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West Devon Hub Committee

West Devon Borough Council

Title:	**Agenda**
Date:	**Tuesday, 26th January, 2016**
Time:	**2.00 pm**
Venue:	**Chamber - Kilworthy Park**
Full Members:	***Chairman*** Sanders ***Vice Chairman*** Baldwin *Members:* Cllr M J R Benson, Cann, Moody, Oxborough, Parker, Sampson, Samuel
Substitutes:	Councillors:
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
Committee administrator:	Member.Services@swdevon.gov.uk

Page No

Report of Specialist Housing, Revenues and Benefits

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At a Meeting of the **HUB COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park**,** Drake Road, **TAVISTOCK** on **TUESDAY** the **1st** day of **DECEMBER 2015** at **2.00pm**

Present:

Cllr P R Sanders – Chairman
Cllr R E Baldwin – Vice-Chairman

Cllr M J R Benson
Cllr L Samuel
Cllr J B Moody
Cllr R J Oxborough
Cllr G Parker

In attendance:

Executive Director (Strategy and Commissioning)
Executive Director (Service Delivery and Commercial Development)
Group Manager – Business Development
COP Lead Specialist – Housing, Revenues & Benefits
S151 Officer
Finance Business Partner
Head of Building Control Partnership
COP Lead Specialist Legal
Operations Manager (Environment Services)
Senior Case Manager

Other Members in attendance:

Cllrs R Cheadle; D W Cloke; C N Edmonds; J Evans; C R Musgrave; T G Pearce; B Stephens and J Yelland

***HC 33 APOLOGIES FOR ABSENCE**

Apologies were received from Cllr W G Cann OBE and Cllr R F D Sampson.

***HC 34 DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be discussed but none were made:

HC 35 URGENT BUSINESS

The Chairman advised that he had agreed for one item of urgent business to be raised at this meeting which had been deemed urgent in light of the associated time constraints. He then referred to a late report that had been circulated to the Committee, entitled ‘Syrian Vulnerable Persons Scheme’. He introduced the report and set out the background, and the COP Lead Specialist Housing, Revenues & Benefits responded to specific questions.

Following discussion on this item, it was then **RESOLVED**:

That Council be **RECOMMENDED** to voluntarily participate in The Syrian Vulnerable Persons Scheme.

HC 36 DRAFT REVENUE BUDGET PROPOSALS AND DRAFT CAPITAL PROGRAMME PROPOSALS FOR 2016/17

The Chairman presented a report that set out the budget proposals for both revenue budget and capital programme for 2016/17.

Members asked a number of questions and the Chairman and Section 151 Officer responded in detail to the queries, including the following:

- the Collection Fund was explained in detail;
- a verbal update on the summary of the main points of the spending review was given, particularly in relation to the impact of potential changes to the New Homes Bonus;
- it was confirmed that the outcome of the next triennial pension revaluation being due at the end of next year; and
- assurances were given that the level of reserves were sufficient.

It was then **RESOLVED** that:

1. The report be noted;
2. Officers be instructed to develop a strategy to deliver the best use of the affordable housing capital budget of £550,000 and the uncommitted New Homes Bonus amounts of £63,000 (in year 15/16) and potentially £317,000 (in 16/17) as per 6.9 and 7.3 of the presented agenda report; and
3. The principle of an appropriately graded shared post being employed to focus on Economic Development, with the target of the post being self-financing within two years, as per para 6.9 of the presented agenda report be supported;

It was then **RESOLVED** that Council be **RECOMMENDED** that**:**

4. car parking charges be frozen for 2016/17 as set out in Appendix F of the presented agenda report;
5. the fees for the Environmental Health Community of Practice are as per presented Appendix F; and
6. authority be delegated to the Community of Practice Lead for Environmental Health in consultation with the Lead Hub Committee Member, to modify the charges of Food Export Certificates, once the outcome of the current review is known.

HC 37 HEART OF THE SOUTH WEST FORMAL DEVOLUTION BID

The Chairman introduced a report that set out the detail of a shared Devolution Statement of Intent including the authorities within the Heart of the South West Bid and the opportunities that would arise for West Devon Borough Council from devolution.

Members noted that the Draft Proposal circulated as Appendix 1 of the presented agenda report did not give sufficient weight to Plymouth being a marine centre within the section on Strategic Economy.

It was then **RESOLVED** that Council be **RECOMMENDED** to:

1. endorse the Leader's current approach to devolution and the drafting of proposals, their submission and negotiation of a deal for the Heart of the South West, namely:

   Working with local authorities, National Parks and the Heart of the South West Local Enterprise Partnership to deliver full proposals for devolution which will seek a formal agreement with Government on a formal devolution deal as set out in Appendix 1 of the presented agenda report;

2. note that full Council will consider and be asked to approve the final devolution proposal before the end of the year; and

3. in the event of government timescales changing, delegate authority to the Head of Paid Service, in consultation with the Leader of the Council, to approve the final proposal.

***HC 38 T18 BUDGET MONITORING**

The Chairman presented a report that set out the 2015/16 Quarter 2 position in relation to the T18 Budget.

The Executive Director (Service Delivery and Commercial Development) advised that the Mobile Locality Officers had now received the Civica mobile application that would enable them to upload information whilst out in the field.

The Executive Director (Strategy and Commissioning) advised that some members of staff were still to go through the Assessment process.

Members noted the comments on space being available to let at Kilworthy Park and were assured by officers that steps were being taken to advertise that availability through a number of means.

It was then **RESOLVED** that the progress to date on the T18 Transformation Programme be noted.

HC 39 REVENUE BUDGET MONITORING

The Chairman presented a report that enabled Members to monitor income and expenditure variations against the approved budget for 2015/16, and provided a forecast for the year end position.

It was then **RESOLVED:**

1. That the forecast income and expenditure variations for the 2015/16 financial year and the overall projected underspend of £70,000 be noted;

2. That Council be **RECOMMENDED** to transfer any unspent Homelessness grant into a Homelessness Earmarked Reserve at the end of the 2015/16 financial year (this is expected to be £30,000).

***HC 40 CAPITAL BUDGET MONITORING 2015/16**

The Chairman presented a report that advised Members of the financial position as at 31 October 2015 for the purposes of budget monitoring.

In response to questions, the s151 Officer confirmed that it was expected to fully utilise the Disabled Facilities Grant budget as experience dictated that a large proportion of the spend took place in Quarter 4. The Community Projects Grant was also expected to be fully spent, as again the funding from West Devon Borough Council often 'pump primed' other funding so there was usually a time delay between commitment and physical payment.

It was then **RESOLVED** that the report be noted.

HC 41 BUSINESS DEVELOPMENT OPPORTUNITIES – DEVON BUILDING CONTROL PARTNERSHIP PROVISION OF NEW HOMES WARRANTIES

The Lead Member for Economy presented a report that sought authority to undertake and charge for new home warranty inspections, in addition to its current scope of works. He took Members through the key points within the report and set out the background to the proposal.

The Head of Building Control Partnership responded to Members questions.

It was then **RESOLVED** that:

1. Council be **RECOMMENDED** that the Devon Building Control Partnership be granted delegated authority to undertake fee paying new home warranty building inspections in addition to their current scope of works; and
2. a report be presented in early 2016 to set out the future strategy for Devon Building Control Partnership.

HC 42 ENFORCEMENT POLICY

The Lead Member for Customer First introduced the report and the COP Lead Specialist Legal set out the background and how the policy would provide a consistent approach across the Council for enforcement matters. The Policy would allow discretion and negotiation, and was not intended to be inflexible.

It was then **RESOLVED** that Council be **RECOMMENDED** to adopt the Corporate Enforcement Policy as presented at Appendix A of the presented agenda report.

HC 43 REVIEW OF WAITING TIME IN BROOK STREET CAR PARK, TAVISTOCK

The Lead Member for Economy presented a report that requested that Members consider the recommendation to make an amendment to the West Devon Off Street Parking Places Order in respect of the waiting time permitted on the top two decks of Brook Street car park, so that long stay parking was permissible, using the £2 all day tariff currently available in all other long stay car parks in Tavistock.

Members discussed the report and broadly agreed with the recommendation, however it was noted that this was for a trial period and should therefore run concurrently with the existing scheme already running in the town.

It was then **RESOLVED** that Council be **RECOMMENDED** to approve the proposal to implement long stay parking on the top two decks of Brook Street car park Tavistock for a trial period to run concurrently with the current trial of £2 for all day parking in long stay car parks.

HC 44 MINUTES OF OVERVIEW AND SCRUTINY (INTERNAL) COMMITTEE HELD 17 NOVEMBER 2015

The minutes of the Overview and Scrutiny (External) Committee were presented for approval and noted.

In respect of Unstarred Minute O&S (E) 22 – Our Plan Review, which included a recommendation to the Hub Committee for reference to Council, the Hub Committee noted the recommendation and made the following:

That Council be **RECOMMENDED** that:

West Devon Our Plan be re-issued for the start of the 2016/17 financial year as a document that:

- Recognises Our Plan as the single comprehensive Council Plan;
- Restates the Council's corporate Vision and Objectives
- Establishes the common basis for the Council's Financial Plan, Asset Management Plan, Local Plan and all other Plans and Strategies;
- Establishes long-term and short-term priorities for delivery, including a delivery plan commencing in 2016/17;
- Establishes mechanisms for delivery; and
- Establishes engagement, monitoring and review procedures; and
- Provides context for subsequent incorporation of the Local Plan element currently subject to separate preparation.

(The Meeting terminated at 4.50 pm)

Dated this

Chairman

Report to: **Hub Committee**

Date: **26th January 2016**

Title: **Budget Proposals Report 2016/17**

Portfolio Area: **Leader of the Council – Budget Proposals**

Wards Affected: **All**

Relevant Scrutiny Committee: **Internal**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Author: **Lisa Buckle** Role: **Finance Community of Practice Lead**

Contact: **Tel. 01803 861413 Email: lisa.buckle@swdevon.gov.uk**

Recommendations:

Members are requested to recommend to Council:

(i) To increase Council Tax by 1.99% (which equates to a Band D council tax of £212.53 for 2016/17, an increase of £4.14 per year or 8 pence per week). This equates to a Council Tax requirement of £4,193,941 (as shown in Appendix B1))

(ii) That the financial pressures in Appendix A of £836,000 are accepted

(iii) That the proposed savings of £845,000 set out in Appendix A are adopted

(iv) That the Collection Fund surplus of £280,000 be agreed

(v) That £1,000,000 of New Homes Bonus funding is used to balance the 2016-17 Revenue Budget.

(vi) That the Budget Surplus of £304,678 is ringfenced for future income generation opportunities and held in an Earmarked Reserve for that purpose, in accordance with Minute HC 29 (see 1.10)

(vii) That the Total Net Expenditure of the Council for 2016/17 is £7,253,325 (Appendix B1 and B2)

(viii) To approve the 2016/17 Capital Programme projects totalling £651,000 as per 8.1

(ix) To finance the 2016/17 Capital Programme of £651,000 by using £412,000 of New Homes Bonus funding and £239,000 of Better Care Funding (as per 8.1).

(x) That the Council transfers £24,136 of its allocation of New Homes Bonus for 2016/17 to an Earmarked Reserve called ‘Community Investment Fund – Dartmoor National Park’, to be applied for and drawn down by Dartmoor National Park as required. This amount is a one-off payment and the position will be considered annually by the Council as part of the budget process. The condition is that this is for use within the boundaries of the Borough Council only.

(xi) That the Council Tax Support Grant of £77,509 be passed onto Town and Parish Councils for 2016/17. (This is a reduction of 11.2% from 2015/16) as per Appendix D.

(xii) That the minimum level of the Unearmarked Revenue Reserves be maintained at £750,000 as per Section 9.

(xiii) That the level of reserves as set out within this report and the assessment of their adequacy and the robustness of budget estimates be noted. This is a requirement of Part 2 of the Local Government Act 2003.

1. Executive summary

1.1 The Council’s Medium Term Financial Strategy (MTFS) is based on a financial forecast over a rolling five year timeframe to 2020/21 which will help ensure resources are aligned to the outcomes in Our Plan. ***The changes to the Budget Report from the last Budget report to the Hub Committee on 1ST December 2015 are shown in detail in Section 5.14.***

1.2 The forecast is intended to provide a framework within which decisions can be made regarding the future service provision and council tax levels whilst building an approach that guarantees West Devon Borough Council’s longer term viability.

1.3 Local authorities have faced unprecedented reductions in Government funding since the Comprehensive Spending Review 2010. The Queen’s Speech in May stated that the government will “continue the work of bringing the public finances under control and reducing the deficit, so that Britain lives within its means”. The Summer Budget on 8 July 2015 has confirmed this and has meant significant financial reductions over the next four years until the government achieves its aim of running a budget surplus by 2019/20.

1.4 By the end of 2015/16, the Council's grant funding (Revenue Support Grant) will have reduced by over 45% from 2013. The economic backdrop continues to be challenging, resulting in significant on-going reductions in Government funding, with the Council needing to focus on long term financial planning.

1.5 In response, in 2013 the Council alongside its shared services partner, South Hams District Council, approved an innovative Transformation Programme (T18). This is delivering a new operating model to ensure that both Councils can continue to deliver quality services for its customers and communities. An investment budget of £2.83 million has been approved, to deliver annual recurring revenue savings of £1.64 million. The payback period for the Programme is 2.75 years. The Transformation Programme has received the backing of Central Government with an award of £266,000 of Government funding.

1.6 The following table illustrates the predicted budget (surplus)/gap from 2016/17 onwards for the Borough Council as shown in Appendix B1:

	2016/17 £	**2017/18 £**	**2018/19 £**	**2019/20 £**	**2020/21 £**
Annual budget (surplus)/gap	(304,678) Surplus (One-off)	712,148 gap	383,627 gap	32,108 gap	(15,780) surplus
TOTAL BUDGET GAP OVER THE FIVE YEARS TO 2020/21					**1,112,103**

Section 6.3 gives more details of the key assumptions regarding these figures. ***The budget surplus in 2016/17 of £304,678 is available for reinvestment (on a one-off basis rather than annually).***

1.7 If New Homes Bonus (NHB) were to be used as outlined in 7.8 of the report, this would mean that there would potentially ***be £309,159 of NHB which is uncommitted in 2016/2017*** (with an additional £63,303 being uncommitted from 2015/16). This assumes that £1 million of NHB will be used in 2016/17 to support the Revenue Base Budget. These amounts are in addition to the budget surplus identified of £304,678 in 2016/17.

1.8 Whilst there remains a great deal of uncertainty about various elements of income and expenditure, the forecast has been based on a set of assumptions which represent a cautious estimate in order to focus attention on the revised scale of the funding gap. The figures will be revised as we progress through the financial year.

1.9 The Council's approach to financial planning over the medium term will include a focus on income generation and commercial opportunities. This will strengthen the position of the Borough Council by developing financial resilience through less exposure to reductions in Government funding.

1.10 The Council's Medium Term Financial Strategy was considered by the Overview and Scrutiny Committee on 6th October 2015. Minute O&S(I) 26 from the meeting refers. On 27th October the Hub Committee Members agreed to accept the recommendations of the Overview and Scrutiny (Internal) Committee arising from their meeting on 6 October, 2015, and amended their resolution accordingly. Below is an extract of the minute from the meeting:-

***HC 29 MEDIUM TERM FINANCIAL STRATEGY (MTFS)**
Members agreed to accept the recommendations of the Overview and Scrutiny (Internal) Committee arising from their meeting on 6 October, 2015, and amended their resolution accordingly. It was then **RESOLVED** that the Hub Committee had considered the five year Medium Term Financial Strategy and provided an indication of the budget principles to be adopted, with particular reference to:

a) the level of council tax increase being 1.99%;

b) the use of New Homes Bonus to support the revenue budget;

c) the amount of Council Tax Support Grant to be passed on to Parish and Town Councils be reduced by 11.2%;

d) Other income generation and budget savings; and

e) Maintaining the current Council policy on the minimum level of unearmarked reserves being £750,000; and

f) The anticipated 2016/17 budget surplus being ringfenced for future income generation opportunities and held in an earmarked reserve for that purpose.

1.11 At a Joint meeting of the Overview and Scrutiny (Internal) and Overview and Scrutiny (External) Committees on 12 January 2016, the following was agreed:-

Extract of Minute *O&S 5:-
To provide guidance to the Hub Committee, Members discussed the merits of whether or not the Council Tax level for 2016/17 should be increased by 1.99%. In light of the ongoing budget reductions from central government, a number of Members concluded that it was absolutely essential to build up our Council TaxBase and there was a further need to look at every possible revenue stream available to the Council. It was then **PROPOSED** and **SECONDED** and when put to the vote was unanimously declared **CARRIED** that:-

'The Hub Committee be advised that the Overview and Scrutiny Committees recommend that the Council Tax level for 2016/17 be increased by 1.99%.'

2 ASSUMPTIONS FOR FINANCIAL MODELLING PURPOSES

2.1 Levels of pay settlement are determined by national negotiation between the Local Government Employers and the Trade Unions. There has been a pay offer to the trade unions of a 2 year settlement, broadly 1% in April 16 and a further 1% in April 17. A budget provision of 1% for 2016/17 onwards has been modelled. The MTFS is not an expression of Council Policy on pay awards, but a means of ensuring an appropriate provision is made as part of the overall financial planning of the Council.

2.2 The MTFS assumes inflation will run at 2% (Government target) over the five year period. The Retail Price Index (RPI) at November 2015 was 1.1% and Consumer Price Index (November 2015) was 0.1%. An annual cost pressure of £60,000 has been included. This is partly to allow for an expected increase in business rates from the revaluation due in 2017.

