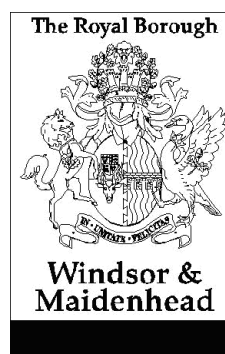


Report for: ACTION



| | |
|--|---|
| Contains Confidential or Exempt Information | NO - Part I |
| Title | Changes to the Constitution |
| Responsible Officer(s) | Alison Alexander Managing Director and Strategic Director Adult, Children's, and Health Services 01628 796673 Russell O'Keefe, Strategic Director Corporate and Community Services 01628 796521 |
| Contact officer, job title and phone number | David Scott, Head of Governance, Partnerships, Performance and Policy (Monitoring Officer) 01628 796748 Chris Hilton, Director of Planning, Development and Regeneration 01628 683811 Terry Baldwin, Head of Human Resources 01628 796992 |
| Member reporting | Cllr David Burbage, Leader of the Council and Cllr Derek Wilson, Lead Member for Planning |
| For Consideration By | Council |
| Date to be Considered | 26 April 2016 |
| Implementation Date if Not Called In | N/A |
| Affected Wards | All |

REPORT SUMMARY

1. This report seeks to amend the constitution of RBWM with respect to three areas
 - i. The framework within which planning enforcement matters can be progressed. Part 6 D3 - Area and Joint Development Control Panels
 - ii. The arrangements for the appointments of Strategic Directors and Deputy Chief Officers of Services Part 8 B- Other Rules of Procedure
 - iii. The Chairmanship and Quorum Part 6 D10 – Local Pension Board
2. The report recommends that Council approves that all notices related to the enforcement of planning control are authorised by the Area Development Control Panels to achieve greater member oversight and decision making on planning enforcement, except in urgent circumstance where they would be issued by the Borough Planning Manager and reported to the Area Development Panel at the earliest available opportunity to allow urgent enforcement action to be taken when necessary.
3. It requests approval for a new planning enforcement policy that would provide

greater clarity on the council's approach to residents, developers and agents.

4. The report recommends that Part 8 B be revised to correctly reflect the arrangements set out in the Local Government and Housing Act 1989.
5. The report also seeks to revise the Terms of Reference for the Local Pension Board Part 6 D10 to reflect that the Independent Chair be replaced by a Chair drawn from the voting members of the Board, and the Quorum be revised to become 50% of the total membership of the Board.

If recommendations are adopted, how will residents benefit?

| Benefits to residents and reasons why they will benefit | Dates by which residents can expect to notice a difference |
|---|--|
| 1. Greater Member oversight and decision making on the planning enforcement process | June 2016 |
| 2. Greater transparency of the planning enforcement process | June 2016 |
| 3. Improved clarity of what the planning enforcement team can and cannot do under the legislation and the timescales involved in service delivery | May 2016 |
| 4. Greater Member oversight of the formal appointments of Directors and Deputy Chief Officers at the end of their probation period | May 2016 |

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Council

- i. Approves that all notices related to the enforcement of planning control are authorised by the Area Development Control Panels, except in urgent circumstance where they would be issued by the Borough Planning Manager and reported to the Area Development Panel at the earliest available opportunity.
- ii. Approves that the Constitution be amended as per Appendix A.
- iii. Approves the Local Enforcement Policy as set out in Appendix B.
- iv. Approves that the Constitution be amended as per set out in Appendix C.
- v. Approves that the Constitution be amended as set out in Appendix D.

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Planning

- 2.1 Planning enforcement is a key part of an effective planning service. Currently, all planning enforcement matters are delegated to the council's Borough Planning Manager.
- 2.2 The proposed changes to the constitution would mean that all proposed planning enforcement notices would be brought to the relevant Area Development Control Panel for approval, except in urgent circumstance where they would be issued by the Borough Planning Manager, and reported to the Area Development Panel at the earliest available opportunity. This would achieve full member oversight and

decision making on planning enforcement matters whilst still allowing for urgent enforcement action to be taken when necessary.

- 2.3 The recent review of the development control service has highlighted the need for the council to have a published planning enforcement policy to provide greater clarity for residents, developers and agents on what the council and the legislation can and cannot do and the timescales involved. A proposed new policy is included at Appendix B.

Appointment of Deputy Chief Officers

- 2.4 A number of revisions are required to Part 8 B, to reflect the updated job title changes and clarify the roles defined as Deputy Chief Officers, which are known as Deputy Directors or Heads of Service within RBWM senior officer posts, and which report to Strategic Directors. The changes also seeks to clarify the arrangements for confirming the probationary periods, as this was omitted from the current section 4.

Local Pension Board

- 2.5 The amendments to the Local Pension Board Part 6 D10 have been requested by the Board following the identification of and anomaly between the Constitution and the Boards Terms of Reference, and following a twelve pilot involving an Independent Chair. The Board have concluded that going forward the Chair should be drawn from the existing membership of the Board and not be a non voting additional independent person.

| Option | Comments |
|---|---|
| 1. To maintain the current situation whereby all planning enforcement matters are delegated to the Borough Planning Manager. | This is not recommended because it does not give members oversight and decision making of planning enforcement matters. |
| 2. To maintain the current situation and introduce an internal procedure whereby Officers identify planning enforcement matters which could be significant, in consultation with the Lead Member, and the Borough Planning Manager refers these to an Area DC Panel. In addition each Area DC Panel would receive a quarterly report on enforcement action taken. | This is not recommended although it would improve the oversight and transparency above the current situation. |
| 3. To remove delegated powers for the issue of all notices for development control, trees and listed buildings and require approval by the area development panels except in urgent circumstance where they would be issued by the | This is the recommended option as it would achieve full member oversight and decision making on planning enforcement but strike the balance to allow urgent enforcement action to be taken when necessary. |

