Relating to flooding and drainage (including Land Drainage and functions under the Flood and Water Management Act 2010) save for functions otherwise reserved to the Executive Director Delivery

2. Exceptions and Limitations

(a) applications (including applications to vary planning obligations 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 (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 Director Place Planning and Regeneration. 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 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, may only be allowed by the Director Place Planning and Regeneration if he considers it appropriate to do so following reference 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 (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 households and/or organisations
- (f) applications which, if approved, would be contrary to the Development Plan.
- (g) applications for schemes which the Director Place Planning and Regeneration is responsible for promoting.
- (h) 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.
- (i) the final approval of Local Development Documents and in respect of Development Plan Document approval for submission for examination in public.
- (j) the designation of Conservation Areas.
- (k) the revocation of planning permission.
- (l) the approval of a Supplementary Planning Document for public inspection.
- (m) decisions to modify a planning permission under Section 97 of the 1990 Act are not delegated, and
- (n) 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.
- (o) confirmation of decisions to remove or restrict Permitted Development rights.
- (p) Confirmation of Tree Preservation Orders where five or more valid objections from different households have been received.
- (q) authorisation for the Borough Solicitor to enter into Agreements under Section 72 or 278 of the Highways Act 1980 can only be given where works to the highway and/or widening of the highway are required as part of a scheme for which planning consent has been obtained or which has been approved by, or on behalf of, the Executive.
- (r) construction of road humps and approval to traffic calming works.

- (s) street naming and renaming, numbering and renumbering should be carried out in accordance with the procedure agreed by the Planning and Transportation Committee on 1 October 1998.
- (t) applications for consent to hold social events on a highway may only be determined following consultation with the relevant Executive Member, Ward Councillors, the Police and the relevant Town or Parish Council.
- (u) Traffic management schemes and minor road improvements may only be authorised up to a maximum of £50,000 per scheme and if Ward Councillors have raised no objection, provided that any such works may be authorised where they are required urgently in the interests of road safety.
- (v) authority to enter into Public Path Creation Agreements is limited to where there is no Capital payment by the Council.
- (w) authority to instruct the Borough Solicitor to make Traffic Orders in respect of approved schemes is limited to where no objection has been received.
- (x) the making of a Gating Order
- (y) the designation of streets under street trading legislation (the Director may take steps preliminary to the designation).

G. DIRECTOR: FINANCE

- 1 The Director: Finance is authorised to:-
 - 1.1 Take all appropriate steps and measures to discharge the functions for the administration of the financial affairs of the Council, under Section 151 of the Local Government Act 1972.
 - 1.2 Arrange insurance on behalf of the Council.
 - 1.3 Authorise the Borough Solicitor to institute legal proceedings to recover monies due to the Council.
 - 1.4 Invest surplus monies in accordance with the Council's approved investment policies.
 - 1.5 Raise loans as required.
 - 1.6 In consultation with the Executive Director: People and the Borough Solicitor act in the administration of:-
 - (a) an estate of a deceased person where a child or young person for whom the Council has parental responsibility has an interest in the estate, or
 - (b) a child or young person who has died whilst in the care of the Council.
 - 1.7 Jointly with the Borough Solicitor, accept and manage money or other gifts from third parties for, and on behalf of, children or young persons.
 - 1.8 Write-off irrecoverable debts.

- 1.9 To discharge his or her functions and exercise his or her powers under Contract Standing Orders and Financial Regulations.
- 1.10 Jointly with the Assistant Director: Housing, subject to consultation with the Assistant Director: Property, to determine requests to waive repayment of discounts on “Right to Buy” disposals of Council housing (Section 185 of the Housing Act 2004).
- 1.11 The approval of grants for the renewal or improvement of housing

H. BOROUGH SOLICITOR

- 1 The Borough Solicitor is authorised to:-
 - 1. Make such orders, issue such notices and execute such agreements and instruments as are necessary to give effect to any decision or authorisation of the Council, its Committees, Sub-Committees, the Executive or of an Officer acting within the scope of his or her authorised powers.
 - 2. On behalf of the Council, to defend, institute, participate in, appeal from, settle or abandon any legal proceedings whether administrative, civil or criminal in any court arbitration or tribunal where such action is necessary to give effect to decisions of the Council or in any case where the Borough Solicitor considers that such action is necessary to protect the Council’s interests.
 - 3. Pursuant to Section 223 of the Local Government Act 1972 and other relevant legislation and Practice Directions, authorise persons other than solicitors or barristers to represent the Council in legal proceedings.
 - 4. Determine whether inspection of a document in the possession of the Council should not be allowed on the grounds that it is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
 - 5. Certify or authenticate any matter requiring certification or authentication on behalf of the Council.
 - 6. Determine applications for formal registration or certification made in pursuance of any legislation conferring such a function upon the Council in any cases where a Director is not authorised to take such action.
 - 7. In consultation with the Executive Director People and Director: Finance act in the administration of:
 - (a) an estate of a deceased person where a child or young person for whom the Council has parental responsibility has an interest in the estate, or
 - (b) a child or young person who has died whilst in the care of the Council.
 - 8. Jointly with the Director: Finance accept and manage money or other gifts from third parties for, and on behalf of, children or young persons in care.
 - 9. Exercise the Council’s powers to be a Trust Corporation.