2.3 The predicted interest rate forecast from our treasury management advisors, Sector, is shown below. The Council's budgeted investment income in 2015/16 is £40,000. It is assumed that the interest rate return for our investments will average 0.75 % for 2016/17 rising to 1.5% by 2018/19 as shown below:-

2016/17 - 0.75%
2017/18 - 1.00%
2018/19 - 1.50%

2.4 Two scenarios have been modelled for council tax purposes. The financial modelling in Appendix B1 assumes a Band D council tax increase of 1.99% annually. This means an increase to £212.53 in 2016/17. The financial modelling in Appendix B2 assumes that council tax is frozen for 2016/17 onwards.

2.5 The reductions in Revenue Support Grant (RSG) are as follows (see 3.1 and 3.2):

	2016/17 £	**2017/18 £**	**2018/19 £**	**2019/20 £**	**2020/21 £**
Revenue Support Grant (2015/16 RSG was £1.215m):	0.623m	0.223m	Nil	Nil	Nil
TOTAL REDUCTION OVER THE FIVE YEARS TO 2020/21					**£1.215m**

3. GOVERNMENT FUNDING

3.1 The Local Government Finance Settlement was announced on 17 December and contained the announcements detailed below.

3.2 **Funding Reduction Analysis**

SFA is the term for Settlement Funding Assessment and is basically a Council's Revenue Support Grant and Business Rates funding added together. The Finance Settlement announced the following 4 year figures for SFA:-

Financial Year	**Settlement Funding Assessment (SFA)**	**Which is made up of:-**	
		Revenue Support Grant	**Business Rates Baseline Amount**
2015-16 (Baseline)	£2.623m	£1.215m	£1.408m
2016-17	£2.13m	£0.62m	£1.51m
2017-18	£1.76m	£0.22m	£1.54m
2018-19	£1.58m	Nil	£1.58m
2019-20	£1.63m	Nil	£1.63m

So funding from Revenue Support Grant and Business Rates reduces by £0.99m over the 4 year period. Therefore Appendices B1 and B2 have been updated to reflect these figures. An allowance of an additional £30,000 for an anticipated business rates pooling gain has also been added into the modelling.

The Government have offered for Councils to sign up to a four year settlement offer. This would give the Borough Council certainty of its Revenue Support Grant amounts and Rural Services Delivery Grant amounts for the next four years. An efficiency plan would need to be submitted to the Government as part of this offer. More details will be released on this by the Government and the Borough Council would need to assess the benefits and dis-benefits of signing up to the four year offer.

3.3 **Rural Services Delivery Grant**

The Council will receive rural funding through a separate Rural Services Delivery Grant. This is something that has been lobbied for through our work with SPARSE to reflect the fact that it costs more to deliver services in rural communities. The Council's grant allocations will be:-

2016-17	£114,658
2017-18	£200,651
2018-19	£286,645
2019-20	£372,638
2020-21	£400,000 (assumed to be of a similar value to 19-20 for modelling purposes)

3.4 **Business Rates**
The income predictions for Business Rates have been significantly reduced from the December 2015 figures, to reflect the Finance Settlement figures. Whilst in 2015/16 a higher figure than the baseline business rates figure was used to set the budget, the current risk of business rates appeals and downward fluctuations in the rateable value base of the Council, means that it would not be prudent to include higher predictions of business rates income at this point in time. The modelling in December 2015 assumed Business Rates income for 16/17 of £1,591,000. This is now estimated to be £1,538,000 due to the above.

3.5 **Retained Business Rates** - The Government introduced the Business Rates Retention system from April 2013. There is a risk of volatility in the system because Councils are exposed to any loss of income if businesses go into decline. However, Authorities can voluntarily form a 'pool'. Pooling mitigates each Authority's exposure to Business Rate income volatility as the risks are spread over a larger pool.

In 2014/15 the Council received £39,927 as a pooling gain. This was additional business rates income generated as a consequence of being part of the Devonwide Business Rates pool. In line with good financial management principles, a provision has been made in the Accounts for likely refunds of business rates as a result of appeals, against the rateable value of business properties. The appeals provision is based on the total value of outstanding appeals at the year end as advised by the Valuation Office Agency and on advice from them about the likely success rate of appeals.

. The Council's Business Rates Gross amount payable has increased from £9.8 million in 2011/12 to £10.6 million in 2015/16. Therefore over the last 4 years, the Borough Council's business rates base has grown on average by 2% per annum. Of the Business Rates collected of £10.6 million, the Council is predicted to retain in funding only £1.579 million of this in 2015/16. So the Borough Council retains approximately 15 pence in every £1 to run our services.

3.6 **Business Rates Revaluation -** There will be a Business Rates Revaluation which will go live on 1 April 2017.

3.7 **Council Tax Referendum Limit –** The Localism Act introduced the power for the Secretary of State to set principles each year under which council tax increases are determined to be excessive. The Government have confirmed that council tax increases of 2 per cent or over will be subject to a council tax referendum for 2016/17. Therefore the maximum council tax increase remains at 1.99% for 2016/17 for West Devon Borough Council, with no limit set for Town and Parish Councils.

3.8 **Council Tax Freeze Grant**
As expected, there has been no announcement on a Council Tax Freeze Grant scheme for the period 2016/17 and beyond. Therefore a freeze grant is not being offered for 2016/17 and beyond.

3.9 **Income from Council Tax –** The recommendation is for the Borough Council to increased council tax by 1.99% for 2016/17 to £212.53 for a Band D property for West Devon Borough Council. This amounts to a £4.14 increase on an average Band D property over a year, equivalent to 8p a week.

There was a unanimous vote from the Joint meeting of the Overview and Scrutiny (Internal) and Overview and Scrutiny (External) Committees on 12 January 2016, **Minute *O&S 5** which was:-

'The Hub Committee be advised that the Overview and Scrutiny Committees recommend that the Council Tax level for 2016/17 be increased by 1.99%.'

A 1% increase in Council Tax generates an extra £41,000 in extra council tax income per annum. The total income from Council Tax is projected to be £4.19 million in 2016/17 as per Appendix B1.

3.10 **Council Tax** – The table below shows how an average Band D council bill is made up for West Devon Borough Council for the last two years:

Precepting Authority	**Band D Council Tax 2014/15**	**Band D Council Tax 2015/16**	**£ Increase**	**% Increase**
West Devon Borough Council	£204.50	£208.39	£3.89	1.9%
Devon County Council	£1,138.59	£1,161.27	£22.68	1.99%
Devon & Cornwall Police	£166.16	£169.47	£3.31	1.99%
Devon & Somerset Fire & Rescue	£76.89	£78.42	£1.53	1.99%
Average Parish /Town Council	£57.31	£60.77	£3.46	6.04%
TOTAL	**£1,643.45**	**£1,678.32**	**£34.87**	**2.12%**

West Devon Borough Council's share of the council tax bill in 2015/16 was ***12%***, being £208.39 out of an average Band D council tax bill of £1,678.32.

3.11 **Collection Fund Surplus** – At the end of March 2015, the Council has a balance on its Collection Fund (council tax collection fund) of £1.74 million. This will be distributed in 2016/17, which means that the Borough Council's share of the distribution is £280,000 which is funding available towards the 2016/17 Budget.

3.12 **On 5 October 2015, the Chancellor unveiled 'devolution revolution'**. This set out major plans to devolve new powers from the Government to local areas to promote growth and prosperity. The main announcement was that by the end of Parliament, local government will be able to retain 100 per cent of local taxes – including all £26 billion of revenue from business rates by 2020 – to spend on local government services. The announcement also said that 'Local authorities will be able to cut business rates as much as they like'. This is significant new powers for local authorities. Devolution is a separate item on this Agenda.

4 THE COUNCIL'S STRATEGIC PRIORITIES – OUR PLAN

4.1 In February 2015, the Council published 'Our Plan'. This new strategic plan for West Devon set out the vision, long term priorities and planning policies for the area to 2031 as below:-

West Devon - A Leading Rural Council
Thriving Towns and Villages

Enhancing the quality of life for individuals and communities

4.2 Through Our Plan we are striving to achieve communities that have access to housing, employment, services and facilities that meet their needs, communities that are resilient, safe and able to make choices about their future. Our communities are places where businesses can develop and grow.

4.3 How we will achieve Our Vision is defined in each policy area and through the actions set out in our Annual Delivery Plan. We will measure the progress we are making by how well we are meeting our objectives, actions and targets and the impact all this is having on the people and places of West Devon.

The Plan's Objectives are:-
Our Wellbeing
Our Communities
Our Homes
Our Economy
Our Infrastructure
Our Environment
Our Heritage
Our Resources

The full document can be accessed on http://www.westdevon.gov.uk/ourplan

5 BUDGET PRESSURES FOR 2016/17 ONWARDS

5.1 Financial modelling has been undertaken for the next five years to predict the Council's financial situation for the short and medium term.

5.2 ***Appendix A*** to the Medium Term Financial Strategy sets out the Budget Pressures forecast for the next five years and the additional savings and income forecast. A description of the larger budget pressures are set out below.

5.3 **Waste services contract -** The budget pressure in the Medium Term Financial Strategy is the worst case scenario as there will be the opportunity to better the cost depending on the delivery vehicle chosen and the ability to charge for elements of service delivery in future if necessary.

5.4 The figure is based upon current market rates for recycling materials which are constantly changing. This amount will be tested during the waste review process and so is indicative at this stage, based on known operational costs of the service 'as is'.

5.5 If a Local Authority Controlled Company (LACC) model is chosen for the delivery of the waste collection and cleansing services then there is an opportunity to further expand related services which may be sold to generate additional income. E.g. trade waste and trade recycling services. A one-off cost pressure for £80,000 has also been built into the Financial Strategy for a specialist resource to assist with the waste and cleansing options review and delivery and a further temporary staffing resource. There is a separate item on this agenda on the LACC model.

5.6 **Our Plan** - A report on Our Plan was considered by the Hub Committee on 22th September 2015. Minute (HC 14) recommended that a provision for 2016/17 of £75,000 is made for Our Plan. This is a one-off cost for 2016/17 for the cost of the examination in public, preparation of documents and in house costs.

5.7 **National Insurance** - There will be increased National Insurance (NI) contributions for employers effective from 2016/17. The extra cost to West Devon is £60,000 annually.

5.8 The Summer Budget 2015 also announced plans for a National Living wage for the over 25s of £7.20 per hour from 2016/17 increasing to £9.00 per hour by 2020. The number of Council employees affected are within single figures and therefore a provision has been included within the overall pay award budget provision.

5.9 **Triennial Pension revaluation** - The Local Government Pension Scheme (LGPS) was last subject to its triennial review in 2014/15. The next valuation impact is in 2017/18 and it is likely to add an additional cost pressure.

5.10 **Homelessness funding** – The Finance Settlement has confirmed that homelessness funding under the Local Welfare Support Grant will cease in 2016-17 as anticipated. Therefore the cost pressure of £50,000 in 2016-17 is still required to enable the Council to continue with homelessness prevention activity.

5.11 **One off set up costs of the Local Authority Controlled Company** – A change to the figures shown in the December 2015 Budget Proposals report is that the one off set up costs of the Trading Company are now predicted to be in the region of £150,000 for each Council. Therefore the cost pressure has been increased in 2016-17 to reflect the £150,000. This would cover the following:

- Cost of the full business case and implementation plan
- Project management for implementation
- Legal advice
- Financial advice
- Setting up the contracts between the Councils and the company with all the associated schedules and specifications
- Novating (Transfer) of the contract and leases
- Setting up a new pension scheme and transfer/admitted body status for LGPS
- Setting up the payroll, accounts system, a separate bank account
- Transferring any systems
- Work associated with transfer of any assets
- Change management with staff
- Branding and marketing for the new company

There is a separate agenda item on the Hub Committee for 'Proposals relating to a Local Authority Controlled Company'.

5.12 **Tamar Estuaries Consultative Forum (TECF)** – West Devon Borough Council and South Hams District Council both currently contribute £3,635 to the Forum. It is proposed that both Councils increase this to £4,500 (an increase of £865 each – rounded to £1,000 for ease of modelling). TECF will bring support in producing Our Plan (see Section 4).

SAVINGS AND INCOME GENERATION

5.13 **Transformation Programme 2018 (T18) –** In 2016/17 the Council will make savings of a further £725,000 as outlined in the original Business Case. This is on top of the savings of £962,000 per annum which were already built into the base budget for 2015/16. Section 1.5 gives more detail. There was a separate report on the December 2015 Hub Committee agenda for the T18 Budget Monitoring report. This showed that the predicted final spend (£2.766 million) is £64,000 less than the budget of £2.83 million.

CHANGES SINCE THE DECEMBER 2015 BUDGET REPORT

5.14 The Budget Proposals Report was considered by the Hub Committee on 1st December 2015. This showed a budget surplus in 2016/17 of £570,377. The figure has now changed to £304,678. The changes are as below:-

Budget Surplus reported in the Budget Report on 1st December 2015	***£(570,377)***
Increase in cost pressure for the one-off costs of the Local Authority Controlled Company (The cost pressure has been increased from £75,000 in the December 2015 Budget report to £150,000 in this Budget report – see 5.11)	£75,000
Extra Council Tax income from a higher TaxBase (TaxBase for 2016/17 is 19,733.41 Band D properties – the original modelling in December estimated a taxbase of 19,657 Band D properties – the extra 76.41 properties multiplied by a Band D council tax of £212.53 equates to extra council tax income of £16,239)	£(16,239)
Reduction in Revenue Support Grant (The modelling in December assumed RSG in 16/17 of £892,000 – This has been announced in the Finance Settlement to be £623,404)	£268,596
Reduction in Business Rates income (The modelling in December assumed Business Rates income for 16/17 of £1,591,000 – This is now estimated to be £1,538,000 – see note 3.4 and 3.5)	£53,000
Rural Services Delivery Grant funding (see note 3.3)	£(114,658)
Budget Surplus reported in the Budget Report on 26th January 2016	***£304,678***

6. OVERALL POSITION – BUDGET (SURPLUS)/GAP

6.1 ***Appendices B1 and B2*** illustrate the overall financial forecast for the forthcoming five years. Although the Council's Net Budget is predicted to be in the region of £7.3 million in 2016/17, the Gross Expenditure of the Council is around £26 million.

6.2 A Summary forecast is shown below of the potential budget situation if all of the budget pressures and the savings and income generation in Appendix A were approved. It also shows the different situation if the Council Tax is increased by 1.99% (***shown in Appendix B1***) and if Council Tax is frozen (***shown in Appendix B2***). A 1% increase in Council Tax generates an extra £41,000 in extra income per annum.

6.3 The following table illustrates the predicted budget (surplus)/gap from 2016/17 onwards for the Borough Council as shown in Appendix B1:

	2016/17 £	**2017/18 £**	**2018/19 £**	**2019/20 £**	**2020/21 £**
Annual budget (surplus)/gap	(304,678) budget surplus (one off)	712,148 budget gap	383,627 budget gap	32,108 budget gap	(15,780) budget surplus
TOTAL BUDGET GAP OVER THE FIVE YEARS TO 2020/21					**£1,112,103**

These budget gaps are the position based on two key assumptions:

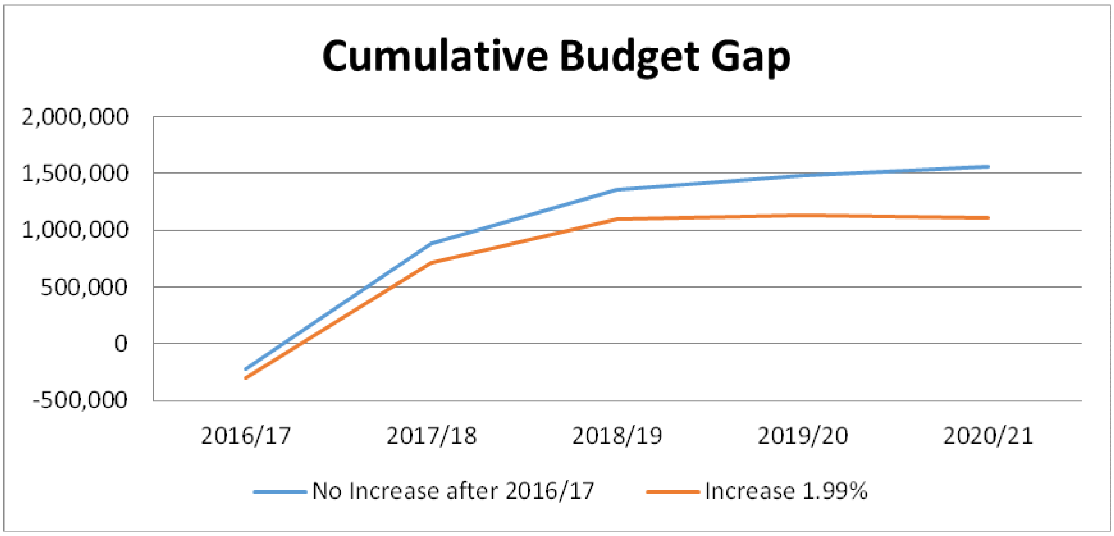
- That the contribution from New Homes Bonus is as set out in Appendix B1 for each financial year
- That the budget surplus in 2016/17 is treated as a one-off surplus and is reinvested in one-off items.

6.4 The report sets out an anticipated budget surplus for 2016-2017 of **£304,678** if Council Tax is increased by 1.99% as per Appendix B1. The budget surplus decreases to **£222,982** as per Appendix B2, if Council Tax is frozen for 2016/17.

6.5 *The budget surplus in 2016/17 is mainly as a result of the full amount of savings from the Council's Transformation Programme being realised by 2016/17 (see 5.13).*

6.6 In 2017/18 the Council moves into the position of having a budget gap again (of £712,148). Section 6.3 sets out the future years' budget gaps.