| Option | Comments |
|--|--|
| Borough Planning Manager and reported to the area development panel at the earliest available opportunity. | |
| <p>4. To remove delegated powers for the issue of all notices for development control, trees and listed buildings save for:</p> <p>(i) those where reference to the Area DC Panel would occasion detrimental delay which would be issued by the Borough Planning Manager; and</p> <p>(ii) to allow the Borough Planning Manager delegated authority for the variation or withdrawal of a previously issued Enforcement Notice and/or Stop Notice when a defect, error or other minor variation is deemed legally necessary.</p> <p>(iii) Temporary Stop Notices</p> <p>(iv) Planning Contravention Notices</p> | <p>This is not the recommended option as it would not achieve full member oversight and decision making on planning enforcement.</p> |
| 5. To remove delegated authority for the issue of Enforcement Notices only. | <p>This is not recommended as it would not achieve full member oversight and decision making.</p> |
| 6. To revise Part 8 B of the Constitution as set out in Appendix C | <p>This is recommended to enable Members to have greater oversight of the arrangements to appoint Directors and Deputy Chief Officers (Deputy Directors and Heads of Service)</p> |
| 7. To revise the Local Pension Board Part 6 D10 of the constitution as set out in Appendix D | <p>This is recommended to reflect the request that has come forward from the Board.</p> |

3. KEY IMPLICATIONS

- 3.1 By reporting planning enforcement matters relating to development control, trees and listed buildings to the relevant Area Development Control Panel for approval there will be greater member oversight and decision making on planning enforcement matters and their significance to residents in the Borough.

| Defined Outcomes | Unmet | Met | Exceeded | Significantly Exceeded | Date they should be delivered by |
|--|--------------|------------|-----------------|-------------------------------|---|
| Number of enforcement cases closed per month | 49 or below | 50 | 51-60 | Above 60 | Ongoing |

- 3.2 By adopting the local enforcement policy residents, developers and agents will be clearer on what the planning enforcement team and the legislation can and cannot do and the timescales involved, together with what is a priority enforcement case and how these will be handled.

4. FINANCIAL DETAILS

Financial impact on the budget

- 4.1 Members on Area Development Panels have not been trained specifically in planning enforcement which is materially different to considering planning and related applications. To support the effective introduction of these changes specialist training is proposed to be carried out. This has a cost implication in the first instance of around £2K to employ a specialist to conduct the training as there is not currently the capacity in house to conduct this training. This would be funded from within the existing budget.

| | 2016/17 | 2017/18 | 2018/19 |
|-----------|------------------|------------------|------------------|
| | Revenue £'000 | Revenue £'000 | Revenue £'000 |
| Addition | £0 | £0 | £0 |
| Reduction | £0 | £0 | £0 |

| | 2016/17 | 2017/18 | 2018/19 |
|-----------|------------------|------------------|------------------|
| | Capital £'000 | Capital £'000 | Capital £'000 |
| Addition | £0 | £0 | £0 |
| Reduction | £0 | £0 | £0 |

5. LEGAL IMPLICATIONS

- 5.1 There is a range of ways of tackling alleged breaches of planning control, and national planning guidance is clear that local planning authorities should act in a proportionate way.

- 5.2 Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.
- 5.3 In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 207: *“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”*
- 5.4 The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14 are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.
- 5.5 Paragraph: 006 (Reference ID: 17b-006-20140306) set out that the preparation and adoption of a local enforcement plan is important because it:
- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
 - sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
 - provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers;
 - provides greater certainty for all parties engaged in the development process.
- 5.6 The proposed changes to Part 8B update job title changes and clarify the roles defined as Deputy Chief Officer. Paragraph 4.4 has been deleted and 4.5 (now 4.4) amended to reflect no difference between the procedure for the appointment of internal or external candidates. Paragraph 4.5 d (now 4.4d) has been deleted, as Section 7 of Part 1 of the Local Government and Housing Act 1989 has largely been repealed. A new paragraph 9, regarding the confirmation of probation for Directors and Deputy Chief Officers, has been added, as this was regarded as an omission and is the final part of the formal recruitment process.

6. VALUE FOR MONEY

- 6.1 The local enforcement policy would help to ensure value for money.

7. SUSTAINABILITY IMPACT APPRAISAL

- 7.1 None.

8. RISK MANAGEMENT

| Risks | Uncontrolled Risk | Controls | Controlled Risk |
|--|---|---|--|
| Increased losses of planning enforcement appeal and/or legal challenges as a result of the decision making of the Area DC Panel on these matters | HIGH The Area DC Panel makes decisions without appropriate training and advice | All members of the Area DC Panels will be provided with training before the new process commences. A Legal Officer will be present at all the Area DC Panel meetings. | LOW The controlled risk should be no higher than similar risks at the Area DC Panels. |
| Reputational risk through the raising of public expectation that they can influence the outcome | HIGH The Area DC Panel makes decisions without training and advice | All members of the Area DC Panels will be provided with training before the new process commences. A Legal Officer will be present at all the Area DC Panel meetings. | LOW The controlled risk should be no higher than similar risks at the Area DC Panels. |

9. LINKS TO STRATEGIC OBJECTIVES

9.1 Delivering Together

- enhanced customer services
- deliver effective services.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 These proposals do not require a full EQIA. No negative impacts are identified.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 There will be minor staff resource implications involving additional officers attending Panel meetings and spending additional time checking agenda papers.

12. PROPERTY AND ASSETS

12.1 None.

13. ANY OTHER IMPLICATIONS

13.1 None.

14. CONSULTATION

14.1 None.

15. TIMETABLE FOR IMPLEMENTATION

| Date | Details |
|-----------|--|
| May 2016 | Member Training |
| June 2016 | Area DC Panel receive enforcement items for determination. |

16. APPENDICES

- Appendix A – Changes to the constitution Part 6 D3 - Area and Joint Development Control Panels
- Appendix B – Local Enforcement Policy
- Appendix C - Part 8 B – Other Rules of Procedure
- Appendix D - Part 6 D10 – Local Pension Board

17. BACKGROUND INFORMATION

- National Planning Policy Framework
- National Planning Practice Guidance
- Council Constitution