- 10 Exercise the Council's powers and duties in relation to commons and town and village greens.
11. Act as the Monitoring Officer.
- 12 To discharge his or her functions and exercise his or her powers under Contract Standing Orders and Financial Regulations.
- 13 To discharge the Council's functions under the Data Protection and Freedom of Information legislation.
14. To determine nominations for Assets of Community Value

I. ASSISTANT DIRECTOR: PROPERTY

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> Assistant Director: Property	<u>£400,001-£1m</u> Executive Director: Delivery and Executive Member with advice from Assistant Director: Property	<u>Over £1M</u> Executive Member with advice from Assistant Director: Property and Executive Director: Delivery	
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> Assistant Director: Property	<u>£200,001-£400,000</u> Executive Member with advice from Assistant Director: Property and Executive Director: Delivery	<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.	Assistant Director: Property following agreement with the Executive Director Delivery			
4	To authorise the grant of leases, agreements for leases or tenancy	Assistant Director: Property following agreement with the Executive Director of Resources and Executive Member			

	agreements, or options for any term at a rent or a licence fee above £100k per annum.	
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.	Assistant Director: Property Assistant Director: Property where terms are provided for in statute or within the provisions of the Lease. Otherwise following agreement with the Executive Director Delivery and Executive Member
6	To grant a wayleave or easement to statutory undertakers at the best terms reasonably available.	Assistant Director: Property following agreement with the Executive Director Delivery
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.	Assistant Director: Property Assistant Director: Property following agreement with the Executive Director Delivery

In addition to the above, the Assistant Director: Property has delegation to;

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

L HEAD OF DEMOCRATIC & REGISTRATION SERVICES

1. The Head of Democratic & Registration Services is authorised to discharge the Council's functions in connection with civil registration services and electoral registration.

M CHIEF OFFICER: HUMAN RESOURCES

1. The Chief Officer: Human Resources is authorised to sign Settlement Agreements to settle Employment disputes including those pursuant to Employment Tribunal proceedings.

N DIRECTOR OF PUBLIC HEALTH

1. The Director of Public Health has delegated authority for those matters which they are required to be responsible for under the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) including:
 - a) the duty imposed upon the Council to “take such steps as it considers appropriate for improving the health of the people in its area”
 - b) any public health functions of the Secretary of State which he requires local authorities to discharge on his/her behalf
 - c) dental health functions of the Council
 - d) the duty to co-operate with the prison service to secure and maintain the health of prisoners
 - e) the Council’s duties set out in Schedule 1 of the National Health Act 2006, which include medical inspection of pupils, the weighing and measuring of children and sexual health services
 - f) arrangements for assessing the risks posed by violent and sexual offenders.

TO: GOVERNANCE AND AUDIT COMMITTEE
31 OCTOBER 2018

GOVERNANCE: BRACKNELL FOREST COUNCIL AND THE VOLUNTARY SECTOR (Director Delivery-Borough Solicitor)

1. Purpose of the Report

- 1.1 For the Governance and Audit Committee to review the Council's future role in the governance of voluntary sector organisations that may or may not be in receipt of revenue grant aid from the authority.

2. Recommendations

- 2.1 That the Council continues to support the voluntary sector and recognises the important role Members play in its continued success;
- 2.2 That with immediate effect the Council no longer agrees nominations to any voluntary sector organisation where that role is as a Trustee, Director or member of the management board/committee
- 2.3 The Council may continue to nominate Members to voluntary sector organisations as representatives in a non management capacity with no role in the governance of the organisation. Such roles will be limited to Members being nominated to act as conduits for communication between the Council and the organisation or as observers at its meetings.
- 2.4 Where a Member is nominated as a representative pursuant to 2.3 above, they may not subsequently accept a role on the organisation's board as a Trustee/Director or in any other management capacity such a Treasurer.