6.7 The graph below compares the Cumulative Budget Gap of £1.563 million by 2020/21 if council tax is frozen from 2016/17 onwards (the higher line), to the Cumulative Budget Gap of £1.112 million by 2020/21 if council tax is increased by 1.99% each year (the lower line).



6.8 **Members' Budget Workshop** – On 20th October a Members' Budget Workshop was held. This was to give all Members the opportunity to influence and shape the budget setting process. The outcome of the meeting is attached at Appendix G.

6.9 Work is currently being undertaken within the Finance team to redesign the budgets for 2016-17 into the Council's new T18 structure of Strategy and Commissioning, Customer First, Commercial Services and Support Services. Appendix F shows an initial view of how this would look for 2016-17. However the Appendix does come with a caveat of the fact that this is currently work in progress and the Appendix is a draft version.

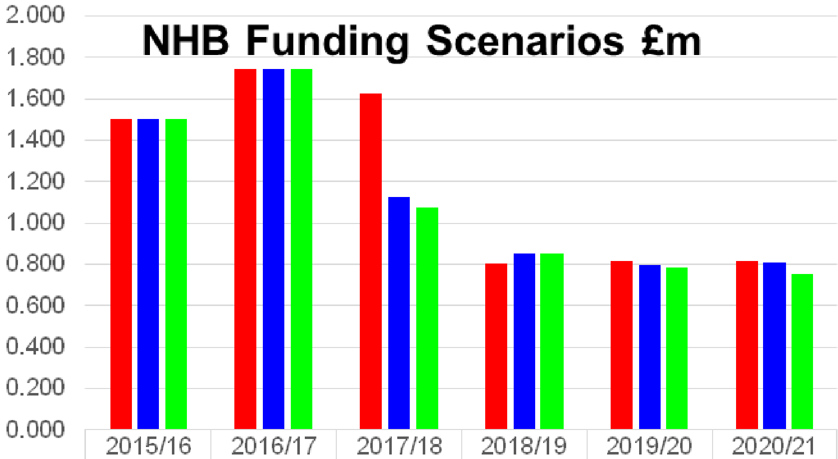
6.10 The finance team are also undertaking a project to harmonise all of the codes used on both Councils' finance systems so that the codes are the same and prefixed with either a 'W' for West Devon and a 'S' for South Hams. For example the code for car parking could be W100 in West Devon and S100 in South Hams. This will assist self serve for budget holders and also assist joint reporting across both Councils where this is appropriate.

7 NEW HOMES BONUS (NHB)

7.1 This grant was introduced in 2011/12 and provides incentives for local authorities and local communities to be supportive of housing growth. It is not ring fenced and can be spent on anything.

7.2 A New Homes Bonus consultation document has been issued (responses due by 10 March 2016). The Council will send a robust response to the consultation document.

7.3 The NHB amount for 2016-17 has been confirmed at £1,745,295 (£4K less than original predictions). Modelling for future years based on the proposals shown in the consultation document could see the NHB allocations for future years look like the following amounts:-



	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21
Scenario 1 - No Changes	1.503	1.745	1.626	0.803	0.814	0.815
Scenario 2 - DCLG Proposal on years	1.503	1.745	1.123	0.855	0.798	0.812
Scenario 3 - Deadweight growth ignored	1.503	1.745	1.076	0.849	0.787	0.755

7.4 So if there were to be no changes to the NHB scheme (Scenario 1), the Council would receive in the region of £1.626m in 2017/18. This reduces in future years due to the fact that the amount of the New Homes Bonus funding available nationally reduces to approximately 60% of the current funding totals, meaning there would be a 'scaling back' of payments meaning reduced payments.

7.5 However if the proposals to reduce the number of years from 6 years to 4 years (with 5 years for 2017/18) are introduced (Scenario 2), the Council would receive around £1.123m in 17/18.

7.6 Furthermore, if deadweight growth (0.25) is removed – this is an assumed baseline growth - (Scenario3), then the NHB payments would further reduce to £1.076m in 2017/18. Payments would reduce to £0.755m by the year 2020/21.

7.7 The Council needs to use approx. £412,000 annually of NHB to fund its Capital Programme (for Disabled Facilities Grants and Affordable Housing Schemes). Therefore the amounts remaining that could be used to fund the Council's Revenue Base Budget are:-

2017/18	£600,000
2018/19	£400,000
2019/20	£300,000
2020/21	£300,000

(A contribution of £1,000,000 has still been assumed for 2016-17). These are the amounts of New Homes Bonus funding that have been modelled in Appendices B1 and B2.

7.8 Therefore in 2016-17, New Homes Bonus is as follows:-

	2016-17 (£)
Amount receivable	1,745,295
To fund the current Revenue Budget	(1,000,000)
To fund the Capital Programme	(412,000)
Dartmoor National Park allocation	(24,136)
Balance remaining (not committed)	***£309,159***

This means there is an uncommitted amount of £309,159 of New Homes Bonus funding in 2016-17.

7.9 **Dartmoor National Park (DNP)** – On an annual basis Dartmoor National Park request a share of the New Homes Bonus to reflect new homes delivered within the park. This amounts to £24,136 for 2016/17. The money is used to support a local community fund and, for example, joint work through the rural housing enabler. Members considered this as part of the Budget process and the following system is in place:-

- A one off payment is to be agreed on an annual basis based on actual completions.
- The allocation received by DNP are to be spent only within those parishes falling within the boundaries of the Borough Council.
- The agreed sum is transferred to an Earmarked Reserve called 'Community Investment Fund – Dartmoor National Park' and the DNP make an annual application to draw down funds as required in line with the process agreed for that fund.

8. CAPITAL PROGRAMME 2016/17 to 2020/21

8.1 The table below shows the proposed Capital Programme for 2016/17 and projected figures to 2020/21:

	2016/17	2017/18	2018/19	2019/20	2020/21
Tenants Incentive Scheme (TIS)	15,000	15,000	15,000	15,000	15,000
Village Halls and Community Projects	36,000	36,000	36,000	36,000	36,000
Affordable Housing (see Note 1)	200,000	200,000	200,000	200,000	200,000
Disabled Facilities Grants (see Note 2)	400,000	400,000	400,000	400,000	400,000
TOTAL CAPITAL PROGRAMME	**651,000**	**651,000**	**651,000**	**651,000**	**651,000**
Suggested method of funding the Capital Programme:					
Better Care funding towards Disabled Facilities Grants (see Note 2)	*(239,000)*	*(239,000)*	*(239,000)*	*(239,000)*	*(239,000)*
Potential funding from New Homes Bonus (Required to fund the Capital Programme)	**412,000**	**412,000**	**412,000**	**412,000**	**412,000**

Note 1 - The current level of capital funding allocated to the delivery of affordable housing is an annual contribution of £200,000. There is already a budget of £550,000 approved in the Capital Programme for affordable housing. National policies and funding strategies designed to deliver affordable housing have significantly changed in recent years with much greater reliance on the provision of affordable housing without public subsidy, primarily through the planning process.

Note 2 – From 2015/16, the funding for Disabled Facilities Grants will be from the Better Care Fund held by Devon County Council (DCC) and funding will be passported to District Councils. Allocations for 15/16 show an increase in contributions to £239,000 and this level has also been assumed for 2016/17 onwards. DCC have confirmed that this is a valid assumption for 16/17.

8.2 The current machinery used to process our recyclate is owned by the Council (purchased via grant funding) and is reaching the end of its' life. The future processing of recyclable materials will be considered through the forthcoming waste review and the option of capital purchase of new machinery vs. other suitable options will be explored.

8.3 The Capital Programme is set by the Council and may be funded by sale proceeds from the disposal of assets (capital receipts), external grants and contributions, directly from revenue or from borrowing.

8.4 As part of the Medium Term Financial Strategy (MTFS), it is necessary to review the level and phasing of schemes within the Capital Programme. It is important that the programme is matched with available resources and the impact on reserves and the revenue budget is fully assessed.

8.5 **Prudential Borrowing -** The Council will consider the use of prudential borrowing to support capital investment to deliver services and will ensure that the full costs of borrowing are taken into account when investment decisions are made. The Council is currently procuring a new leisure contract to commence in 2016/17 and is also considering its waste services provision which is a separate report on this agenda.

9. EARMARKED AND UNEARMARKED RESERVES

9.1 The Council's Net Budget will be £7.2 million in 2016/17. It is still recommended to retain the same policy of a maintaining a minimum level of Unearmarked Reserves of £750,000. The summary below shows the position at 31 March 2015:

The Use of Unearmarked Revenue Reserves	**2014/15 £'000**
Balance B/fwd 1.4.2015	1,023
Revenue Outturn Underspend predicted for 2015-16	70
Predicted Unearmarked revenue reserves at 31.3.2016	**1,093**
Predicted Earmarked revenue reserves at 31.3.2016 (see Appendix C)	**732**

The predicted level of unearmarked and earmarked revenue reserves as at 31 March 2016 total £1,825,000 as shown in Appendix C.

9.2 The Revenue Budget Monitoring report for 2015-16 was an item on the December 2015 Hub Committee agenda. *The report showed that the predicted underspend against the 2015/16 Budget set of £7.262 million is £70,000.*

9.3 Our financial strategy recognises the need to maintain un-earmarked revenue reserves to provide stability for both medium and longer term planning and to provide a contingency against unforeseen events. In setting the minimum level at £750,000 the following have been taken into account:

- The size of the authority
- The volatility of some income and expenditure budgets due to a dependency on the weather, tourism and state of the economy
- The risks faced by the Council with regard to funding unforeseen events
- Uncertainty over future Government funding
- Uncertainty over future New Homes Bonus allocations

9.4 The Unearmarked Reserves current balance of £1.023 million stands above the minimum balance of £0.75million and acts as a safeguard against unforeseen financial pressures.

9.5 **Specific Earmarked Reserves -** The level and commitments for each reserve are kept under review each year to make sure the committed balance is adequate for its purpose (in accordance with LLAP Bulletin 99, a guide on 'Reserves' from the Chartered Institute of Public Finance). A schedule of predicted Earmarked Reserves for 15/16 is shown in Appendix C. Earmarked Reserves are predicted to be £732,000 at the end of March 2016.

10 OTHER BUDGET ISSUES

10.1 **Council Tax Reduction Scheme** – At the Hub Committee meeting on 27th October, it was resolved (HC29) that the amount of Council Tax Support Grant to be passed onto Parish and Town Councils be reduced by 11.2% for 2016-17 (from £87,285 to £77,509). This is an overall reduction of £9,776 and reflects the level of reduction which the Borough Council has received in its funding. Appendix D illustrates the effect for each Town and Parish Council.

10.2 **Devolution** - The government intends to support towns and counties to play their part in growing the economy, offering them the opportunity to agree devolution deals, and providing local people with the levers they need to boost growth. The government is working with towns and counties to make these deals happen. In 2015 all Devon and Somerset Councils signed a Statement of Intent to look at working up a Devolution offering to Government. There is a separate report on this agenda concerning this subject.

10.3 **Income generation opportunities and the Council's asset management strategy -** Efficient and effective management of the Council's commercial property portfolio is inextricably linked to the Council's response to expected reduction in funding support and increasing the revenue from commercial property will help to bridge any future funding gaps. Receipts from all asset disposals will be used to reinvest in the commercial property estate.

10.4 The commercial property portfolio is run as a commercial enterprise so as to generate a revenue stream for the Council. It is the aim of the Council to continue to run the commercial estate and over time, to increase its size, by developing out sites in its ownership, as well as through the purchase of new land where required. The development programme will form part of the capital programme, which is predicated on robust and compelling business cases. Whenever financially viable, the Council will consider and deploy renewable energy / environmentally friendly solutions and technologies.

10.5 In summary, the Council's asset management strategy is to:

- Pro-active dispose of non-strategic land to reduce operational expenditure
- Use funds realised from asset disposals for future development
- Bring forward strategic sites for development or disposal as appropriate (investment will be required)
- Actively grow Commercial Asset Portfolio - Focus on Housing (Affordable, Rental, Market) & Employment Units

10.6 Other income generation initiatives will be pursued in tandem with extending the commercial property portfolio; linked to driving more value from Council assets and resources. This could be from increased fees and charges or providing customers with added value services.

10.7 **Sensitivity analysis and risk analysis** – The figures within the Medium Term Financial Strategy have been subject to a sensitivity analysis of the figures and a risk analysis. A copy is attached at ***Appendix E.***

11 FEES AND CHARGES

11.1 The Council has the power to levy fees and charges for various services and functions it undertakes. Some of these fees are set by statute while for others the Council can make "reasonable" charges for the services it provides. The undertaking of regular reviews of charges allows, where possible, for the Council to recover the cost of officers' time in providing the service.

Car Parking Charges

11.2 As part of the December 2015 Budget report, it has been recommended to Council to freeze car parking charges in 2016-17.

Environmental Health Charges

11.3 As part of the December 2015 Budget report, recommendations on Environmental Health fees and charges were made to Council.

12. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Hub Committee is responsible for recommending to Council the budgetary framework. In accordance with the Financial Procedure Rules, Council must decide the general level of Reserves and the use of Earmarked Reserves. The preparation of the MTFS is evidence that the Council has considered and taken into account all relevant information and proper advice when determining its financial arrangements in accordance with statutory requirements, and in particular, that it will set a lawful budget.
Financial	Y	The financial implications are set out in Sections 1.6 to 1.7 of the Executive Summary. Appendix B1 shows that in 2016/17 the Budget Surplus is ***£304,678.*** *(The uncommitted New Homes Bonus for 2016-17 of £309,159 is in addition to this).*
Risk	Y	The financial risks are as set out in the report.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None directly arising from this report.
Safeguarding		None directly arising from this report.
Community Safety, Crime and Disorder		None directly arising from this report.

Health, Safety and Wellbeing		None directly arising from this report.
Other implications		None directly arising from this report.

Supporting Information

Appendices:
Appendix A – Budget pressures and savings
Appendix B1 – Modelling of council tax increasing by 1.99%
Appendix B2 – Modelling of council tax freezing
Appendix C – Reserves
Appendix D – Town and Parish Council Tax Support Grant allocation
Appendix E – Sensitivity analysis and risk analysis
Appendix F – Income and Expenditure for 2016-17
Appendix G – Members' Budget Workshop

Approval and clearance of report

Process checklist	**Completed**
Portfolio Holder briefed	**Yes**
SLT Rep briefed	**Yes**
Relevant Exec Director sign off (draft)	**Yes**
Data protection issues considered	**Yes**
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	**N/A**

WEST DEVON BOROUGH COUNCIL BUDGET PRESSURES	BASE 2015/16 £	Yr1 2016/17 £	Yr2 2017/18 £	Yr3 2018/19 £	Yr4 2019/20 £	Yr5 2020/21 £
Inflation on the waste collection, recycling and cleansing contract (estimate) (see 5.3)	80,000	80,000	300,000	80,000	80,000	80,000
Specialist resource - Waste and Cleansing options review and delivery (see 5.5) - one off	0	80,000	(80,000)	0	0	0
Inflation on the street cleaning and public conveniences	0	10,000	30,000	10,000	10,000	10,000
Recycling of garden and leaf collections	27,200	90,000	0	0	0	0
New glass recycling banks x 3	8,000	(8,000)	0	0	0	0
Inflation on the swimming pool contract (profiled fee)	10,000	10,000	20,000	10,000	10,000	10,000
Our Plan (see 5.6)	0	75,000	(75,000)	0	0	0
Inflation on goods and services	15,000	60,000	60,000	60,000	60,000	60,000
Reduction in Housing Benefit administration subsidy	34,000	40,000	40,000	40,000	40,000	40,000
Increase in salaries - increments and pay and grading	0	40,000	40,000	40,000	40,000	40,000
Increase in salaries - pay increase at 1%	58,800	40,000	40,000	40,000	40,000	40,000
National Insurance - (see 5.7)		60,000	0	0	0	0
Triennial Pension revaluation	20,000	60,000	60,000	60,000	60,000	60,000
Reduction in the Homelessness Grant (see 5.10)	0	50,000	0	0	0	0
Trading company - specialist advice (see 5.11) - One off	0	150,000	(150,000)	0	0	0
Elections - reversal of 15/16 one off cost pressure	50,000	(50,000)	0	0	0	0
Kilworthy Park - running costs	0	45,000	0	0	0	0
New Governance Arrangements	28,000	0	0	0	0	0
Tamar Valley Legacy Plan	28,000	3,000	0	0	0	0
Rural Development Programme for England	10,400	0	0	0	0	0
Tavistock Townscape (Council March 14 CM74)	10,000	0	0	0	0	0
Reduction in TIC Savings	15,000	0	0	0	0	0
Tamar Estuaries Consultative Forum (see 5.12)		1,000				
Workstation rental costs - payment to South Hams - this is offset by savings as shown below (T18 Council Minute CM49 - November 2013)	90,000	0	0	0	0	0
TOTAL IDENTIFIED BUDGET PRESSURES	**484,400**	**836,000**	**285,000**	**340,000**	**340,000**	**340,000**

WEST DEVON BOROUGH COUNCIL

	BASE 2015/16 £	Yr1 2016/17 £	Yr2 2017/18 £	Yr3 2018/19 £	Yr4 2019/20 £	Yr5 2020/21 £
Contribution to T18 Strategic Change Earmarked Reserve						
Transformation Project (T18) - Approved at 9th December 2014 Council (One-off investment costs included for completeness)						
Contribution to Strategic Change Reserve to meet redundancy and pension costs (offset by savings above)	805,000	125,000	160,000	120,000	35,000	0
Net contribution to T18 Reserve to meet other non-recurring costs (offset by savings above)	67,000	67,000	67,000	67,000	67,000	0
Total Contribution to T18 Strategic Change Earmarked Reserve	**872,000**	**192,000**	**227,000**	**187,000**	**102,000**	**0**