18. CONSULTATION (MANDATORY)

| Name of consultee | Post held and Department | Date sent | Date received | See comments in paragraph: |
|-------------------|--|---------------------|---------------|------------------------------|
| Internal | | | | |
| Cllr Burbage | Leader of the Council | 11/4/16 and 18/4/16 | | |
| Cllr D Wilson | Lead Member | 11/4/16 | | |
| Russell O'Keefe | Strategic Director Corporate and Community Services | 8/4/16 and 18/4/16 | | Comments included throughout |
| Alison Alexander | Managing Director/ Strategic Director Adults, Children and Health Services | 15/4/16 and 18/4/16 | | |
| Simon Fletcher | Strategic | 18/4/16 | | |

| Name of consultee | Post held and Department | Date sent | Date received | See comments in paragraph: |
|--------------------------|---|------------------|----------------------|-----------------------------------|
| | Director Operations and Customer Services | | | |
| John Bates | Finance Partner | | | |
| Chris Targowski | Cabinet Policy Officer | | | |
| Myles Joyce | Interim Enforcement Team Manager | 8/4/16 | | |
| Chris Hilton | Director of Development and Regeneration | 8/4/16 | | |

REPORT HISTORY

| Decision type: | Urgency item? |
|-----------------------|----------------------|
| Non-key decision | No |

| Full name of report author | Job title | Full contact no: |
|-----------------------------------|--------------------------|-------------------------|
| David Scott | Monitoring Officer | 01628 796748 |
| Jenifer Jackson | Borough Planning Manager | 01628 796042 |
| Terry Baldwin | Head of HR | 01628 796992 |

Change to Constitution Part 6 D3 - Area and Joint Development Control Panels

The changes shall be made as stated in the table (strikethrough denotes deletion of existing and underline indicates additional/replacement wording):

D3.1 Purpose

- (i) Within the operating guidelines and budget approved by the Council to consider all matters other than those delegated to a Town or Parish Development Control Sub Committee relating to the following:
 - a. Where a Councillor has requested within 28 days of the publication of the weekly list featuring an application, using the adopted pro-forma for calling in applications, that an application should be the subject of a decision by the Development Control Panel.
 - b. Where a planning application proposes more than two dwellings or over 1000sqm of non-residential floor space.
 - c. Where the Officer's decision would reverse a previous decision of a Development Control Panel for the same development-or would have the effect of preventing the proper implementation of any previous decision of the Council.
 - d. Where an emerging or approved Local Plan or other Policy or Guidance is in existence for a particular area or development type and the Officers recommendation on the application would be contrary to the Development Plan.
 - e. Where an application seeks a variation of a planning permission which is a material amendment to a scheme previously approved by the Panel or a variation of a planning condition for a planning permission previously approved by the Panel.
 - f. Where an application is made by a Councillor or a member of their family.
 - g. Where an application is made by the Council or the Council has land ownership interest in the application site or it is contrary to the Development Plan.
 - h. Where an application is made by officers in politically restricted posts.
 - i. Where in the opinion of the Borough Planning Manager and the Lead Member of Planning, it would not be appropriate to use delegated authority.
 - j. Where any tree of amenity value or significance that is to be felled whether covered by a TPO or on Highways land may come to an area panel if the Borough Planning Manager and the Lead Member for Planning agree it is appropriate in the public interest. i.e. a contribution to the amenity or street scene.
 - k. for the issue of all notices for development control, trees and listed buildings except in urgent circumstance where they would be issued by the Borough Planning Manager and reported to the area development panel at the earliest available opportunity.

- l. All other functions regarding town and country planning and development control listed in Section A of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 are to be delegated to Officers unless delegated to a Town or Parish Development Control Subcommittee.
- m. To advise the Council, the Cabinet, the Planning and Housing Overview and Scrutiny Panel on the preparation, updating and monitoring of the Borough Local Plan and policies relating to development management guidance.

D3.2 Membership

- a) Maidenhead Development Control Panel – 11 Members
Wards: Belmont, Bisham & Cookham, Boyn Hill, Bray, Cox Green, Furze Platt, Hurley & the Walthams, Oldfield, Pinkneys Green and Maidenhead Riverside.
- b) Windsor Rural Development Control Panel – 6 Members
Wards: Ascot & Cheapside, Horton & Wraysbury, Old Windsor, Sunningdale and Sunninghill & South Ascot.
- c) Windsor Urban Development Control Panel – 8 Members
Wards: Castle Without, Clewer North, Clewer South, Clewer East, Eton and Castle, Eton Wick, Datchet, Park
- d) Joint Panel: Where an application appears likely to have significant impact which goes beyond the area of the relevant Development Control Panel a joint meeting of the Panels will be convened to determine the application.

D3.3 Dual Hatted Members and Lobbying

These issues are dealt with in the Planning Code of Conduct Part 7 B. Any queries can be discussed with the Democratic Services Manager or Monitoring Officer.

N.B: A Cabinet Member may be a Member of a Development Control Panel.

D3.5 Quorum: Maidenhead DC Panel – 3 Members

Windsor Rural DC Panel – 2 Members

Windsor Urban DC Panel – 2 Members

D3.6 Frequency: Every four weeks

D3.7 Joint Development Control Panels

Planning applications which are likely to have a significant impact, going beyond the area of the relevant Area Development Control Panel will be considered and determined at a joint meeting of the Development Control Panels.

The initial decision as to whether an application falls into this category will be taken by the Borough Planning Manager in agreement with the Lead Member for Planning and the Development Control Panel Chairmen. In the event of a lack of unanimity, the two Development Control Panel Chairmen and the Lead Member

for Planning will meet and reach a majority decision to recommend to the Borough Planning Manager

Where at least 5 Members of an Area Development Control Panel, or the Chairman of that Panel, believes that an application due to be determined by the other Development Control Panel is likely to have a significant impact on their area and should be determined by Joint Panel, they shall notify the Borough Planning Manager in writing as soon as possible and, in any event, prior to the time fixed for the Development Control Panel due to determine the application. The matter will then be considered by the Borough Planning Manager in consultation with the Development Control Panel Chairmen and the Lead Member for Planning, who will decide how the application is to be determined. If this decision cannot be made prior to the Development Control Panel at which the application was due to be considered, the application will be deferred. In the event of a majority decision not being made, the Lead Member for Planning shall determine how the application shall be determined.