Nb: The term "*Voluntary Sector Organisations*" for the purposes of this report expressly excludes Council owned companies, all maintained, VA and VC schools, academies and local authority consortiums. For the avoidance of doubt representation by Members on school governing bodies is therefore not affected by this report's recommendations.

3. Reasons For Recommendations

- 3.1 Best governance practice highlights that a local authority should not have undue influence in any voluntary sector organisation it is involved with, and it is therefore appropriate that Members review its relationships now to inform how it positions its involvement in the future.
The Council places Members in a difficult position when they are nominated to external organisations as Trustees, Directors or members of a management committee as their duty to the external organisation has the potential to bring them into conflict with the Council. This may be particularly onerous when the organisation concerned is in receipt of financial support from the Council.
- 3.2 The recommendations in this report are predicated on a desire not to place Members at potential risk of legal liability to which their status on a decision making Board of an organisation could give rise. Whilst they do not prohibit Members from acting in a personal capacity they should nonetheless exercise care when doing so in situations

of potential conflict with their Council obligations.

4. Alternative Options Considered

- 4.1 Given the potential conflicts of interest, it was felt appropriate to undertake a review and consider alternatives to the current arrangements.

5. Supporting Information

- 5.1 One of the key drivers behind the Council concluding that there should be no nomination rights to the Board of South Hill Park was the potential for a conflict of interest of Council members acting in their role as trustees and acting in the role of an elected member. While the law is very clear that Board members, as trustees, must place the interests of the Trust above all others there was real concern that it was difficult to avoid the perception of conflict from normal members of the public hence the decision to cut any formal ties between BFC elected members and the Board and the current position to a large extent achieves this.
- 5.2 However, the review of the governance at South Hill Park and the position adopted by the Council also brought into sharp focus the Council's governance arrangements with five other voluntary sector organisations also in receipt of significant amounts of revenue grant aid from the Council. These are Citizen's Advice Bureau, Involve, Shopmobility, Keep Mobile and Age Concern. The level of grant and the constitutional arrangements for these organisations in so far as they related to the Council are described in the following paragraphs.
- 5.3 Citizen's Advice Bureau:
2017/18 core grant of £167,250. One Council representative who is not a trustee - Cllr Sarah Peacey is the current Council representative. CAB currently has trustee vacancies, including the Chair. They require a minimum of three trustees and can have a maximum of twelve.
- 5.4 Involve:
2017/18 core grant of £106,900. Their constitution states that they must have a minimum of three trustees, there is no maximum number. There is one Council representative at Involve currently, Cllr Dale Birch.
- 5.5 Shopmobility:
2017/18 core grant of £29,500. Shopmobility is set up as a Company Limited by Guarantee. Their rules state that they can have no more than six Directors. Currently they have five Directors none of which are BFC Councillors, (Cllrs Jan Angell and Isabel Mattick recently resigned from their roles)
- 5.6 Keep Mobile:
The Council provides a grant of £85,000 per year to Keep Mobile to support the provision of dial-a-ride trips and group transport for Bracknell Forest residents. There are no Bracknell Forest councillors on the board of six Trustees which govern Keep Mobile, but there is a councillor on the nine-strong Management Committee - Cllr Dr Barnard.
- 5.7 Age Concern:
£32k grant for running a day centre. One Council trustee, currently Cllr Thompson. Requires three to 12 trustees, currently five.

Trustee/Director

- 5.8 The Council nominates representatives to over 70 organisations but a very small proportion are nominations to the role of Trustee/Director. These include: Keep Mobile (as detailed above); Berkshire Maestros which used to be in receipt of grant aid but the financing arrangements are now changed; and Age Concern (as above)
- 5.9 While it is difficult to speculate, where a Member is nominated on to a board of an organisation as a Trustee/Director this is likely to be because the Council at the time wanted to have some form of formal authority on the board or perhaps the organisation itself wanted formal representation in the belief that the elected member could sway some advantage in its dealings with the Council. Whatever the historic reasons behind the decision to nominate Trustees/Directors, this legal link between the Council and a voluntary sector organisation is unusual and would benefit from review.
- 5.10 The decision to not nominate elected members on to the Board at South Hill Park was in large part a concern about the perception of a conflict of interest and consequently members of the public could reasonably arrive at the same conclusion with the organisations where the Council has representatives who are Trustees/Directors. It is difficult to see what advantage there is to the Council in nominating to the position of a trustee/Director since the individual must act in the interests of the board anyway Their primary responsibility will be to the organisation itself, to advance its interests, as opposed to acting as a representative of the Council. In all likelihood, a “member Trustee/Director” is likely to be a disadvantage to the organisation since the member will not easily be able to give advice and guidance to the board in terms of Council interests and intent. A critical question therefore is whether the Council should nominate any Member on to the board of a voluntary organisation in the role of Trustee/Director, whether or not they are in receipt of financial support. The view of the Corporate Management Team, having carefully considered the issues, is that it should not.
- 5.11 In reaching this conclusion the Corporate Management Team had particular regard to the protection of Members from liabilities that could arise under either Charity Law (as Trustees) or Company Law (as Directors) when acting in such capacity.