SAVINGS AND INCOME GENERATION IDENTIFIED

	BASE 2015/16 £	Yr1 2016/17 £	Yr2 2017/18 £	Yr3 2018/19 £	Yr4 2019/20 £	Yr5 2020/21 £
Housing Benefit recoveries (see 5.15)	0	30,000	0	0	0	0
Other staffing expenses (see 5.15)	0	60,000	0	0	0	0
Reduction on Members Allowances (Council 13 May 2014)	4,200	0	0	0	0	0
Savings on audit fees	12,000	0	0	0	0	0
New income generation from Street Name and Numbering	7,500	0	0	0	0	0
Additional investment income	0	5,000	15,000	30,000	5,000	5,000
Business Rates pooling gain (see 3.3)	30,000	10,000	10,000	10,000	10,000	10,000
Bank Charges Reduction	5,000	0	0	0	0	0
TOTAL SAVINGS AND INCOME GENERATION (excluding T18 savings)	**58,700**	**105,000**	**25,000**	**40,000**	**15,000**	**15,000**
Reduced running costs at Kilworthy Park and additional leasing income	90,000	15,000	15,000	15,000	15,000	0
Transformation Project (T18) savings - Approved at 9th December 2014 Council report (Appendix C) - £700,000 staff savings (30% of current staffing levels) and £25,000 other staff saving costs (ancillary costs) - Note the £725,000 savings in 2016/17 are in addition to £962,000 of savings already built into the 2015/16 Base Budget as shown.	872,000	725,000	0	0	0	0
TOTAL SAVINGS AND INCOME GENERATION (including T18 savings)	**1,020,700**	**845,000**	**40,000**	**55,000**	**30,000**	**15,000**

Line No.	**Example B1 - Council Tax is increased by 1.99% each year** Modelling for the financial years 2016/17 onwards	**Base 2015/16 £**	**Yr1 2016/17 £**	**Yr2 2017/18 £**	**Yr3 2018/19 £**	**Yr4 2019/20 £**	**Yr5 2020/21 £**
1	Base budget brought forward (line 4/line12)	7,798,625	7,262,325	7,253,325	6,786,177	6,687,550	6,965,442
2	Budget pressures (as per Appendix A)	484,400	836,000	285,000	340,000	340,000	340,000
3	Savings already identified (as per Appendix A)	(1,020,700)	(845,000)	(40,000)	(55,000)	(30,000)	(15,000)
4	**Projected Net Expenditure:**	**7,262,325**	**7,253,325**	**7,498,325**	**7,071,177**	**6,997,550**	**7,290,442**
	Funded By:-						
5	**Council Tax income** - Modelling a 1.99% increase in council tax each year (Taxbase 15/16 = 19,457 Band D Equivalent properties)	4,054,644	4,193,941	4,342,242	4,494,905	4,651,804	4,813,222
6	Collection Fund Surplus	60,589	280,000	80,000	80,000	80,000	80,000
7	Revenue Support Grant	1,215,323	623,404	223,284	0	0	0
8	Localised Business Rates	1,579,000	1,538,000	1,567,000	1,613,000	1,663,000	1,713,000
9	Funding from Rural Services Delivery Grant	0	114,658	200,651	286,645	372,638	400,000
10	Funding from New Homes Bonus	1,224,769	1,000,000	600,000	400,000	300,000	300,000
11	Less: Contribution to Strategic Change Earmarked Reserve (T18)	-872,000	-192,000	-227,000	-187,000	-102,000	0
12	**Total Projected Funding Sources**	**7,262,325**	**7,558,003**	**6,786,177**	**6,687,550**	**6,965,442**	**7,306,222**
13	**Budget (surplus)/ gap per year** (Projected Expenditure line 4 - Projected Funding line 12)	**0**	**-304,678**	**712,148**	**383,627**	**32,108**	**-15,780**

Cumulative Budget (Surplus)/Gap - There is a budget surplus in 2016/17 and budget gaps in the remaining four years.	0	-304,678 (one-off)	712,148	1,095,775	1,127,883	1,112,103

Modelling Assumptions:	An assumption of an additional 300 Band D equivalent properties per year has been included in the TaxBase and modelling for 2016/17 onwards					
Council Tax (Band D) (an increase of 1.99% has been modelled)	208.39	212.53	216.75	221.06	225.45	229.93
Council TaxBase	19,457.00	19,733.41	20,033.41	20,333.41	20,633.41	20,933.41

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APPENDIX B2

FINANCIAL STRATEGY

Line No.	**Example B2 - Council Tax is frozen every year from 16/17 onwards** Modelling for the financial years 2016/17 onwards	**Base 2015/16 £**	**Yr1 2016/17 £**	**Yr2 2017/18 £**	**Yr3 2018/19 £**	**Yr4 2019/20 £**	**Yr5 2020/21 £**
1	Base budget brought forward (line 4/line11)	7,798,625	7,262,325	7,253,325	6,618,696	6,429,923	6,613,433
2	Budget pressures (as per Appendix A)	484,400	836,000	285,000	340,000	340,000	340,000
3	Savings already identified (as per Appendix A)	(1,020,700)	(845,000)	(40,000)	(55,000)	(30,000)	(15,000)
4	**Projected Net Expenditure:**	**7,262,325**	**7,253,325**	**7,498,325**	**6,903,696**	**6,739,923**	**6,938,433**
5	**Council Tax income** - Assumes Council Tax is frozen in 2016/17 and thereafter (Taxbase 15/16 = 19,457)	4,054,644	4,112,245	4,174,762	4,237,279	4,299,796	4,362,313
6	Collection Fund Surplus	60,589	280,000	80,000	80,000	80,000	80,000
7	Revenue Support Grant	1,215,323	623,404	223,284	0	0	0
8	Localised Business Rates	1,579,000	1,538,000	1,567,000	1,613,000	1,663,000	1,713,000
9	Funding from Rural Services Delivery Grant	0	114,658	200,651	286,645	372,638	400,000
10	Funding from New Homes Bonus	1,224,769	1,000,000	600,000	400,000	300,000	300,000
11	Less: Contribution to Strategic Change Earmarked Reserve (T18)	-872,000	-192,000	-227,000	-187,000	-102,000	0
12	**Total Projected Income**	**7,262,325**	**7,476,307**	**6,618,697**	**6,429,924**	**6,613,434**	**6,855,313**
13	**Budget (surplus)/gap per year** (Projected Expenditure line 4 - Projected Income line 12)	**0**	**-222,982**	**879,628**	**473,772**	**126,489**	**83,120**

	Base	Yr1	Yr2	Yr3	Yr4	Yr5
Cumulative Budget (Surplus)/Budget Gap - There is a budget surplus in 2016/17 and budget gaps in the years thereafter.	0	-222,982 (one-off)	879,628	1,353,400	1,479,889	1,563,009

Modelling Assumptions:	An assumption of an additional 300 Band D equivalent properties per year has been included in the TaxBase and modelling for 2016/17 onwards					
Council Tax (Band D) (A Nil increase in council tax)	208.39	208.39	208.39	208.39	208.39	208.39
Council TaxBase	19,457.00	19,733.41	20,033.41	20,333.41	20,633.41	20,933.41

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RESERVES - PROJECTED BALANCES					
	Opening balance 1 April 2015 £000	**Additions to the Reserve**	**Predicted spend to 31.3.2016 £000**	**Projected balance 31.3.2016 £000**	**Comments**
EARMARKED RESERVES					
Specific Reserves - General Fund					
T18 Strategic Change Earmarked Reserve		(872)	872	0	A new reserve set up to fund T18 redundancy and pension costs.
Business Rates Retention Scheme	(321)		100	(221)	This reserve will be used to offset the balance on the Collection Fund. This relates to a timing issue on the accounting adjustments required for the localisation of business rates.
Car Parking Maintenance	(318)			(318)	
Local Authority Business Growth Incentive (LABGI)	(21)		21	0	
Habitats Earmarked Reserve	(24)		24	0	
Cannons Meadow	(21)		3	(18)	Written down to revenue annually
County Election	(24)			(24)	
Landscape Maintenance	(20)			(20)	
Fifth Wave Neighbourhood Front Runners	(50)		(5)	(55)	
DCLG Business Support Scheme	(13)		13	0	
DCC Public Health	(40)		40	0	
Devon County Council - TAP Funds	(49)		49	0	
Economic Grant Initiatives	(16)		16	0	
Flood Works	(20)		20	0	
Homelessness Prevention	-	(30)		(30)	A new reserve set up to cover additional costs in the winter months.
Other Reserves below £15,000	(86)		40	(46)	
TOTAL EARMARKED RESERVES	**(1,023)**	**(902)**	**1,193**	**(732)**	
TOTAL UNEARMARKED RESERVES	**(1,023)**	**(70)**		**(1,093)**	Shown to increase by £70,000 in 2015/16, which is the predicted underspend for the year.
TOTAL REVENUE RESERVES (EARMARKED AND UNEARMARKED RESERVES)	**(2,046)**	**(972)**	**1,193**	**(1,825)**	

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Town and Parish - Council Tax Support Grant allocation

Parish/Town	Council Tax Support Grant allocation for 2015/16	**11.20% Percentage reduction**	Council Tax Support Grant allocation for 2016/17
Okehampton Town Council	20,326	2276	18,049
Hatherleigh Town Council	1,914	214	1,700
Bere Ferrers Parish Council	5,417	607	4,810
Lifton Parish Council	897	100	796
Dartmoor Forest Parish Council	1,402	157	1,245
Inwardleigh Parish Council	220	25	195
Tavistock Town Council	39,335	4405	34,929
Bridestowe Parish Council	439	49	390
North Tawton Town Council	5,253	588	4,665
South Tawton Parish Council	793	89	704
Horrabridge Parish Council	1,865	209	1,657
Sampford Courtenay Parish Council	369	41	328
Mary Tavy Parish Council	917	103	814
Sourton Parish Council	278	31	247
Lamerton Parish Council	308	35	274
Drewsteignton Parish Council	790	88	701
Northlew Parish Council	447	50	397
Kelly Parish Meeting	26	3	23
Spreyton Parish Council	99	11	88
Chagford Parish Council	1,719	193	1,527
Gulworthy Parish Council	195	22	173
Sticklepath Parish Council	167	19	149
Broadwoodkelly Parish Council	115	13	102
Milton Abbot Parish Council	184	21	164
Beaworthy Parish Council	53	6	47
Exbourne & Jacobstowe Grouped Parish Council	216	24	192
Meeth Parish Council	53	6	47
Highampton Parish Council	142	16	126
Bratton Clovelly Parish Council	183	20	162
Iddesleigh Parish Council	66	7	59
Sydenham Damerel Parish Council	18	2	16
Burrator Parish Council	158	18	140
Plasterdown Grouped Parish Council	94	10	83
Stowford Parish Council	68	8	60
Bondleigh Parish Council	8	1	7
Okehampton Hamlets Parish Council	326	36	289
Buckland Monachorum Parish Council	1,411	158	1,253
Monkokehampton Parish Council	57	6	51
Lydford Parish Council	204	23	181
Throwleigh Parish Council	99	11	88
Peter Tavy Parish Council	210	24	187
Belstone Parish Council	49	5	43
Lewdown Grouped Parish Council	116	13	103
Germansweek Parish Council	39	4	34
Brentor Parish Council	240	27	213
Gidleigh Parish Meeting	0	0	0
	87,285	**9,776**	**77,509**

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APPENDIX E

Sensitivity analysis and risk analysis of the Medium Term Financial Strategy (MTFS)

1. Extra business rates retention income from rates growth above the baseline funding has been assumed for the five year plan. A growth averaging £26,800 (1.7%) annually over the next five years has been assumed.

2. Council Tax has been assumed in the Medium Term Financial Strategy to increase by 1.99% per annum. A 1% increase in council tax equates to £41,000.

3. A realistic provision of £380,000 (equating to 3.5%) has been made for business rates appeals (the gross amount payable for Business Rates is £10.6 million in 15/16). An extra 1% provision would equate to £109,000.

4. The budget assumes approximately £1.7 million of income from fees and charges, recycling and investments. Whilst this assumption is realistic, given the position of the economy there is a risk that income could fall or be less than anticipated. A 5% reduction in income would result in a loss of £85,000.

5. The MTFS relies on proposed savings in 2016/17 of £845,000. The majority of these savings are from the Business case for the T18 Transformation Programme and are mainly from a reduction in staffing numbers being fully realised in 2016/17. A 5% increase or reduction in the savings would equate to £42,250.

6. New Homes Bonus has been modelled based on an extra 300 properties per annum increase. Each extra property currently attracts £1,174 (80% of £1,468). If this figure were to actually be say 50 properties less, this would mean New Homes Bonus figures would be less than predictions by £58,700 per annum.

7. Income from investments (around £8 million) has been assumed to increase in line with the expected interest rate forecasts in Section 2.3 i.e. 0.75% in 2016/17 and rising to 1.5% by 2018/19. A 0.25% variation in interest rates on investment income equates to £20,000.

8. An allowance of 2% for inflation is included in the budget. Inflation costs are being managed through cost effective procurement.

9. The capital programme is funded by receipts, grants, and contributions. Realistic assumptions about these have been made for the future.

10. Known liabilities have been provided for and there are no significant outstanding claims.

11. Income generation opportunities and the Council's asset management strategy - The Council's asset management strategy is to:

- Pro-active dispose of non-strategic land to reduce operational expenditure
- Use funds realised from asset disposals for future development
- Bring forward strategic sites for development or disposal as appropriate (investment will be required)
- Actively grow Commercial Asset Portfolio - Focus on Housing (Affordable, Rental, Market) & Employment Units

12. Other income generation initiatives will be pursued in tandem with extending the commercial property portfolio; linked to driving more value from Council assets and resources. This could be from increased fees and charges or providing customers with added value services.

Summary & conclusion

Sensitivity analysis and risks are identified above with a potential total adverse revenue effect for 2016/17 of ***£383,000***. However, revenue reserves are recommended to be maintained at a minimum of ***£750,000***. I therefore confirm the robustness of the Medium Term Financial Strategy and the adequacy of the reserves.

Mrs Lisa Buckle, Finance Community of Practice Lead (S151 Officer)

West Devon Borough Council Draft Revenue Budget Analysis

APPENDIX F

Service	Net Budget 2015/16	2016/17 Budget Pressures	2016/17 Budget Savings	2016/17 Budget Total
Commercial Services	2,076,869	326,354	231,642	2,171,581
Customer First	4,040,525	293,656	480,658	3,853,523
Strategy and Commissioning	779,251	202,898	86,914	895,235
Support Services*	365,680	13,092	45,786	332,986
Total Budget	**7,262,325**	**836,000**	**845,000**	**7,253,325**

**In accordance with the CIPFA Code the majority of Support Services has been recharged to the front line services*

Funded By

Revenue Support Grant	1,215,323	623,404
Localised Business Rates	1,579,000	1,538,000
Council Tax (assuming increase of 1.99%)	4,054,644	4,193,941
Rural Services Delivery Grant	-	114,658
New Homes Bonus	1,224,769	1,000,000
Collection Fund Surplus	60,589	280,000
Less: Contribution to Strategic Change Earmarked Reserve (T18)	(872,000)	(192,000)
	7,262,325	**7,558,003**
Budget Surplus		(304,678)

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APPENDIX G

West Devon Budget Setting Workshop – 20th October 2015

The Executive Director (Strategy & Commissioning), Steve Jorden facilitated the session and spoke about the Medium Term Financial Strategy, the potential effects of devolution and the need for income generation to meet the predicted budget pressures. A key message was that despite the successful ongoing implementation of the T18 Transformation Programme, the Council still needs to make decisions and changes in order to be fully self-sufficient and financially sustainable.

The Finance Community of Practice Lead, Lisa Buckle then shared a presentation about the forecast gap between income and expenditure as a result of reduced Central Government funded Revenue Support Grant and the possible financial effects of the Government's Spending Review (2015).

Steve Jorden also shared a presentation about the Business Development / Income Generation agenda and the introduction of the refreshed Asset Management Strategy.

Feedback from Strategic Priorities – Workshop session (1)

After a brief discussion around the Strategic Priorities set out in "Our Plan" – an interactive session was held, where the Members in attendance split into groups to look at the strategic priorities and to list the top three principles/objectives or areas which they would like to see taken forward in the Budget process for future years (mainly looking longer term at years 2017/18 onwards (Year 2 of the MTFS)).

The exercise yielded a number of outputs. These priorities / principles have been categorised into broad strategic areas as shown below:

Develop the Economy – Infrastructure is key – Develop and maintain business growth. Need to develop short, medium and long term plans. The Economy needs good infrastructure. If you get the plan right, other things will follow e.g. generate employment. It is not just about roads but more about social infrastructure such as doctors, leisure, schools, shops, pubs, transport etc. Need to take into account that 45% of WDBC is in the National Park. Look at neighbouring economies e.g. Saltash, Launceston, more light weighted industrial buildings. Develop the wider Borough e.g. good examples are Ambrosia and Haulage. There could be a lack of available land for industrial development and to build affordable housing (Compulsory Purchase Orders?).

Community – Community encompasses Economy and Housing. Need to provide more self-help and the availability of funding to Parishes to provide services.

Housing/Homes – Housing Developments in the communities rather than Tavistock and Okehampton. Plan it to build own house to rent/sell. Strategy around Housing. Develop higher end housing to attract individuals.