The Royal Borough of Windsor and Maidenhead
Planning Enforcement Policy



April 2016

Contents

- 1.0 The purpose of planning enforcement
- 2.0 What is, and is not a breach of planning control?
- 3.0 How the Council decides whether to take enforcement action and possible outcomes
- 4.0 How the service is delivered
- 5.0 How the Council prioritises reports
- 6.0 Reporting an alleged breach of planning control?
- 7.0 What happens if you are in breach of planning control?
- 8.0 Customer care
- 9.0 Contacts and further information

1.0 The purpose of planning enforcement

- 1.1 The integrity of the planning service depends on the Council taking effective enforcement action when appropriate. The Council is committed to providing an effective planning enforcement service and it is understood that public perception of the planning system can be undermined when unauthorised unacceptable development is allowed to proceed, or remain, without any apparent attempt by the Council to intervene.
- 1.2 Planning Enforcement is limited to managing development under the terms set out in the Town and Country Planning Act 1990 (as amended). Specifically the service can only deal with breaches of planning control as defined in section 171 A of the Act i.e:

“the carrying out of a development without the required planning permission, or failing to comply with a condition or limitation subject to which planning permission has been granted”.

- 1.3 The Council realises that it is not always clear when planning permission is required and therefore members of the public are encouraged to make use of the planning portal (<http://www.planningportal.gov.uk>) and the pages titled ‘Do you need permission?’. If a definitive answer is needed from the Local Planning Authority (LPA) an applicant can submit a certificate of proposed lawful development to gain a legal decision from the Council. The Council also offers a paid for pre application advice service to improve the quality of an application for planning permission.

2.0 What is, and is not a breach of planning control?

- 2.1 Breaches of planning control that the team are able to investigate include the following:
- Internal and external work to a listed building
 - The demolition of buildings within a conservation area
 - Works to trees protected by a Tree Preservation Order or trees located within a conservation area.
 - The stationing of a caravan or mobile home for use as a primary place of residence
 - Breach of conditions related to an extant planning consent
 - Development not being built in accordance with the approved plans of a planning permission
 - Failure to properly maintain land so that it adversely affects the amenity of an area
 - Unauthorised engineering work i.e a change in ground levels
 - The unauthorised display of advertisements
- 2.2 The team receives a large number of reports that fall beyond the scope of planning control. The table below provides a useful guide to illustrate some of the issues that are commonly reported that are not planning matters.

| | |
|---|---|
| <p>Permitted Development</p> | <p>Householders and developers have a degree of entitlement for a limited amount of development, without the need for planning permission. This is termed 'permitted development' and is defined in the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) as amended. This can also include some changes of use and the display of some advertisements with deemed consent under the Advertisement Regulations.</p> <p>The GPDO is a Statutory Instrument drawn up by Central Government and providing a development falls within permitted development tolerances it is lawful and beyond the control of the Local Planning Authority.</p> <p>Further information about permitted development tolerances can be found on the planning portal: http://www.planningportal.gov.uk/permission/</p> |
| <p>Boundary disputes</p> | <p>Disputes regarding land ownership are a private matter and cannot be controlled under planning legislation.</p> |
| <p>Obstructions to the highway or a public right of way</p> <p>The parking of commercial or other vehicles on the highway in residential areas or on grass verges</p> | <p>These matters are either controlled by the Police or the Council's Streetcare team who can be contacted on 01628 68 3804 or streetcare@rbwm.gov.uk.</p> |
| <p>Trespass on land</p> | <p>This is a private matter and cannot be controlled under planning legislation.</p> |
| <p>Operating a business from home where the residential use of the dwelling remains the primary use</p> | <p>You do not necessarily need planning permission to operate a business from a home address. The key test is whether the overall character of the dwelling will change as a result</p> |

| | |
|---|--|
| | of the business i.e is the property still mainly a home or has it become business premises? |
| Internal work to a non listed building | Internal work to a non listed building does not normally require planning permission. The exception to this rule is internal work that is being carried out to facilitate a change of use i.e converting a single dwelling into separate residential units. |
| Issues relating to deeds and covenants | Compliance with covenants and other issues relating to deeds are a private matter between the signatories of the documents. |
| Clearing land of hedges, bushes or undergrowth | <p>The clearing of land of hedges, bushes or undergrowth does not normally require planning permission unless the hedgerow is subject to the Ancient Hedgerows Regulations 1997.</p> <p>This covers hedgerows which are more than 20 metres long and are on, or adjoining land used for agriculture, or forestry, the breeding or keeping of horses, ponies or donkeys; common land, village greens; Sites of Special Scientific Interest or Local Nature Reserves.</p> <p>Garden hedges are not affected.</p> <p>Details can be found at: https://www.gov.uk/countryside-hedgerows-regulations-and- management</p> |
| The insertion of windows in houses or bungalows | <p>Once a dwelling has been occupied windows may be inserted into existing walls provided there is not a planning condition to prevent the insertion of additional windows or a restriction set by permitted development rights.</p> <p>N.B Restrictions do not normally relate to ground floor windows.</p> |
| Parking a caravan within the residential boundary of a property provided that its use is ancillary to the dwelling house. | In most cases caravans are not classified as development and therefore it is only their use that is subject to planning control. Provided the use of a caravan is ancillary to the dwelling house it is lawful. |

| | |
|--------------------------------------|--|
| | |
| Noise arising from construction work | Noise arising from construction work would normally be dealt with by the Environmental Protection Team (01628 68 3830.) |
| The Party Wall Act | <p>The Party Wall Act provides a framework for preventing and resolving disputes in relation to party walls, boundary walls and excavations near neighbouring buildings.</p> <p>The Act is separate from obtaining planning permission or building regulations approval and therefore is beyond the scope of planning control.</p> |