Management roles on unincorporated associations

- 5.12 In addition to Members being nominated to Charities/Companies as Trustees/Directors it is also possible for nominations to be made to the management committees of unincorporated associations. In such instances the external organisation has no separate legal entity and any liabilities will fall upon the members personally.(ie if the organisation is sued , the members personal assets are at risk- they cannot stand behind the veil of a corporate entity to give them some protection). Recommendation 2.2 therefore extends the proposed prohibition of nominations beyond that of Trustees and Directors to include such roles.

Other forms of representation

- 5.13 CMT consider the issue of public perception of undue influence by Members acting in the role of a representative on a voluntary sector organisation is not as problematic from a conflict perspective as the more formal roles referenced above .

Local lottery

- 5.14 The Executive is due in November 2018 to consider the introduction of a local lottery proceeds of which are intended to be distributed to the voluntary sector within the borough. So in the future it is entirely possible that virtually every local voluntary organisation could be eligible for one-off grant aid and in these circumstances it will be vital that any award is transparent and seen to be fair. Grant aid always involves choices for the Council and it may be difficult to avoid a negative public perception of bias if grant aid is awarded to a voluntary sector organisation where a councillor is in a senior position on the committee and a refusal was issued to another organisation with no such representation. The allocation procedure will therefore be carefully structured to ensure that awards cannot be challenged on the basis of bias.

Conclusion

- 5.15 There is little doubt that the active involvement of elected members in our community is high and welcomed. However, it is important to protect members in these roles and also create the opportunity where elected members can advocate effectively for the voluntary sector organisation they are supporting without that giving rise to the perception of a conflict of interest to a member of the general public. It is considered that these objectives can be best met by modifying the type of relationships members may have with the voluntary sector they wish to serve.

6. Borough Solicitor's Comments

- 6.1 The Borough Solicitor is the joint author of this report.

7. Borough Treasurer's Comments

- 7.1 The Borough Treasurer has advised of the plans to introduce a local lottery to fund the voluntary sector and that this would make it even more important that Members were not seen to be able to influence future decisions.

8. Feedback from General Manager-INVOLVE

- 8.1 Whilst members are not appointed to boards of voluntary bodies, members can still choose to join a board/ organisation in a 'management/ trustee' capacity. In this circumstance members join in their own personal capacity and not as a borough councillor.
- 8.2 Members getting involved with an organisation need to be clear as to why they are joining and what skills, knowledge or expertise are they bringing to benefit the chosen organisation(s). Joining a Board is a positive thing to do to support an organisation to perform at its best, a 'good' Trustee Board/ management committee should have a range of people, skills and experiences within it.
- 8.3 When joining a Trustee Board/ management committee, members should be declaring their role as a BFC councillor and making it clear they are not representing BFC. Either appointed observers or Trustees/ members of a managing committees should be overseeing and supporting the organisation. There are legal frameworks that organisations have to comply with including; charitable law, financial regulations, H&S, safeguarding, employment laws and others, and the governing body is there to ensure this is all in place and being done properly.

8.4 Involve Community Services provides advice and guidance to charities, community groups and trustees to run effectively and at their best, this is provided via one to one support, signposting to useful resources and tools and targeted training in specific areas such as 'Trustees Roles & Responsibilities'. Members involved within organisations or looking to become involved with charities and community groups are advised to contact Involve.

9. Equalities Impact Assessment

9.1 Not applicable

10. Strategic Risk Management Issues

10.1 To be addressed as part of the discussion.

11. Consultation

11.1 The proposals set out in this report were consulted upon with the voluntary sector via the Involve newsletter in September. Three responses were received (COATES, Keep Mobile and Berkshire Youth) none of which were opposed to the proposals. Clarification was provided in the case of Keep Mobile and Berkshire Youth confirming that nothing in the proposals would prohibit Members from serving with Voluntary Organisations in their private capacity.

12. Contacts for further information

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