Planning policy – Review of some of the West Devon planning policies to allow more flexibility with regard to new developments especially concerning what constitutes "open countryside" or whether or not a proposal is within an existing boundary.

Business – Establish the best business fit for two different towns e.g. logistics, distribution access in Okehampton (utilising the A30).

Tourism – Develop tourism.

Education – Partnership in educational providers.

Parish Survey – Survey the Parishes to find out exactly what parish owned land is available – Need to keep more in the community (young people need affordable low cost housing).

Young People – Set policies to encourage young people to live/work in West Devon.

Trading company - Set up a trading company

Information Gathering – Gather information and intelligence around our front-line operational services. These are the eyes 'n' ears and hands. Managing demand.

Feedback from Strategic Priorities - Workshop session (2)

The final interactive session enabled the same groups of Members to set some principles/proposals which they would like the Hub Committee to consider as part of the 2016/17 Budget Setting Process (Year 1 of the Medium Term Financial Strategy). There was some significant correlation between the responses.

Increase Council Tax by the maximum allowable percentage – Whilst nobody wants to raise council tax, Members' views were that it was essential to raise council tax by the permitted maximum. This measure would increase the base budget for ensuing years and protect the delivery of services and the Council's financial resilience.

Businesses – Investment to encourage new businesses e.g. business rate relief policy. Invest in intelligence about what businesses we have, what units do they need – collect information to inform decisions. E.g. In Princetown there are commercial properties shutting down e.g. cafes. Need to ask the Hub Committee for a fighting fund for Princetown. Achieve greater co-operation between ourselves, the National Park, the Duchy and the County through partnership working. There needs to be a co-ordinated strategy about Princetown and a wider strategy about all businesses in the National Park.

Residential - Encourage residential above shops.

Website and on-line services –Invest in improving our website and on-line services.

Surplus in 2016/17 and New Homes Bonus uncommitted amount in 2016/17 – Members noted that the surplus predicted in 2016/17 of £571,000 and the New Homes Bonus uncommitted amount of £317,000 totalled just under £900,000. There were various ideas about how these surpluses should be reinvested such as:-

i) Explore the option of paying off some of the prudential borrowing (loan) on the Kilworthy Park building, thereby saving on the interest payments *(The S151 Officer advised that the option of repaying some of the borrowing or rescheduling the £2.1 million debt is annually reviewed by the Council's treasury management advisors, Sector. Their advice is due to the early redemption payment payable and due to current gilt prices, this is not financially advantageous at the moment but this will be annually reviewed. The Council currently pays interest of £97,000 a year on the £2.1 million borrowing).*

ii) There is currently a capital programme budget for Housing of £0.55 million. If repaying some of the borrowing on the Kilworthy Park building is not an option, Members would like to see development properties purchased for re-sale (trading arm). Build new houses.

iii) Income generation - Hold the money in a reserve to invest in and fund future income generation opportunities (this could be through the trading company).

iv) Invest the surplus in property and not literally keeping the money in the bank account. This is so as to ensure that the capital value increases. For example short term investment in industrial or residential in the Borough.

v) Reduce the reliance on New Homes Bonus which is anticipated to start falling away.

vi) Transformation Programme (T18) - Short term injection of additional investment into some services e.g. the planning service, to clear temporary service backlogs. Hold money in a reserve for contingencies.

Fees and Charges – Ongoing review of existing fees and charges, in particular car parking. The Council generates around £860,000 of income from car parking and there is a need for an annual review. (*Note a report on car parking charges will be submitted to the Hub Committee in accordance with the normal budget timetable***).**

For further information, please also refer to:
Presentation One: Lisa Buckle - Presentation on the Medium Term Financial Strategy
Presentation Two: Steve Jorden - Presentation on the Business Development & Income Generation Agenda

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Report to: **Hub Committee**

Date: **26 January 2016**

Title: **Heart of the South West Formal Devolution Bid – Update report**

Portfolio Area: **Strategy and Commissioning**

Wards Affected: **All**

Relevant Scrutiny Committee: **Overview and Scrutiny (Internal) Committee**

Urgent Decision: **N** Approval and clearance obtained: **N/A**

Date next steps can be taken: (e.g. referral on of recommendation or implementation of substantive decision) **16 February 2016** **Following full Council decision**

Author: **Steve Jorden** Role: **Executive Director (Strategy and Commissioning)**

Contact: **steve.jorden@swdevon.gov.uk**

Recommendations

That Hub Committee recommend Full Council to:

1. Endorse the Leader's current approach to devolution and the drafting of proposals, their submission and negotiation of a deal for the Heart of the South West, namely:

   Working with local authorities, National Parks and the Heart of the South West Local Enterprise Partnership to deliver full proposals for devolution which will seek a formal agreement with Government on a formal devolution deal as set out in Appendix 1

2. Note that full Council will consider and be asked to approve the final devolution proposal

3. That should government timescales change, or minor amendments become necessary, authority be delegated to the Head of Paid Service in consultation with the Leader of the Council to approve the final proposal.

1. Executive summary

- Devolution for the Heart of the South West (HotSW) is being led by the Leaders of Somerset and Devon County Councils, all Somerset and Devon Districts, Torbay Council, Plymouth City Council, Dartmoor and Exmoor National Parks, three Clinical Commissioning Groups and the Local Enterprise Partnership.

- Our shared Devolution Statement of Intent was submitted to Government on 4 September in response to announcements in the July Budget and a deadline set by the Chancellor of the Exchequer. The Government received 38 bids from cities, towns and counties across England. There is strong competition for devolution powers and some bids are further advanced than HotSW. Nevertheless, the Government has subsequently asked us to produce detailed devolution proposals with a view to negotiating a formal deal thereafter.

- The process to produce formal proposals is almost complete and is being coproduced across the HotSW. This report updates Hub Committee and the Council on the latest position following a meeting of the HotSW Devolution Partnership on Friday 22 January 2016.

- Any final devolution deal with government will be subject to further approval / ratification by all partners individually.

2. Background

- The Government has declared its desire to devolve powers and budgets from Westminster to local authorities, along Local Enterprise Partnership geographies. The Chancellor of the Exchequer is particularly interested in devolution as a driver of economic growth and reducing reliance on the public purse.

- In general, devolution is expected to support the following areas of government policy:
    - Increased productivity
    - Skills and employment
    - Housing
    - Reducing the cost of the public sector

- A report was presented to the Hub Committee on 1 December 2015 which sought endorsement of the Council’s role in producing formal proposals to the Government’s timescales.

- During August, Heart of the South West Leaders agreed to produce a high-level set of ambitions stating our desire to negotiate a devolution deal with government where we would make improvements to our area in return for increased powers and responsibilities.

- The Heart of the South West Devolution Statement of Intent was submitted to Government and made public on 4 September 2015.

- The Government praised our statement of intent for its clarity and ambition and asked us to move forward swiftly to produce detailed, formal proposals and begin negotiation with them on a formal deal.

- Government's expectation is that we will submit proposals and carry out formal negotiation in early 2016.

- Therefore, partners are now working on formal proposals and preparing for high-level discussions with Government.

3. Outcomes/outputs

The Council has an opportunity to benefit from devolution across a wide range of topics and services. Benefits may include increased powers over decision-making and funding, leading to decision-making that more closely reflects local needs, improves services and reduces costs.

Devolution has clear links to, and potential to enhance the benefit of the Council 'Our Plan' strategy and links into the Councils transformation programme T18.

These recommendations seek to gain authority to pursue solutions that help the Council maximise the opportunities of devolution. They do not commit the Council to a formal devolution deal, only to make and negotiate on proposals.

At this stage of the process the Council is not required to take decisions on the detail of what would be delivered under any devolution deal or possible future governance arrangements but rather to be actively aware and involved in discussions.

Consultations undertaken
Despite the Government's challenging timescales to date, efforts have been made to keep Members informed on the development of the proposals and this will continue going forward.

Any final devolution deal with government will be subject to:
- Further approval / ratification by all partners

- Consultation, as appropriate, before delivery of parts of the deal

4. Options available and consideration of risk

- Options considered and reasons for rejecting them

Alternative approach	Reason for rejection
Not to participate	There is significant potential benefit to West Devon through devolution which can be explored with minimal risk.
To submit proposals based on a different geography	Government has confirmed that the preferred geography for proposals is based on Local Enterprise Partnership boundaries.

- Failure to secure a deal may affect delivery of the Council's ambitions. Implications will be addressed as any devolution deal is developed and agreed.
- One or more partners may choose not to proceed with a formal bid which could result in the bid floundering.
- There are not considered to be any other implications at this stage however the whole population of our authority could be affected by a devolution deal.
- Any final devolution deal with government will be subject to further approval/ratification by all partners, and will require other implications and impacts to be considered at that stage.

5. Proposed Way Forward

Next Steps: Producing formal devolution proposals

- A Programme Management Office is overseeing delivery of each chapter and maintaining communications between partners. Currently this Office is funded through existing resources. It is important to note that each partner remains responsible for their own governance processes and public/in-house communications.

- Each theme 'chapter' will demonstrate a thorough understanding of the issues and the difference that devolved powers and funding would make, including:

- A robust evidence base
- A series of 'offers' to government and 'asks' from government showing:
  - Stretching targets
  - Demonstrable outcomes for the Heart of the South West area
- Resource requirements including an analysis of costs and benefits
- Impact assessments
- Proven capacity and capability to deliver

- Work has been undertaken to produce proposals to be submitted to Government, including the document 'Devolution for the Heart of the South West – A Prospectus for Productivity'. This document outlines the position and objectives of the Heart of the South West Devolution Partnership. In line with the commitment to keep Members informed, this document is attached at Appendix A.

- At a meeting of the Devolution Partnership on 22 January 2016, partners will agree the papers to take forward the Statement of Intent. Next steps will be agreed, including stakeholder engagement.

- Council Members will continue to be kept information as work continues, including through regular updates, Member events and informal briefings.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		None at this stage. Implications will be addressed as any devolution deal is developed and agreed
HR		None at this stage. Implications will be addressed as any devolution deal is developed and agreed
Financial		Until detailed devolution proposals are developed, financial implications can only be generalised. They fall into three categories:

		1. The Government requires devolution to be a fiscally neutral process – power over funding may be transferred but no new government money will be made available except potentially for 'pump priming' activity 2. There is potential for savings across the public sector in the Heart of the South West and proposals are being developed with this in mind 3. The Government may however attempt to negotiate additional spending by the council or other partners as a requirement of one or more parts of the final deal
Risk		As noted in para 4
Comprehensive Impact Assessment Implications		
Equality and Diversity		None at this stage
Safeguarding		None at this stage
Community Safety, Crime and Disorder		None at this stage
Health, Safety and Wellbeing		None at this stage
Other implications		None at this stage

Supporting Information

Appendices: Devolution for the Heart of the South West – A Prospectus for Productivity

Background Papers:
Statement of Intent – e-mailed to Members on 5 October 2015
Draft Proposal
Draft Governance paper
Report to Hub Committee 1 December 2015

Process checklist	**Completed**
Portfolio Holder briefed	**Yes**
SLT Rep briefed	**Yes**
Relevant Exec Director sign off (draft)	**Yes**
Data protection issues considered	**Yes**
If exempt information, public (part 1) report also drafted. (Cabinet/Scrutiny)	**N/A**

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Devolution

for the Heart of the South West

A Prospectus for Productivity

NHS Northern, Eastern and Western Devon Clinical Commissioning Group

NHS Somerset Clinical Commissioning Group

NHS South Devon and Torbay Clinical Commissioning Group

Version 12 - 19 January 2016

Contents

CARDIFF
To Bristol
M5
Hinkley
Frome
Wells
Bridgwater
Barnstaple
Exmoor
A303
To London
A361
Tiverton
TAUNTON
Yeovil
M5
EXETER
A30
Weymouth
Newton Abbot
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TORBAY
29
30
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St Austell
PLYMOUTH
A38
- Planned Infrastructure Improvments
- Proposed Infrastructure Improvments
- Principal Growth Areas
- Secondary Growth Areas
- Sea Potential Zones
- Enterprise Zones
- Universities
- Science Parks
- Innovation Centres
- Marine Engineering Centres
- Hinkley Point Nuclear Site
- Yeovil Aerospace

Executive Summary

In September 2015, the Heart of the South West (HotSW) submitted its devolution Statement of Intent to Government. After considerable further work during autumn 2015, the partners - 17 local authorities, two National Parks, the Local Enterprise Partnership, and the three Clinical Commissioning Groups - are now in a position to commence detailed negotiations with Government on a devolution deal.

Government has challenged local leadership teams to treat productivity as 'the challenge of our time'. They have asked us to do that by 'fixing the foundations' of infrastructure, skills and science through a devolution revolution delivering long term public and private investment.

Heart of the South West productivity continues to lag behind national productivity, and is currently under 80% of the UK average. To redress this we need more, better jobs, a healthier, higher skilled labour market, and new homes for our growing population.

With Government support for our proposition, by 2030 the Heart of the South West can deliver 163,000 new jobs, 179,000 new homes, and an economy of over £53bn GVA. To put this in context, this is more growth over the next fifteen years than Bristol, Birmingham and Nottingham (the three non-'Powerhouse' core cities) have delivered in the last fifteen.

To do this we will exploit and deliver our Golden Opportunities around investment in nuclear energy at Hinkley, across the peninsula in marine, aerospace, advanced manufacturing, and environmental futures. We will connect our rural communities to these transformers, and address the challenges of aging and health-related worklessness with unprecedented health and care integration.

We will take responsibility for fixing our foundations. We seek Government's support to do this through negotiation and delivery of a far reaching devolution deal for the Heart of the South West.

Our approach to delivering this transformation focuses on a comprehensive Productivity Plan:

- **For people:** we will build on Government's own national reconfiguration of the skills system to supply business with the skills it needs, and a labour market able to deliver productivity per job and per hour at 'Greater South East' levels (outside Inner London). Our plans for health and care integration will support a significant proportion of our non-working population into work.

- **For business:** our Growth Hub will enable business growth and internationalisation following closure of the national Business Growth Service. We will augment this with specific policies and initiatives to realise national priorities implicit in our Golden Opportunities.

- **For place:** we will provide the infrastructure and housing required and make the Heart of the South West 'investment ready'. We also recognise that much of our growth will occur in specific sub-regional economic geographies. We will plan and manage change in these sub-regions to ensure their connectivity with each other, with the rest of the country, and globally. We will make sure that rural areas access and leverage these opportunities, and build on Government's 10 point plan for rural productivity geographies. [1]

1. The Heart of the South West's economic transformational opportunities were identified and agreed in our Strategic Economic Plan, March 2014.

We will plan and manage change in these sub-regions to ensure their connectivity with each other, with the rest of the country, and globally. We will make sure that rural areas access and leverage these opportunities, and build on Government's 10 point plan for rural productivity.

Cohesive, coherent leadership and governance of this transformation is crucial. We propose to establish a Combined Authority to provide leadership, supported by sub-regional delivery mechanisms so powers and resources are deployed on the scale at which our economy functions. These arrangements will develop new ways of working to address priority issues.

Our proposals build upon successful and strong business leadership through our Local Enterprise Partnership: we cannot deliver effective economic interventions without a strong business voice.

If we do not act, the Heart of the South West will not be able to contribute to the Government's ambition to meet the national productivity challenge as set out in Fixing the Foundations.

This document and our more detailed offers and asks outline our position and objectives. An early agreement on heads of terms for a devolution deal will trigger the start of our governance review and formulation of our Productivity Plan.

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Our Vision and Goals

Government recognises that fixing the foundations and devolution are the projects of a generation. Our key challenges are:

- An insufficiently skilled workforce and limited pool of available labour: many young people move away to live and work, rather than stay or move into our area.

- A need for more infrastructure to support our existing businesses and workers, and to attract new ones. We need better and more resilient infrastructure: roads, railways, broadband and housing.

- Enabling a more effective, far-reaching support environment for businesses to sustain those we already have and make the area more attractive to inward investment and home-grown entrepreneurs.

- Managing the significant and increasing cost of health and social care, which combined with our aging population threatens the viability of public services unless radical reforms are completed.

Productivity-led growth in the Heart of the South West will have three dimensions:

- **People:** who are healthy, with the skills they need to access higher value jobs and grow their careers.

- **Business:** more businesses creating new jobs, and increasing productivity.

- **Place:** sustainable growth across the geography, supported by modern infrastructure and accelerated housing delivery.

We signalled our intention to meet these challenges with our Statement of Intent. The submission of this more detailed proposition shows how serious our intent is. We believe the proposals we have committed to developing will realise our local ambitions, and make decisive, important contributions to Government's national priorities.

With Government support for our proposals we will redress our productivity gap and help us manage demographic challenges more effectively. Key outcomes we will achieve by 2030 include:

- £4bn additional in GVA for the UK economy.
- 163,000 new jobs.
- 179,000 more homes, and accelerated delivery in major growth points.
- Wage levels higher than the national average.
- Additional tax revenue for the Treasury of £113million per year.
- Apprenticeship starts increased by 400%.
- Every young person in education, employment or training.
- £1bn per year welfare benefits savings as more people enter employment.

- 60% of our workforce qualified to NVQ level 4 or above.
- Faster, more reliable rail services with greater capacity.
- Faster journey times on our road network, with less congestion.
- 100% superfast broadband coverage.