3.0 How the Council decides whether to take enforcement action and possible outcomes

- 3.1 It is important to understand that the taking of formal planning enforcement action is discretionary as set out in paragraph 207 of the National Planning Policy Framework (NPPF). The focus of our service is to investigate breaches of planning control and to secure remedy of planning harm and not punish the perpetrator. It is therefore right that people who have breached planning law are given the opportunity to remedy the breach of planning control. This may be through a retrospective planning application or negotiating an acceptable solution in line with national guidance, best practice and planning policies in the development plan.
- 3.2 The LPA has discretion as to whether to take enforcement action or not, it is not a mandatory duty to do so. If a development is in breach of planning control this is not, in itself, sufficient justification for enforcement action. Even when it is possible to take action the Council is required to decide if formal action would be **'expedient'** in the public interest due to the harm that has been identified as arising from the breach. As such there needs to be demonstrable harm caused by the breach that is of sufficient detriment to warrant formal action being taken.
- 3.3 Expediency can be defined as a decision making process to establish the appropriateness of formal enforcement action using legislation, government advice, the Local Development Plan, previous planning and appeal decisions and advice from other professionals.
- 3.4 The assessment of expediency is carried out under delegated authority and will be undertaken by the case officer and agreed by either the Enforcement Team

Leader or Borough Planning Manager. The assessment is conducted after the matter has been investigated which will include a site visit to collect information. Officers have a statutory right of entry to a site to collect information and carry a right of entry document with them to explain this to landowners/occupants. The Council may also serve a Planning Contravention Notice which is an information gathering tool which can be used as part of the investigative process. By serving a Planning Contravention Notice the Council can expect the landowner to answer questions which will allow it to establish who owns the land and whether a breach has occurred and when. It is part of the planning enforcement toolkit but does not constitute enforcement action.

- 3.5 The Council starts from a position of trying to resolve all breaches of planning control through dialogue and negotiation, formal action is always a last resort. However, when the breach is causing unacceptable serious harm or nuisance to public amenity, formal action will be taken to remedy any injury to amenity. Enforcement action will therefore always be commensurate with the seriousness of the breach.
- 3.6 When a report of a breach of planning control is received there are a number of potential outcomes. Some of the possible outcomes are detailed below.

No breach of planning control established

After attending a site the case officer may establish that there has not been a breach of planning control. This could be the case if the development has been built within permitted development tolerances, in accordance with an extant planning permission or if the matter does not fall within the scope of planning control. In these cases no further action will be taken and all interested parties will be notified.

A breach of planning control has been established but it is not expedient to pursue

In considering expediency the Local Planning Authority should consider whether the breach of planning control would unacceptably affect public amenity or the public interest. As a result it is inappropriate to take action against a technical breach of planning control that causes no harm to amenity, for example a boundary wall being erected marginally higher than permitted development tolerances.

In these cases a developer may be invited to submit a retrospective planning application in an attempt to regularise the breach but if an application is not received the case would be closed and the complainant advised accordingly. The Council cannot formally require the submission of a planning application in such cases.

A breach of planning control has been identified and only part of it is expedient to pursue

In these cases officers will attempt to negotiate an acceptable solution in line with national guidance. Alternatively it may 'under enforce' by serving a notice that addresses the most harmful aspects of the development.

A breach of planning control has been established and it is expedient to enforce

If negotiation has been unsuccessful, the LPA may take formal enforcement action where it is proportionate to do so. The nature of the breach will inform the

method of action taken. Some of the powers available to the LPA are detailed below.

3.7 **Planning Enforcement Toolkit**

Breach of condition notice- this notice is issued to require compliance with conditions imposed on a planning application.

Enforcement Notice- An enforcement notice sets out the breach of planning control and the steps that are required to regularise the breach or remedy any injury to amenity resulting from the breach. There is a right of appeal against the notice, which can lengthen the process as the notice does not take effect until the appeal has been determined. On average enforcement appeals take between 36 and 46 weeks to be determined; this is because the timescales are set by the Planning Inspectorate and outside the control of the Council. . Following an appeal decision, the period set for compliance within the notice commences from the date of the appeal decision.

Listed Building Enforcement Notice- this notice would be issued to alleviate the effects of any illegal work to a listed property.

Temporary stop notice/ Stop Notice- these notices require unauthorised activities to cease either at three days notice or immediately. They will only be used in circumstances where a breach of planning control is causing serious harm to public amenity. A full Stop Notice can only be served in conjunction with a related Enforcement Notice and ceases to have effect once the time for compliance has passed; there is a right to seek compensation should it be determined that the development against which the Stop Notice was served is acceptable and it is later granted permission either under an application or through an appeal. Temporary Stop Notices are for up to 28 days only.

Section 215 Notice- A S215 notice can be issued to require the proper maintenance of land and buildings where there is an adverse effect on the amenity of the area.

Section 225A Notice this is a provision inserted by the Localism Act in relation to advertisement display, it allows a Local Planning Authority to remove any display structure in their area which is used for the illegal display of advertisements.

Discontinuance Notices may be served requiring that the display of a particular advertisement with deemed consent be discontinued.

Tree Replacement Notice which can be served when trees are removed without consent that were protected by a Tree Preservation Order or located within a Conservation Area; the notice enforces replacement duties on the landowner.

Injunction- An injunction can be obtained from the court if the LPA consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained. The harm must be considerable to warrant an application.

Prosecution- The LPA may prosecute responsible parties for carrying out illegal work to a listed building, displaying unauthorised adverts and any unauthorised work to a protected tree.

Additionally if any of the above notices are not complied with by the required date for compliance, the first step in seeking compliance is to formally write to the relevant parties to remind them of their responsibility to comply with the notice. Failure to act on this correspondence will normally lead to prosecution.

Direct Action- in extreme circumstances the Council can enter the land and carry out the work required by an enforcement notice and subsequently place a charge on the land for the re-payment of the costs incurred. The Council may also consider using powers under the Proceeds of Crime Act.

The Council can also use its planning enforcement powers to carry out proactive enforcement action by serving a positive enforcement notice to remedy a breach of planning control which it considers to be acceptable.

4.0 How the planning enforcement team will deliver the service

- 4.1 The planning enforcement team will only investigate alleged breaches of planning control which are reported in writing and where sufficient information is given to identify the site and the alleged breach.
- 4.2 The team **will not** normally investigate anonymous complaints. A complainant must provide their full name and address and their preferred contact details before a case will be allocated to an investigating officer. This is because the success of a case often relies on the complainant working with the council to provide details of the breach, evidence where possible and potentially act as a witness.
- 4.3 Complainants details are treated confidentially and officers will seek to protect the identity of those reporting the alleged breach. This confidentiality may be waived where the matter then results in the need to provide witness evidence in a prosecution or public inquiry. This would only be done in consultation with the complainant.
- 4.4 Written reports will normally be acknowledged within five working days provided sufficient information is given to identify the site and the alleged breach. Complainants will be provided with the name of the enforcement officer dealing with a report so that they can contact the case officer directly. Following receipt of a valid report, the enforcement officer will review the planning history of the site and carry out a site visit if necessary. The Local Planning Authority will seek to make a decision on the case within 8 weeks of the receipt of a request to investigate an alleged breach and notify the complainant of their decision.

5.0 Clarification on how the Council prioritises enforcement reports

- 5.1 Since planning investigations are often lengthy and complex and staff resources are limited, it is necessary for the Council to prioritise its workload. The initial prioritisation of a complaint is based on the impact of the alleged breach, i.e the highest priority is accorded to those cases that represent the greatest degree of harm. This priority is decided by officers and is subsequently reviewed following the initial visit. The priority system adopted is detailed below.

Priority 1- High Priority

A breach of planning control causing, or likely to cause, serious harm to the natural or historic environment or to public safety unless an immediate response is made, e.g:

1. Work that will be seriously detrimental to the character of a listed building.
2. The unauthorised demolition of a building within a conservation area.
3. Unauthorised work to protected tree(s)/ hedgerows(s)
4. An unauthorised use of land or buildings that presents an immediate and serious danger to the public.

Officers will conduct a site visit within one working day of the report being made.

Priority 2- Medium Priority

All cases that are not high or low priority, e.g:

1. Unauthorised developments causing disturbance to residents or damage to the environment e.g. unauthorised changes of use and development in the Green Belt.
2. Development not being built in accordance with approved plans, where the differences are significant.
3. Unauthorised advertisements in the Green Belt or prominent locations causing serious harm to amenity or public safety.
4. Non compliance with conditions resulting in harm to amenity or public safety.

Officers will conduct a site visit within five working days of the report being made.

Priority 3- Low Priority

Breaches of planning control that cause limited or no harm to the environment or residential amenity. e.g.:

1. Residential and other development marginally above permitted development tolerances.
2. Boundary treatments.
3. Aerials and antennae on dwelling houses.
4. Variations from approved plans not causing amenity problems
5. Unauthorised advertisements in less sensitive locations.

Officers will conduct a site visit within 10 working days of the report being made.

5.2 The planning enforcement team seeks to manage its resources to ensure that the highest priority complaints can be addressed without delay. As a result the response to lower priority complaints may need to be adjusted accordingly.

5.3 The quality of information and evidence provided by those reporting a breach can have a significant impact on the outcome of an investigation. Where such support is likely to increase the chances of a successful outcome, the matter will be prioritised.

6.0 What happens if you wish to report an alleged breach of planning control?

6.1 All reports of an alleged breach of planning control will need to be made in writing. Reports will be accepted in the following formats:

- Letters sent and addressed to the Planning Enforcement Team, Town Hall, St Ives Road, Maidenhead, SL6 1RF.
- Emails sent to Planning.Enforcement@RBWM.gov.uk
- The online planning enforcement complaint form available at: http://www3.rbwm.gov.uk/info/200121/planning_and_development/660/planning_enforcement

Individuals who may have difficulty in writing down their concerns are advised to seek help from a friend, relative or local councillor.

6.2 To enable the enforcement team to deal with cases effectively it is important that as much of the following information is provided when a report is initially submitted:

- The exact location of the land. If the site is an unknown address a detailed description or sketch plan should be provided.
- A full description of what has happened or is taking place.
- Details of your concerns i.e what harm do you think has been / is being caused and how is the activity negatively affecting you?
- The names and contact details of any landowners, occupiers or builders involved (if known).
- Photographs of the development or activities.
- Dates and timeframes of when the development took place or the activity commenced.

6.3 All submitted enquiries go through an initial vetting process. This allows for the redirection of matters that do not fall within the scope of planning control and allows officers to seek additional information if required before prioritisation and allocation.

6.4 In some cases it may be necessary to rely on evidence from complainants in order to take action and you will need to consider if you are willing to actively assist the Council by collecting evidence and acting as a witness at an appeal or in court. In these circumstances the case officer will be happy to explain what may be required.

6.5 Any information provided may be subject to requests made under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 and therefore may be disclosed to a third party. While the substance of any complaint is unlikely to be confidential, if you do not want your name and contact details to be released, please make this clear in any correspondence with the Council. If you agree to act as a witness at an appeal or in Court, your details will be released at the appropriate time.

7.0 What happens if you are in breach of planning control?

7.1 If you are contacted about an alleged breach of planning control, you are entitled to know the nature of the allegation (but not who made it) and have the opportunity to explain your side of the case. Officers are aware that reports can sometimes be unfounded and therefore we will carry out a thorough investigation and communicate with you to understand the facts of the case.

7.2 Initially a member of the Planning Enforcement Team will visit the site. Due to time constraints, this is usually without prior warning to the owner, developer, tenants or employees at the site. Officers are authorised to attend a site to investigate and will show identification when they arrive.

7.3 With the exception of a building used as a dwelling house it is an offence to obstruct an officer carrying out an unannounced visit entering the land to ascertain if there has been a breach of planning control. Therefore you should always seek to work with the enforcement officer.

7.4 Officers are required to provide 24 hours notice to insist on entry to a residential property. If you are happy to allow access then we will usually take up this offer.

If access is refused enforcement officers may obtain a warrant of entry. This is part of the investigation stage of the process.