The Heart of the South West has a strong track record of delivering in partnership for residents and businesses:

- Securing and supporting major national and international investment in the future of the nuclear industry at Hinkley Point.
- Plymouth and South West Peninsula City Deal.
- A total of £195.5m secured through Growth Deals – including the highest Growth Deal 2 settlement of any LEP area in the country – to deliver a comprehensive programme of projects in pursuit of growth.
- Exeter University, Science Park, Innovation Centre and Innovation Zone.
- Connecting Devon and Somerset superfast broadband.
- Three Enterprise Zones: South Yard in Plymouth to support innovation and growth in marine industries, Huntspill Energy Park near Bridgwater to support the growth of a new nuclear cluster catalysed by investment in Hinkley, and East of Exeter sites aligned to opportunities in environmental sciences and big data.
- Delivery of Plymouth Science Park by Plymouth City Council and Plymouth University, now entering phase 5, creating the largest science park in the south of England.
- Major programme of improvements to the A303, A358, A30 corridor and M5 Junctions.
- The Peninsula Rail Task Force.
- Exeter and East Devon Growth Point.
- Health and social care initiatives including Somerset's 'Symphony' Vanguard project, Exeter 'ICE', Torbay's Integrated Care Organisation and 'One System One Budget' in Plymouth.

We can scale up and build on these experiences. However, without the comprehensive framework that our governance proposals will deliver, the Heart of the South West and national government will miss out on the solutions, linkages and effectiveness that collective leadership can achieve.

A Heart of the South West devolution agreement with robust governance structures, accelerated delivery, and more focused use of scarce resources is the optimal way for Government to assure itself that the national Fixing the Foundations plan is being proactively and consistently led and delivered across the Heart of the South West.

In this prospectus we set out our goals for 2016-2030 and how we will deliver the long term and evolutionary work required to achieve our devolution revolution.

Who are we?

Our area, people and economy

National Context

Government set out its long-term ambitions for the UK economy in 'Fixing the Foundations', its productivity plan for 2015-2020. This framework outlined how long-term investment and a dynamic economy could raise productivity and lift living standards. Government's invitation to areas to propose ways that devolution could contribute to this agenda led to our Statement of Intent being submitted on 4th September 2015.

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With policy developments in the autumn, and the Spending Review, Government has firmed up the financial intentions behind the productivity plan. In terms of local contributions leadership teams need to deliver an extensive portfolio of reforms:

- In skills and employment, 2016-20 will see major reforms of the post-16 and adult skills systems (both of colleges and providers on the supply side, and of loans for learners on the demand side). Post-16 Area Reviews and introduction of the Apprenticeship Levy offer opportunities to transform the delivery of local labour market skills, however the demands of transition may be acute.

- Physical investment will need to be managed in the context of higher performance expectations for planning regimes, new approaches to housing supply (especially starter home ownership), and proactive asset management at a public estate as well as local authority level. Local leadership teams will also need to play into the revision of the National Infrastructure Plan with new commitments to flagship schemes like HS2 and nuclear energy.

- As the national Business Growth Service closes by March 2016, new pressures will be placed on emerging local Growth Hubs. For innovation, local and regional Science and Innovation Audits will seek to shape national priorities as Research Councils and Innovate UK come together in Research UK with a range of new products.

- These agendas, and others, need to be delivered without diverting attention from existing commitments. These include City Deals, local growth deals, the European Structural and Investment Fund programmes, and other legacy programmes such as the Regional Growth Fund, Growing Places Fund, existing and newly announced Enterprise Zones.

These agendas sit alongside and will be enabled by devolution and fiscal reforms, and managed in the context of continued public sector expenditure constraint.

The challenge for the Heart of the South West is to shape these national priorities to our unique circumstances. We have drawn on our Strategic Economic Plan to describe the causes of our productivity challenge, identify our key 'Golden Opportunities', and understand how to build on our track record of success.

Local Context

The Heart of the South West covers most of the south west peninsula. Its 1.7 million residents live in a mixture of rural and urban settings, served by a stunning natural environment and rich cultural heritage.

Most of our businesses are small and medium sized enterprises (SME) employing fewer than 5 people, providing excellent potential for growth and innovation. We are also home to cutting edge engineering and manufacturing industries, including companies of global significance:

- Aerospace and advanced engineering industries employ more than 23,000 people and contribute over £1 billion to the economy. Businesses in the area also have specialisms in advanced electronics/ photonics, medical science and wireless and microwave technologies.

- Analysis of the comparative advantages of our local assets has identified that the Exeter City Region can make a unique contribution by becoming a globally recognised centre of excellence in weather and environment-related data analytics. Exeter is home to the Met Office, the city leads Europe in combined environmental science, data and computational infrastructure, hosting 400 researchers in environmental and sustainability science. From 2017, it will also host the most powerful supercomputer in Europe.

- The first of the UK's new generation of nuclear reactors being constructed at Hinkley Point will deliver substantial economic benefits across the south west. It is part of our growing low carbon and energy sector and offers £50billion worth of business opportunity in the nuclear sector within a 75 mile radius of Hinkley Point.

- We are a global centre of excellence for marine science and technology including Plymouth University's Marine Institute and the Plymouth Marine Laboratory.

- There are 30 working fishing ports across the Heart of the South West including the two largest fishery landings in England at Brixham and Plymouth.

- The South West Marine Energy Park, the country's first, serves the wider south west peninsular and offers direct access to superb physical assets and resources including the north Devon and north Somerset marine energy coasts for opportunities in wind, tidal and nuclear energy.

Our mixed economy also serves our traditional strengths. Our tourist and visitor economy attracts millions of visitors per year and our food and drink sector has a significant impact on national GVA (4.2% in 2011).

Whilst our largest employment sectors remain public administration, health and education, our Local Enterprise Partnership's Strategic Economic Plan recognises our area as having 'New World' potential if opportunities can be capitalised upon and the right conditions for growth created.

Golden Opportunities

We have identified six 'Golden Opportunities' that we will use to drive productivity and economic growth whilst continuing to support our diverse economy and taking advantage of new opportunities as they emerge.

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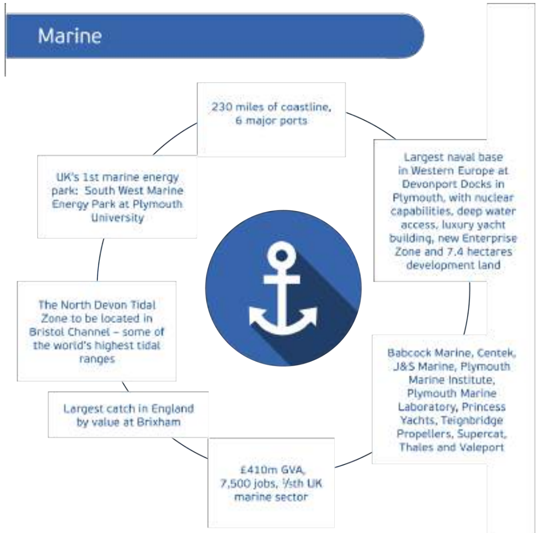
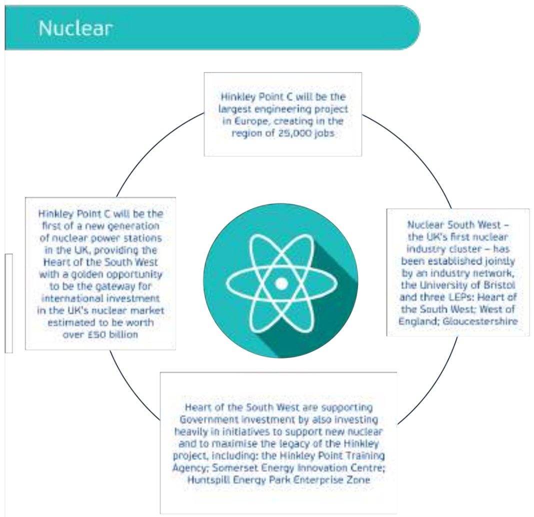
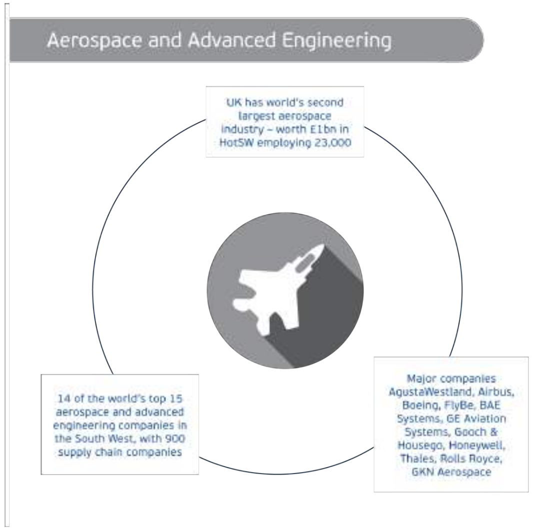
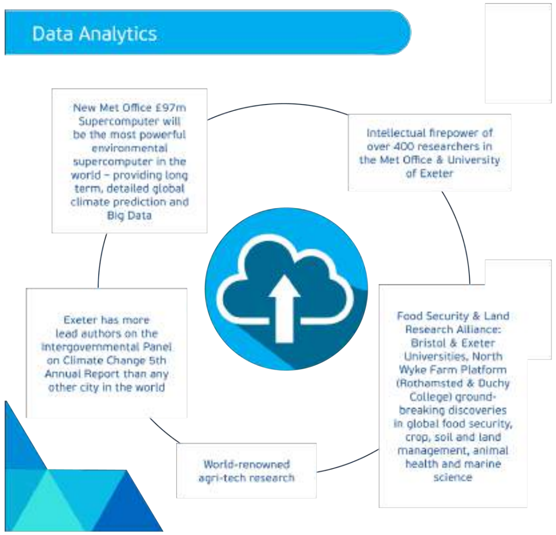
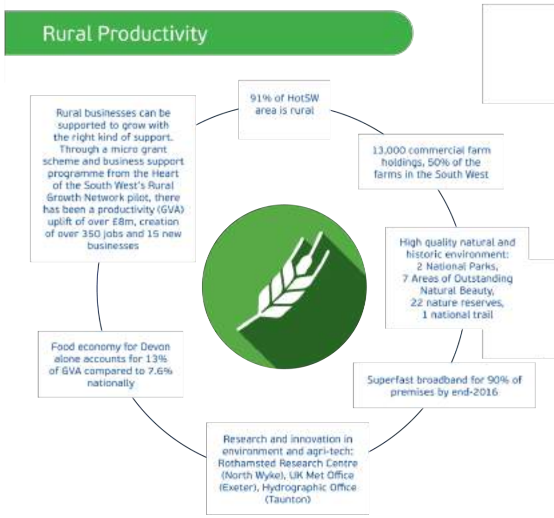










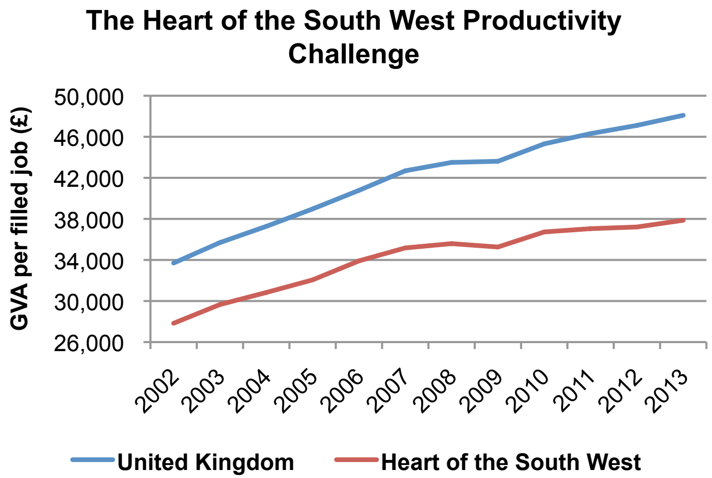
From six Golden Oppurtunities to six key challenges

Realising our vision, goals and targets requires us to address and solve six major, interrelated economic and societal challenges:

1. Our productivity is too low and growing too slowly:

Whilst not uniform across the area, in 2013 our productivity per job filled was below 80% of UK averages, a fall of around 3% over the last decade. Our forecasts suggest that unless we unlock our emerging transformational opportunities our productivity will continue to lag behind the rest of the UK.

This performance is a manifestation of poor comparative skills levels, labour market shortages, insufficient infrastructure and poor connectivity, the human and financial cost of ill-health, a lack of joined-up support for business, and need for higher value industrial densities.



2. Our labour market is limited in size and skills levels:

A key factor in our low productivity is a shortage of workers and a shortage of skills. Low unemployment means businesses have a limited labour pool from which to draw recruits. Higher level skills attainment is below national averages, and out-migration of our talent to London and other metropolitan centres means that employers regularly report labour shortages and recruitment difficulties.

3. Our enterprise and innovation performance is inconsistent and needs to improve:

Evidence shows that businesses that take up support do better than those who don't. However, the business support landscape is complex and confusing, and short term government funding for programmes creates uncertainty. The Heart of the South West ranks 38th out of 39 LEP areas on many measures of innovation including patent registrations and Innovate UK funding. We cannot resolve these science and innovation issues without more highly skilled workers, and a stronger innovation environment, particularly around our Golden Opportunities.

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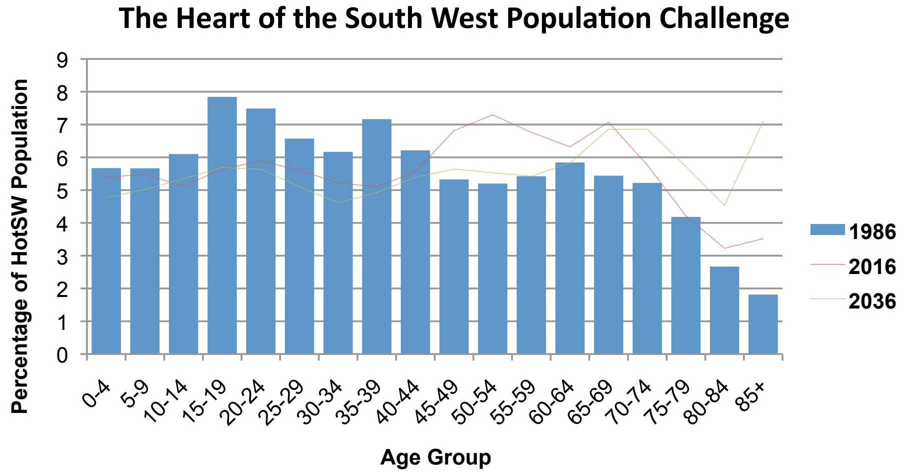
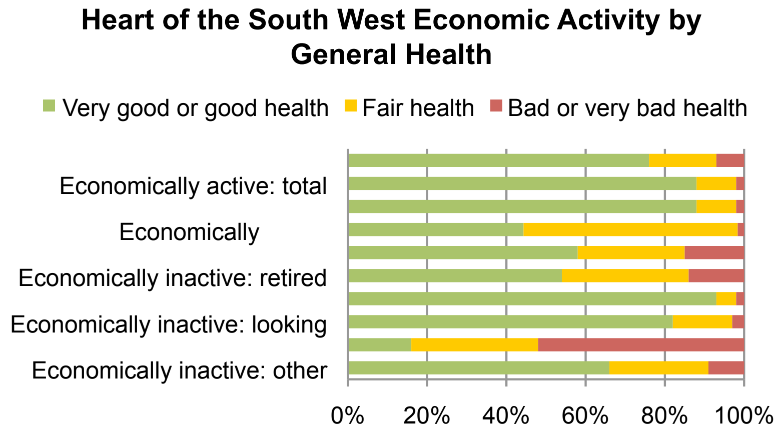
4. We are a leader in facing the challenges of an aging population:

Our population profile shows a significant increase in the proportion of our residents aged 65 or over, and a corresponding decrease in the proportion of working age people under 45. By 2036, 17% of our population – more than 327,000 people – will be over 75 years of age.



5. We are a leader in facing the challenges of health and care integration:

Particularly related to our demography, our health and care system needs to be reshaped to meet social, economic and financial pressures. Our area performs poorly for mental health outcomes when compared to national figures, making this a key priority.



A healthier population means lower public sector costs and increased economic activity. To fill 163,000 more jobs we must engage the non-working population in the labour market which will require a significant health and care contribution.

Employment of people with physical disabilities, learning disabilities, mental health issues and other long-term conditions is strongly correlated with their achieving better outcomes and being less dependent on publicly funded health and care services. This represents considerable productive potenital.

6. Our infrastructure and connectivity needs to be modernised and more resilient:

More infrastructure especially housing, transport links, broadband, mobile connectivity, and energy grid improvements are required to make our area more attractive to investors and viable for the future. Improving these conditions are key to giving businesses in our area the tools they need to compete in global markets, attract future entrepreneurs and secure investment.We must overcome these barriers if we are to capitalise on our transformational opportunities.

Fixing the Heart of the South West and our contribution to fixing the national foundations.

The current landscape of funding and decision-making has only taken us so far. Despite our achievements to date we need freedom to act more decisively. A devolution agreement means we can take responsibility for our unique challenges and capitalise on our Golden Opportunities.

The dividend for the National Productivity Plan is considerable. Besides the specific metrics identified in our goals, the UK will benefit from global and national energy investments and security, environmental futures and big data capabilities, an at-scale set of solutions to health and care integration, and public service reforms.