- 7.5 If the breach of planning control refers to land or buildings in which you have no interest or involvement no action will be taken against you. If you are involved, your cooperation will be sought to regularise the breach by removing or modifying the unauthorised development or by ceasing the unauthorised work. A reasonable period of time will be given for you to undertake the work.
- 7.6 In some circumstances you may be invited to submit a retrospective planning application in an attempt to regularise the breach or apply for a certificate of lawfulness if it can be demonstrated that the breach is immune from enforcement action. The Certificate of Lawfulness is based on an evidence test. In both cases the enforcement case would be closed on receipt of an application as the investigation has been completed.
- 7.7 During the course of an investigation you may be issued with a Planning Contravention Notice (PCN) that requires information concerning the development being carried out. This notice is used to ascertain the facts of a case so that the LPA can determine if a breach of planning control has occurred and if formal enforcement action is appropriate. It is a criminal offence not to complete and return the PCN within the specified timescale.
- 7.8 If the breach of planning control is not regularised, formal enforcement action may be taken. Some of the types of formal action available to the Council are detailed in section 3.0 of this policy.

8.0 Customer Care

- 8.1 The Royal Borough of Windsor and Maidenhead is committed to offering a good enforcement service to the community of the borough.
- 8.2 In exercising this policy, the Council will offer all of its customers, whether they are complainants or those who may be in breach of planning control, relevant opportunities to fully state their case, to ensure that the correct decisions are taken to safeguard the built and natural environment of the borough.
- 8.3 If you are aggrieved with the Planning Enforcement Service offered, there is a complaints procedure, where complaints can be investigated. Details of the complaint process are published on the Council's website at:
http://www3.rbwm.gov.uk/info/200407/complaints_procedure/898/complaints_policy_and_procedure

9.0 Contacts and further information

You can contact the planning enforcement team at the following address:
Planning Enforcement

The Royal Borough of Windsor and Maidenhead
Town Hall
St Ives Road
Maidenhead
SL6 1RF
Email: Planning.Enforcement@RBWM.gov.uk

Further information can be found at:

- The Planning Portal- The Government's online planning resource.
<http://www.planningportal.gov.uk/wps/portal/portalhome>
- The National Planning Policy Framework and Planning Practice Guidance
<http://planningguidance.communities.gov.uk/>

Contact details: Other Organisations

The Planning Inspectorate

The Planning Inspectorate is the organisation responsible for processing and determining planning and enforcement appeals.

The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Planning Aid

Provides free, independent and professional town planning advice to communities and individuals.

The Royal Town Planning Institute
41 Botolph Lane
London
EC3R 8DL
Tel- 020 7929 9494
Email- contact@rtpi.org.uk
<http://www.rtpi.org.uk/planning-aid/>

Changes to Part 8 B of the Constitution

The changes shall be made as shown -strikethrough denotes deletion of existing and underline indicates additional/replacement wording:

Officer Employment Procedure Rules

1 RECRUITMENT AND APPOINTMENT

a) **Declarations**

- (i) A candidate for appointment as an Officer is required to state in writing whether they are related to any Member or Senior Officer of the Council. A candidate who fails to do so shall be disqualified from such appointment and, if appointed, shall be liable for dismissal without notice. Every Councillor, Director and Officer of the Council on a Management Grade shall disclose to the Head of Human Resources any relationship known to him/her to exist between himself/ herself and the candidate for an appointment of which he/she is aware.
- (ii) Where a relationship to a Councillor is disclosed, that Councillor shall be deemed to have a personal and prejudicial interest.
- (iii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Director or an Officer nominated by him/her.

b) Seeking support for appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with Council.

2 RECRUITMENT OF HEAD OF PAID SERVICE, DIRECTORS & DEPUTY DIRECTORS CHIEF OFFICERS

Where the Council proposes to appoint a Director and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- a) draw up a statement specifying:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed.
- b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply to it; and
- c) make arrangements for a copy of the statement mentioned in paragraph i) to be sent to any person on request.

3 APPOINTMENT OF HEAD OF PAID SERVICE

- a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council. That committee or sub committee must include at least one Member of the Cabinet.

- b) The full Council may only make or approve the appointment of the Head of Paid Service where no substantial and justified objection has been made to the appointment by any Member of the Cabinet.

4 APPOINTMENT OF DIRECTORS AND DEPUTY ~~DIRECTORS~~ CHIEF OFFICERS OF SERVICES

1. Under the terms of this Constitution, ~~the Director of Children's Services, the Director of Adult and Community Services,, Strategic Director - Adult, Children and Health Services,~~ the Head of Finance (Section 151 officer) and Monitoring Officer are statutory chief officers, according to the terms of Section 2(6) Local Government and Housing Act 1989.
2. ~~The Director of Environment, Director of Resources, Head of Policy and Performance, and Director of Development and Regeneration~~ The Strategic Director - Corporate and Community Services and Strategic Director - Operations and Customer Services are determined to be non statutory chief officers, according to the terms of Section 2 (7) of the Local Government and Housing Act 1989.
3. Deputy Directors or "Heads of Service" are determined to be "Deputy Chief Officers" in accordance with Section 2 (8) of the Local Government and Housing Act 1989.
4. ~~Where the Council proposes to appoint a Director or Deputy Director Chief Officer and it is proposed that the appointment will be made from among their existing officers, the Head of Paid Service will submit a recommendation of whom to appoint to the Employment Panel for ratification.~~

~~5.4~~ Where a Director or Deputy Director Chief Officer is proposed to be appointed from outside existing officers.

- a) ~~A Committee or Sub-Committee of the Council~~ Employment Panel will appoint Directors and Deputy Directors Chief Officer in accordance with the provisions set out in the Local Government & Housing Act 1989. ~~That Committee or Sub-Committee~~ Employment Panel must include at least one Member of the Cabinet.
- b) An offer of employment as a Director or Deputy Director Chief Officer shall only be made where no substantial and justified objection from any Member of the Cabinet has been made to the appointment.
- c) The views of the Managing Director will always be taken into account in any appointment of a Director or Deputy Director Chief Officer.
- d) ~~This provision shall also extend to the appointment of Deputy Directors Chief Officer and any other non-statutory officers as defined in the Local Government & Housing Act 1989, Part 1, Section 7.~~

5 OTHER APPOINTMENTS

- a) **Officers below Director.** Appointment of Officers below Director or Deputy Director, Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee. In other cases,

where there is significant contact with Councillors, the relevant Lead Member will be consulted on the selection and appointment.

- b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6 DISCIPLINARY ACTION

The Head of Paid Service, Chief Finance Officer or Monitoring Officer ('relevant officer') must not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.

- b) **Suspension.** The relevant officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- c) **Investigation.** Any investigations into alleged misconduct will be undertaken in accordance with the Council's Disciplinary Policy & Procedure
- d) **Dismissal.** Where the result of the investigation is that dismissal of the relevant officer is the appropriate sanction, then such decision must be ratified by full Council. In addition, any appeal by the relevant officer will be considered at the same Council meeting.
- e) **Statutory Officer Panel.** The Council must appoint a Statutory Officer Panel at least 20 working days before the relevant Council meeting.
- f) In the preparation of its recommendation the Panel may undertake any such investigations as necessary for their report including :
Royal Borough of Windsor and Maidenhead Constitution Part 8 B
 - I. inspecting any documents relating to the conduct of the relevant officer which are in the Council's possession or which the Council has power to authorise them to inspect; and
 - II. requiring any officer or member of the Council (including the relevant officer) to answer questions concerning the conduct of the relevant officer.
- g) The Panel shall determine the necessary investigations for its report and shall not be obligated to undertake any action unless the Panel determines such will facilitate its recommendation to Council.
- h) The Panel must make a report to the Council:
 - i) stating their opinion as to whether (and, if so, the extent to which) the evidence they have obtained supports the decision to dismiss the officer;
 - ii) in the alternative, recommending any disciplinary action which appears to them to be appropriate for the Council to take against the officer; and
 - iii) must send a copy of the report to the officer concerned.
- j) **Council Meeting:** Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular:

- (i) any advice, views or recommendations of the Statutory Officer Panel;
- (ii) the conclusions of any investigation into the proposed dismissal; and
- (iii) any representations from the relevant officer.

6 DISMISSAL

- a) Councillors will not be involved in the dismissal of any Officer below Deputy ~~Director~~ Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- b) The dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer subject to 6 above, must be approved by full Council.
- c) Notice of dismissal to the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, Director of Deputy Chief Officer must not be given by the dismissor (subject to H6 above) until:
 - i) the dismissor has notified the Proper Officer (Monitoring Officer) of the name of the person the dismissor wishes to dismiss and any relevant particulars;
 - ii) the Proper Officer has notified every member of the Executive of the Council of:
 - 1. the name of the person it is wished to dismiss;
 - 2. any relevant particulars;
 - 3. the period within which any objections to the dismissal are to be made by the Leader to the Proper Officer on behalf of the Executive; and
 - iii) either:
 - 1. the Leader has, within the specified period, notified the dismissor that neither he nor any member of the Executive has any objection to the dismissal; or
 - 2. the Proper Officer has notified the dismissor that no objection has been received by him from the Leader, or the dismissor is satisfied that any objection received from the Leader within the period is not material or well founded.

8 OFFERS OF APPOINTMENT

Any offer of employment to the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, any Director or Deputy Chief Officer (as defined in Section 2(8) of the Local Government and Housing Act 1989) shall not be made until:

- a) the appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any relevant particulars;
- b) the Proper Officer has notified every member of the Council's Executive of:
 - i) the name of the person to whom the appointor wishes to offer the post;
 - ii) any other relevant particulars;
 - iii) the period in which any objections to making the offer must be made by the Leader to the Proper Officer on behalf of the Executive; and
- c) either:
 - i) the Leader has, within the specified period, notified the appointor that neither he nor any member of the Executive has any objections;

- ii) the Proper Officer has notified the appointor no objections have been received by him from the Leader; or
- iii) the appointor is satisfied any objection received from the Leader within the period is not material or is not well founded

9 COMPLETION OF PROBATIONARY PERIOD DIRECTORS AND DEPUTY CHIEF OFFICERS

Confirmation of appointment of a Director or Deputy Chief Officer, following the applicable probationary period shall be, unless directed otherwise by the Employment Panel, made by the same elected Member(s) or their successor(s), as made the original decision, in consultation with the Managing Director for Strategic Directors, or the relevant Strategic Director for Deputy Chief Officers in their respective directorates.

SECTION D10 – LOCAL PENSION BOARD)

The changes shall be made as shown -strikethrough denotes deletion of existing and underline indicates additional/replacement wording:

D10.1 Purpose

To assist the administering authority of The Royal County of Berkshire Pension Fund in securing compliance with the Local Government Pension Scheme Regulations, any other legislation relating to governance and administration of the Scheme and the requirements imposed by The Pensions Regulator including but not limited to:

- i) Challenge any failure to comply with the Scheme rules and associated legislation and any failure to meet the requirements and expectations of the Pensions Regulator;
- ii) Challenge any advice and guidance provided and to understand how that advice and guidance impacts on any decision for which the Pension Board is legally responsible;
- iii) Monitor levels of performance of the administering authority and Scheme employers, review notices of unsatisfactory performance and determine what, if any, costs should be recovered by the Pension Fund where a failure to meet certain levels of performance have not been met;
- iv) Report breaches of the law to the Pensions Regulator where there is a reasonable cause to believe that a legal duty, which is relevant to the administration of the Scheme, has not been, or is not being, complied with as a result of which there is a likely material significance to the Pensions Regulator;
- v) Determine under what circumstances Scheme employers should be reported to the Pensions Regulator;
- vi) Keep under review the administering authority's communication policy with regard to Pension Scheme stakeholders;

D10.2 Membership

- ~~Independent Chair~~
- 3 Employer Representatives
- 3 Scheme Member Representatives

A Chairperson shall be elected by a majority vote of Board members for a term of 12-months

N.B. A Member of the Berkshire Pension Fund Panel or Berkshire Pension Fund Advisory Panel is not eligible for membership of the Pension Board neither are Royal Borough Officers who are involved with the administration or management of the Pension Fund.

D10.3 Quorum

A meeting is only quorate when at least 50% of the Scheme member and Scheme Employer Representatives are present with at least 1 member being present from each group. For actions to be agreed the Chairperson must be in attendance. A meeting that becomes inquorate may continue but any decisions will be non-binding.

D10.4 Frequency

Not less than bi-annually