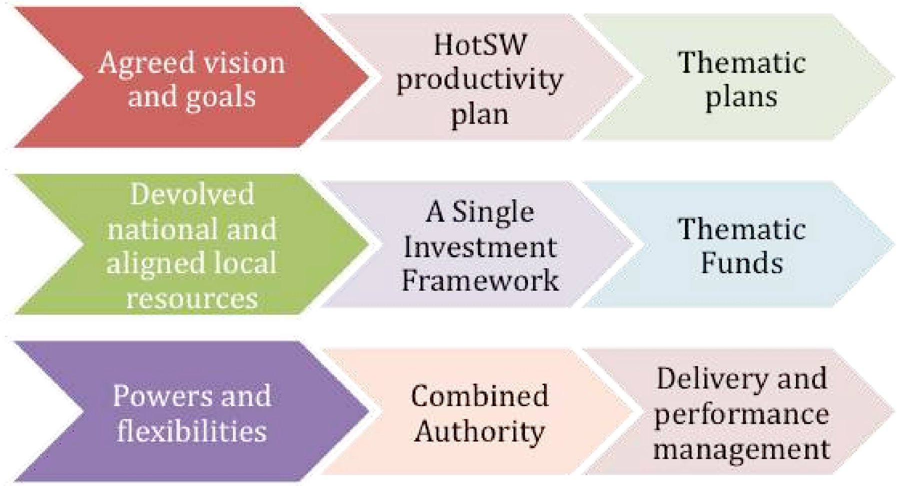
This negotiating prospectus lays out the heads of terms of an agreement to create the foundations for a transformational jump in productivity. It will deliver quick wins this decade whilst planning for the medium and long term.

Our negotiating prospectus

We wish to agree with government a shared commitment to building three pillars of a devolution deal for the Heart of the South West.

Foundation 1: The Productivity Plan

The Productivity Plan will be our instrument for fixing our foundations. It will incorporate the refresh of our Strategic Economic Plan, and scale up local growth agendas for 2016-20 incorporating Spending Review and public service reform priorities. It will include proposals for our Strategic Labour Market Plan and Strategic Infrastructure Plan. It will also reflect our ambitions for integration of health and social care where they link to our devolution deal.



Foundation 2: The Single Investment Framework

The Single Investment Framework will set the financial parameters of our agreement and encompass devolved funds and locally aligned resources. It is likely to include:

1. A single infrastructure fund to provide the physical investment for backbone, nationally-significant infrastructure.
2. A housing delivery instrument to accelerate housing delivery by unlocking key sites and stimulating market activity.
3. Skills and employment allocations to enable remodelling of the skills and employment landscape.
4. Devolved health and care budgets delivering agreed business cases with NHS England and other partners.

We believe agreement to formulate these two foundations will enable early delivery of accelerated housing development, skills reform and improved business support, with health and social care reform and infrastructure development taking place in parallel.

These two foundations will be overseen and assured by a Combined Authority arrangement. This will, once established, provide the Heart of the South West counterpart to government for planning and management of our devolution deal. It will take responsibility for the powers, resources and deliverables outlined below.

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People

A highly skilled, high productivity labour market meeting businesses' employment priorities

We are clear that without proactive leadership and intervention our skills profile will remain a chronic block to fixing our foundations and delivering our vision.

We intend to use national reforms, led and shaped locally, to deliver a labour market capable of achieving productivity at Greater South East levels (excluding the distorting effect of Inner London).

Government's expectations of local leadership teams for 2016-20 as laid out in existing devolution agreements, the 2015 Spending Review and other policies include:

- Planning and management of phased devolution of post-19 public sector adult skills budgets, leading to full commissioning and funding of providers from 2018-19.
- Chairing and facilitation of successful Area Reviews of post-16 education and training, implementation of review recommendations including reshaping provision where required.
- Co-design of apprenticeship reforms including introduction of the levy and deployment of Apprenticeship Grant for Employers.
- Co-design of future employment support programmes with DWP and performance management regimes.

The Combined Authority will take responsibility for delivering these agendas, augmented by specific asks around:

- Specification and delivery management of Careers, Education Information, Advice and Guidance in schools and colleges.
- Support from Government to deliver a wider Higher Education offer for Somerset, including a new university.

Our Offer	Our ask of government
Responsibility for reshaping the skills and employment system. Delivered through formulation, agreement, resourcing and delivery management of a business-led **Strategic Labour Market Plan.**	Full devolution of powers to the Combined Authority, phased over a number of years, with relevant skills, education and employment budgets into the Single Investment Framework. Government departments and agencies to co-design and co-deliver the Strategic Labour Market Plan.

Why is this important?

Our analysis has shown:

- Young people are not getting the independent, quality careers and education advice and guidance to help them make informed decisions on their education and training.

- Employer productivity improvements are held back by shortages and lack of skills in local labour markets.• The national provider system is poor at anticipating and securing future skills needs.

- Support for the workless is ineffective for those furthest from the labour market. Our evidence shows a distinct lack of progress for those in receipt of Employment Support Allowance despite significant investment and reform.

Key outcomes

With the powers and funding outlined above we believe a devolution deal will allow us to deliver the skilled workforce our productivity ambition requires. We will work with government to design system reforms that deliver:

- 40,000 people helped to move from benefits into paid work.
- Benefit bill savings to Government of £1bn per year.
- Additional money earnings locally per year of £800m.
- Additional tax income for Government of £113m per year.
- All young people in employment, education or training.
- Apprenticeship starts increased by 400% and aligned to our six golden opportunities.
- Parity of esteem between vocational and academic pathways.
- Maximised links between golden opportunities and skills development to encourage young people into our area's high tech industries.
- A university for Somerset.

A national demonstrator of effective health and care integration for improved wellbeing

The Heart of the South West already has well established and innovative local approaches to health and care integration, however our system continues to be under demographic pressure. We now have an opportunity to bring together resources across the public sector to deliver the systemic reform needed by the health and care system, and through strong local leadership can engage communities and voluntary sector in that enterprise. We want to create a system where prevention and early intervention are an integral part, and which rethinks its approach to mental health and wellbeing. In summary:

Our Key Offer	Our ask of government
Building on the NHS 5 Year Forward View, we will deliver a 'whole system' approach to health and care.	Devolution of 5-year place-based population budgets for health, care and public health

This will include:
Devolved commissioning of primary and associated specialist care services including mental health.
Flexibility in regulation and budgeting, including freedom for partners to pool resources.
Greater emphasis on public health and the link between health and housing.
Capitation-based payments.
Support to address skills shortages.

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Why is this important?

We want people to lead longer, healthier, more productive and fulfilling lives while ensuring the sustainability of our health and care services.

Health outcomes are generally good and life expectancy is high, but too many people develop avoidable long-term multiple conditions which affect both the quality of their lives and their ability to work. People with mental health conditions are in too many cases poorly served by a fragmented system in which there is no effective link between preventive, primary care and acute services.

Health and care is the second largest sector in our economy but productivity lags behind other areas and there are workforce and skills shortages which affect both the quality and cost of provision. These issues can only be tackled through whole-system reform and a closer matching of strategy and resources to local need.

Key outcomes

Devolution will help us create a health and care system that supports a healthier population, greater personal independence and wellbeing, and improved workforce productivity:

- Better physical and mental health outcomes.

- A system that is integrated and financially sustainable, offering a whole system approach, and is a test-bed for Government innovation.

- People of all ages encouraged and supported to make healthy lifestyle choices and manage their own care therefore diverting or delaying dependency.

Devolution offers the potential for us to go further, faster, and bring reform initiatives together at a scale and with a scope that can provide a demonstrator (given our advanced demographic profiles) to health and care reforms in other parts of the country:

- The NHS 5 year Forward View and the requirement on areas to develop transformation plans for local areas.

- The financial settlement for local government, including the requirement to submit integration plans by 2017.

- Changing Better Care Fund guidance and the option to work across local authority areas to plan and deliver it.

- The 'Success Regime' applying to NEW Devon Clinical Commissioning Group and its impact on and learning for other health and care economies.

Business growth and innovation

Government expectations of local leadership teams for 2016-20 includes sustaining and developing support for business growth after closure of the Business Growth Service as well as enabling distinctive contributions to national research and innovation-led growth priorities. For us this means scaling up the reach and impact of our Growth Hub and realising the full potential of our Golden Opportunities.

To deliver this Heart of the South West partners already have primary responsibilities for:

- Operation and performance management of the Growth Hub and shaping of national agency (eg UKTI) access and support to Heart of the South West business.

- Strengthening the coherence and effectiveness of local innovation eco-systems around our Golden Opportunities - notably the marine cluster anchored by Plymouth, the environmental futures cluster anchored by Met Office investments in Exeter, the nuclear cluster catalysed by Hinkley Point C, and the broader South West aerospace cluster with its major growth node in South Somerset.

Our skills and infrastructure proposals provide a number of interventions to address these challenges. These will feed into and through the Growth Hub so our business growth and innovation strand, in summary, will:

Our Key Offer	Our ask of government
Scale up and assure a Growth Hub providing a seamless approach to business growth support. Strengthen a network and cluster of 'innovation eco-systems' anchored by each of our Golden Opportunities	An increased devolved revenue pot for at least 5 years which can draw, if required, on the Single Investment Framework. Co-commissioning of all remaining national business growth and internationalisation services. Commitment to bespoke agreements with national agencies to realize the UK and local growth dividends of each of the golden opportunities - underpinned by an early Science and Innovation Audit undertaken by a consortium of south west LEPs and universities.

This strand will include: Collaboration with neighbouring LEPs on a cluster approach to inward investment.

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Why is this important?

Discharge of these primary responsibilities is impeded by national pressures which manifest themselves locally. Analysis shows:

- SMEs and early stage entrepreneurs find national and local systems fragmented, opaque and bureaucratic. This leads to low rates of business growth support take-up and entrepreneurial/start-up activity.

- Inward investment, internationalisation and trade, and our visitor economy are held back because the South West is perceived to bea distant periphery. Offers are poorly joined-up, and we have a low national profile and are a low priority for UKTI, VisitEngland and other agencies.

- National science and innovation products and services are not accessed consistently by existing business. Furthermore our national offer is not investment-ready so cannot easily take advantage of the potential of our Golden Opportunities.

We need more certainty of investment and freedom from national funding cycles so we can operate our proposed Single Investment Framework and ensure the right interventions are made at the right time to support our economic opportunities.

Key outcomes

Our Golden Opportunities and distinctive assets have the potential to release major productivity gains for us and for the national economy. Business support devolution will drive productivity through:

- More businesses taking up the support they need.
  · 20% of business stock informed about business support
  · 3000 businesses supported
  · 750 businesses account managed
  · 10 Operational Level Agreements signed between business support delivery partners
  · 360 businesses receiving intensive support
  · 36 events to co-ordinate network businesses support delivering with the aim to simplify business support customer journey
- Significantly increased levels of inward investment.
- Heart of the South West businesses competing strongly in the global economy.
- Better engagement with business and an entrepreneurial culture.
- Double the number of international tourists to the Heart of the South West, and more national tourists.
- Greater levels of science and innovation in our economy: double the uptake of Innovate UK support and increased research and development.

Place

Government expectations of local leadership teams over 2016-20 include:

- Adoption and implementation of Local Plans, with demonstrable collaboration across functional economic areas to drive physical investment.
- A performance regime that accelerates housing and employment growth.
- Devolved local transport budgets and plans including both development and regulatory functions, to improve system performance locally and add value to national infrastructure investments and programmes.
- Contributions to specific national and pan-regional infrastructure priorities, including Hinkley energy agreements and recommendations of the Peninsula Rail Task Group.
- Proactive delivery management of Starter Home, housing investment pots and local authority contributions to new housing.
- Completion of backbone superfast broadband infrastructure and increasing take up to support the digital economy and wellbeing.
- Local authority and other public sector land disposal, development and rationalisation strategies.

Our proposals will enable us to take responsibility for delivering these agendas, including, in summary:

Our Key Offer	**Our ask of government**
Establishment of an Infrastructure Commission to formulate a new Strategic Infrastructure Plan with implementation overseen by the Combined Authority.	Support to develop, fund and deliver the Strategic Infrastructure Plan. A commitment to create a flexible funding model to support accelerated housing delivery, targeting locally identified growth areas.

This will include Government commitments to:
• Existing and new infrastructure development, including the North Devon Link, A303/A358/A30 improvements, and Peninsula Rail Task Force 20 year plan. • Match funding and co-production to deliver 100% superfast broadband coverage. • Inclusion of Plymouth on the Strategic National Corridor network.

This will include Government commitments to:
•Devolved Air Passenger Duty from Exeter Airport. •Support to develop and sustain new energy initiatives including wind, sub-sea, and grid improvements. •A National Policy Statement for renewable energy generation in the Bristol Channel and Severn Estuary.

Why is this important?

Long term investment in our infrastructure is critical to unlocking growth and delivering our productivity targets. Our Strategic Infrastructure Plan will set out where and when investment is required. We need to accelerate housing and employment land allocations, electronic communications for our businesses, more housing for our workers, and improved transport links to allow faster movement of our workforce, goods and services. This infrastructure underpins growth and is the key to our future productivity.

Despite recent successes, we are underfunded compared to other areas. Long term investment is vital to provide confidence for developers and to drive productivity through faster, more reliable transport and digital connectivity. Investment in resilience is essential to minimise disruption and financial loss during a crisis.

There is considerable untapped resource and market opportunity for the Heart of the South West to contribute more to the energy supply of the nation. We have the potential to become a leader in low carbon energy and renewables however current grid infrastructure is limiting deployment.

Key outcomes

To support productivity growth, infrastructure devolution will deliver:

- 179,000 new homes, and a new Garden Town in Somerset.
- Accelerated housing and employment growth in the identified growth areas of Greater Exeter, Hinkley Growth Zone, Plymouth, Taunton, and Torbay.
- Faster rail connections to London, the South East and Midlands.
- 100% superfast broadband availability and reliable mobile phone connectivity.
- Prioritised and sequenced infrastructure projects to maximise the value of investments.
- Innovation in energy development and supply to support the national energy strategy.
- Greater resilience of our infrastructure.

Foundation 3: Towards a Combined Authority

The partners to this proposal recognise that leadership and governance of delivery of our deal will require transparent, robust and efficient structures and processes commanding the confidence and support of both Government and local communities.

We also recognise Government's preferred model of choice for this vehicle is the Combined Authority (CA), with Mayoral leadership in the case of Core City Regions.

Our proposals commit the partners to create a Combined Authority with appropriate strong leadership and accountabilities. We will carry out a governance review to identify the most effective structure and processes for putting this commitment into effect ideally with an inception date of either April 2017 or April 2018.

The Governance Review shall draw on the principles outlined in our Statement of Intent as a starting point. The review will proceed in tandem with both the enactment of the Cities and Local Government Bill, and the progress of our devolution agreement negotiations and requirements of its effective implementation.

The Governance Review will set out the powers, roles, functions, and operational arrangements for the Combined Authority - and propose its relationships with and to key delivery partners nationally, locally and with neighbours.

At a minimum, the Heart of the South West LEP, CCGs and others as appropriate will become full non-constituent members of the emerging Combined Authority, playing leadership roles where appropriate in its sub-structures (eg to build on the LEP's business credentials).

In addition, we consider there will be a number of collaborative arrangements that we shall wish to progress with variable consortia of South West neighbours. These may include a 'Transport South West' proposition, the in-train Science and Innovation Audit consortium with neighbouring LEPs, and national clusters in areas such as nuclear, renewables energy etc.

Similarly, our prospectus recognises that specific sub-regional geographies will accommodate significant shares of the growth to be delivered. Bespoke arrangements to plan and manage these changes will build on or adapt existing arrangements (e.g. **The Greater Exeter Group, The Plymouth and South West Peninsula City Deal, the emergent Hinkley, Taunton and Bridgewater triangle**. Options for strengthening and adapting these arrangements (or elaborating new place-based governance) may include Development Corporations, Special Economic Zones, Accelerated Development Zones or other models.

Next Steps

Delivering devolution requires careful sequencing. A high level roadmap for developing and delivering our deal is outlined below.

A Heart of the South West partners group will launch shadow Combined Authority arrangements and a formal Programme Management Office (PMO) upon agreement from government of serious intent to progress towards a devolution agreement. The PMO will be resourced to support devolution agreement workstreams with business case and financial management capacity, including assuring fiscal neutrality.

The shadow Combined Authority and PMO will work with government to deliver six co-produced workstreams by early 2017:

1. The Governance Review will apply the processes required under legislation to specify, agree and launch the form of Combined Authority eventually determined.

2. The Productivity Plan will elaborate the evidence base, strategies, and performance management required to deliver the vision and goals of the devolution agreement.

3. We are seeking Government agreement to establish a Joint Skills Commission to oversee national policy requirements and the process of localising these under the terms of our devolution deal.

4. The local leadership team will work with our successful health integration exemplars, NHS England, and other local, regional and national partners to identify wider opportunities to contribute to the Productivity Plan and national health and care integration priorities.

5. The LEP will ensure existing local growth commitments are delivered effectively, that the refresh of the Strategic Economic Plan feeds into the wider Productivity Plan, and that business engagement in the establishment and operation of the Combined Authority and its priorities is strong.

6. We are seeking Government commitment to establish a Joint Infrastructure Commission to firm up the physical investment needs identified in national and Heart of the South West priorities, and how the Single Investment Framework will resource these.

This process over 2016-17 will allow early wins to be made, including accelerated housing development and initial skills and business support reform, whilst specifying and agreeing the structures needed to deliver the medium and long term outcomes of our devolution agreement.

In anticipation of a positive outcome from negotiations on our deal we seek early agreement from Government on a match-funded budgetary contribution to co-deliver these workstreams during 2016-17.

We invite Government to begin formal negotiation with us on our proposals and the detail behind them with a view to signing a deal during the first half of 2016.

Outline Roadmap

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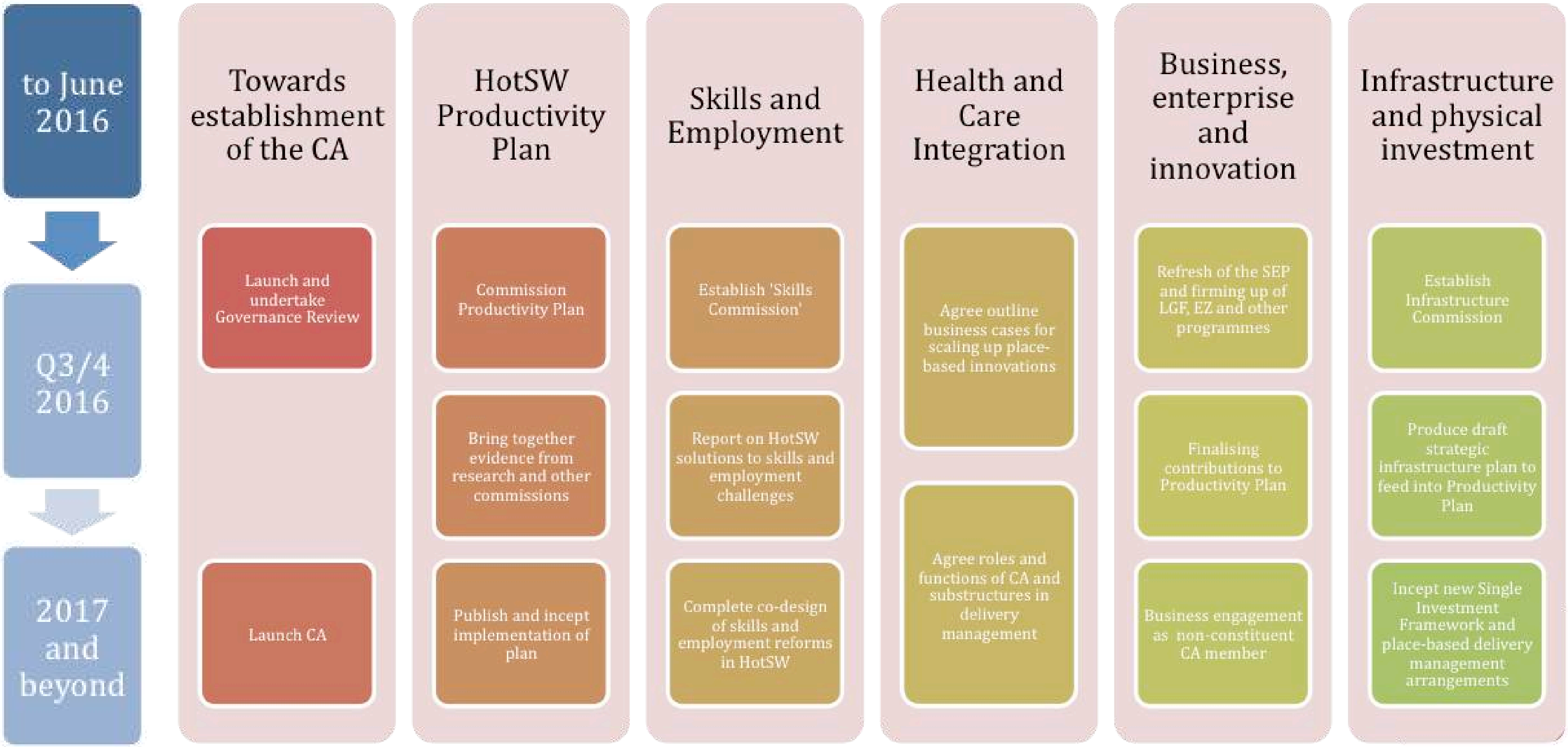

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NOT FOR PUBLICATION
Appendix C to this report contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972

Report to:	**West Devon Hub Committee**
Date:	**26th January 2016**
Title:	**Proposals relating to a Local Authority Controlled Company**
Portfolio Area:	**Leader of the Council - Strategic Vision**
Wards Affected:	**All**
Relevant Scrutiny Committee:	**N/A**
Approval and clearance obtained:	**Yes**
Urgent Decision:	**N/A**
Date next steps can be taken:	**Recommendation to full Council on 16th February 2016**
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Recommendations: To RECOMMEND to Council:

1. To establish a Local Authority Controlled Company jointly with South Hams District Council to deliver services for West Devon Borough Council and South Hams District Council, and to other organisations as contracts are won, subject to the further approval of a detailed business case and implementation plan;
2. That the Council's waste collection and street cleansing services are delivered by the newly formed company when the current contract ends in March 2017;
3. That the Councils' costs for the preparation of the detailed business case and implementation plan of £300,000 be met from the cost pressure built into the 2016/17 Revenue Budget for each Council (£150,000 for each Council).

1.0 Executive Summary

1.1 This report proposes the establishment of a company jointly owned by West Devon Borough Council and South Hams District Council for the purpose of:

- o Delivering services to the communities of West Devon and South Hams;
- o Generating income by delivering services on behalf of other organisations;
- o Creating a vehicle which gives both Councils a mechanism to generate profit from certain activities; and
- o Ensuring the future viability of both organisation's through appropriate strategic positioning in the public sector.

1.2 The staff and services currently provided by the Council's Commercial Services, Customer First and Support Services would be transferred across to the new company, with the view that the company would be operational with effect from April 2017.

1.3 A contract between the Council and the company would be put in place for the delivery of the services that are transferred.

1.4 It is proposed that the delivery of waste collection and street cleansing services are also transferred to the company when the current contract finishes at the end of March 2017.

1.5 The company would also be able to generate income and profit by delivering a full range of services to other organisations.

1.6 A similar recommendation is to be made to the Executive at South Hams District Council next month. The company would only be established by agreement of both Councils.

2.0 Background

2.1 In 2013-14, West Devon Borough Council and South Hams District Council embarked on an ambitious transformation programme called "T18". This consisted of 4 main elements:

- o The restructuring of functions and processes;
- o A culture change programme based on IMPACT behaviours;
- o An IT and systems development programme to support new ways of working; and
- o A review of organisational structure and governance to ensure the future delivery of services to the community, with an ambition for growth.

It is this final element that is the subject of this report.

2.2 Since 2010 Local Authorities have been subject to increasing budgetary pressures and decreasing grant income from central government. This position is looking significantly worse for the future given the recent budget settlement.

2.3 The purpose of the councils' T18 transformation programme had been to position both councils to meet their financial obligations until 2018 and to be able to continue to deliver the full range of services without cuts or long term reduction in quality. However both councils are keen to secure the future of services beyond 2018.

2.4 The success of the T18 programme in delivering efficiencies (joint savings of £5 million) has meant that both councils are in a position to generate a surplus for the financial year 2016/17, however this will not be the case for 2018 onwards, therefore this is the right time to be considering any investment in the organisation.

2.5 There is an opportunity for the councils to position themselves at the forefront of this emerging market for delivering services, and therefore able to take advantage of opportunities provided by other, less forward-thinking organisations.

2.6 The opportunity has arisen to include the West Devon waste collection and street cleansing contract which would need to be transferred in April 2017. It may be possible to extend the implementation period, but it is not recommended that this extension be longer than April 2018 due to budget forecasts and market opportunity. It is recognised that an extension in the service area has risks around the Council's ability to control costs.

2.7 During 2015/16 the councils have reviewed their priorities and Members from both Councils agreed that their top priority for each organisation is to achieve financial sustainability. Both councils have also stated that they do not want to see a reduction in the level and quality of the services delivered to their communities.

2.8 It is acknowledged that whilst the T18 programme has been very effective at making efficiencies, more will need to be done to generate income and reduce costs from 2018 onwards if the councils are to meet their aims.

2.9 In terms of the national context, the Local Authority landscape is changing rapidly and a mixed economy is emerging which provides opportunities for councils such as West Devon and South Hams as well as threats. The opportunities include the ability for councils to form companies to trade and generate income and to provide services to other councils and organisations at a profit. Whilst Local Authority restructure is not currently being proposed by the Government, there is a clear threat that if councils start failing due to financial pressures then there may be a requirement for take-overs, combined councils or unitary arrangements; however, this could also be an opportunity for well-placed councils to step in for mutual benefit.

2.10 This proposal affects both West Devon Borough Council and South Hams District Council, the communities they serve and the staff they employ. The intention is for the range of services to the communities to carry on being provided to at least the current standard, albeit from an arm-length, wholly-owned company, so that residents and communities should not feel any adverse impact from this proposal.

2.11 Staff in Commercial Services, Customer First and Support Services would be transferred to the new company. This would be subject to TUPE (Transfer of Undertakings: Protection of Employment) regulations so that staff would be transferred on their current employment terms and conditions.

2.12 The company would have a two-fold relationship with the two councils:

- o As a provider of services to the councils, controlled by a contractual relationship;
- o As a wholly owned asset of the councils controlled through the shareholders agreement and the associated governance structures.

3.0 Outcomes/outputs

3.1 The proposal is to establish a company that will be able to deliver services to both the councils efficiently and effectively. In doing so, this will create the opportunity to sell these services to other organisations.

3.2 It is intended initially to set up a company that is controlled by the two authorities and does the majority of its work for these authorities; this arrangement follows the rules that allow the councils to pass the work to the company without the need to tender in the open market. This is known as a Teckal exemption, an explanation of which can be found in the LGIU briefing note (see **Appendix A)**.

3.3 Under the Teckal arrangement the company would also be able to win contracts and deliver services to other organisations for a profit but only up to 20% of its turnover. Once the 20% limit is reached an additional company can be set up purely to provide services to other organisations and generate profits for its shareholders (this is allowed for under section 95 of the Local Government Act 2003 and we will refer to this as a "section 95" company for the purposes of this report).

3.4 Based on the calculations by Grant Thornton, the proposed company will generate a turnover of £6.7 million in year one. This means that under the Teckal exemption, it could deliver services to other organisations up to a value of £1.34 million before the addition of a section 95 company would need to be explored.

3.5 It is proposed that the company would be established to start trading by April 2017. External advice from Grant Thornton suggests an implementation period of 18 months.

3.6 During the first couple of years of trading, the strategy would be to deliver good quality services to the two councils within budget and establish the reputation and track record of the company. From the perspective of the public, Members and staff, services would continue to be delivered and received as usual. This will then allow the company to use this track record of delivering services to bid for work from other organisations. Winning external contracts will improve the economies of scale within the company thus reducing the cost of the services delivered to West Devon and South Hams and provide additional income for the company and a profit for the shareholders. Initially it is proposed the shareholders will be West Devon and South Hams.

3.7 Traditionally councils have provided the services that the company will be offering in-house. However, as the effect of the budget settlements are felt over the next 4 years this will become less sustainable and other ways of delivering services will need to be found. It is this opportunity to provide services to other councils and organisations at a lower cost that the company will seek to exploit. As financial pressures bite, some councils may no longer be viable, but services will still need to be provided to their communities. This is the type of opportunity the company will be able to exploit and it is anticipated that the Government will be interested in such solutions when faced with failing councils.

3.8 Another way to achieve growth, economies of scale and further efficiencies within the company would be for other organisations to buy shares in the company, thus allowing them to commission services through the company using the Teckal exemption described above.

3.9 To understand the size of the market available we can calculate the cost of services delivered by District Councils in any particular area from their published statements of accounts. It should also be noted that there are some services, particularly those of a transactional nature, which can be delivered for other councils nationally as the use of IT means that the geographic location of an organisation is not important. Most of these services are currently delivered in-house and this is the market that the company would be targeting. For example, in Devon the spend by District and Unitary Authorities on the services within scope is approximately £60m. Therefore every 1% of the market that is won represents £600k business for the company. This reasoning could be extended to Somerset and beyond and will be further explored through the detailed business case.

3.10 It is not anticipated that the company would win significant contracts within the first couple of years of business and it must be stressed that this proposal should not be seen as the entire solution for ensuring future financial sustainability.

The intention is to position the councils to take advantage of the future opportunities in this market, thus affording prospects to generate income and profit through the company for the benefit of the councils. In addition it will be possible to find further efficiencies for the delivery of the council's services through the company.

3.11 It is also relevant to note that should the structure of the current two-tier system of local government in Devon change, then the ownership of the company would transfer to any successor organisation along with the contracts for the delivery of services. This would provide a good degree of protection to the level and quality of the services provided to our communities and to the staff employed by the company.

3.12 The success of the company will be measured through:

- how well it delivers the contracts that it will hold with the councils (i.e. within budget and to the quality specified);
- savings that it makes on the delivery of these services;
- the income that it generates through winning and delivering work to other organisations; and
- the long term growth of the company.

3.13 The company would expect to be bidding for contracts from its second year of operation. It would also expect to be achieving further efficiencies on the delivery of the councils' services during the second year of operation.

3.14 The current waste contract for West Devon expires in April 2017, therefore the Council's decision is critical in order to achieve this timescale for company implementation or to continue with an outsourced contract procurement. This was the reason for a supplementary report to be commissioned which gives more specific financial information to Members in relation to the waste and cleansing services. (Members can find this report at Appendix C, however due to the financial information this report contains it is exempt from publication).

3.15 The Council is currently in a contractual arrangement with FCC Environmental. The contract is one of the Council's highest annual revenue costs per annum. The contract ends at the close of March 2017. West Devon is already preparing for a European procurement exercise however work undertaken to date would be of value to the Council whichever delivery option is chosen as there would be an equal need for a specification of service document in either a procurement or company option. The decision of the committee will be to determine whether or not the procurement exercise is continued. If the councils agree to the set-up of the LACC, the procurement activity will cease. If not, the OJEU notice under European procurement regulations will be published in early March 2016.

3.16 Market testing of the services has been carried out and it is understood that the future cost of service in West Devon is likely to be significantly more than current costs if an outsourced contract were to be procured again. Modelling in the Grant Thornton waste review **(Appendix C)** includes this uplift.

3.17 The waste and street cleansing services are carried out in-house in the South Hams and would therefore automatically transfer to a company for the South Hams were a company solution to be chosen.

3.18 The Grant Thornton waste report looks at specific options for waste and cleansing services for West Devon in order that Members can see how costs would relate to procurement options for these services specifically.

3.19 The Grant Thornton report has examined the potential for income generation through trade waste services and also the potential for efficiencies of delivering the service across the two authorities. The report projects an estimated betterment of cost of 12% (merged total at this stage) by delivering through a company solution as opposed to the outsourced solution.

3.20 The ability to carry out our waste services across more than one council supports the municipal waste strategy for Devon which looks to align collection materials and supports the previous work of the Executive Waste board which hoped to further the implementation of services being carried out in clusters. A LACC solution would allow us to offer services to others in line with the countywide intention, and may well be more politically acceptable than previous proposals.

3.21 There will be significant challenges in meeting a start date of April 2017 for the West Devon service and to that end FCC Environmental could be requested to extend the existing arrangements. Early indications are that they would be willing to negotiate an extension but this would carry costs linked to both recycling material costs, vehicle repairs and maintenance costs. Whilst there is a budget provision for a contract uplift which could be used for these costs, there would be no improvement in contract terms during this period. It would however allow sufficient time for a detailed business case to be prepared and for the LACC implementation, or for a delayed procurement if Members commenced a procurement exercise from June rather than February as is currently timetabled.

4.0 Options available and consideration of risk

4.1 A variety of approaches have been reviewed when considering the future organisational and delivery structures for the council including: keeping the current "as-is" arrangements (combination of outsourced and in-house); further outsourcing of services; a joint venture with a private sector partner; establishing a mutual/charity/trust to deliver services;

establishing a Teckal type Local Authority controlled company (LACC), and; establishing a section 95 Local Authority controlled company.

4.2 These have been considered against the following criteria:

- o Degree of control and flexibility retained by Councils
- o Ability to generate further savings/efficiencies
- o Ability to make a profit and generate income for the Councils
- o Ability to passport work without procurement

4.3 Consideration has also been given to the ability to maintain the level and quality of services, the impact on staff and the implications of the changing Local Authority landscape.

Comparison of Alternative Service Delivery Models Available to WDBC / SHDC

Model	Will Council retain control and service flexibility?	Can it make a profit to generate income for the Councils?	Can Councils passport work without procurement?	Ability to generate further efficiencies
As Is option (mainly in-house, some outsourced contracts)	✓ Best option for control and flexibility	✗	✗ for outsourced contract. N/A for in-house	✓ Very limited
Teckal LACC	✓ through company ownership but less than As Is option	✓	✓	✓
Section 95 LACC (Only set up for External Trading, not Council Service Delivery)	✓	✓	✗	✓
Further outsourcing to private sector	✗ Tied in to contracts	✗ Any profit goes to the private sector	✗	✗ Tied in to contracts
Joint Venture with private sector	✓ But limited - needs private sector partner agreement	✓ Shared with private sector partner	✗ Need to be LA controlled to do this	✓

4.4 Following consideration of the options against the criteria, officers have refined the options down to two for further consideration and these are the focus of this report:

Option A - continue with the current arrangements (the "as is" option), or;

Option B - establish a Teckal type LACC with the option to add a section 95 company at a later date.

4.5 Staff, Trade Unions and Members have been consulted on the possibility of a LACC being implemented and the impact that this would have on staff, service delivery and governance. All stakeholders have been open to the changes and will continue to be consulted as plans develop. There has not been an adverse reaction to the proposals.

4.6 The staff working within Commercial Services, Customer First and Support Services would transfer directly into the new company and TUPE would apply. The company would gain 'admitted body' status to the Local Government Pension Scheme (LGPS) so that staff could continue to access the benefits of that scheme. The company may decide to make different pension arrangements for new staff joining the company. Any difference between, or changes to, terms and conditions for staff would be carefully considered and negotiated to ensure the most beneficial arrangements for both the business and the affected staff. It is in the interest of the business to be known as a good employer.

4.7 The councils' relationship with the new company would be twofold: as the client commissioning services from the company; and as the owners and shareholders of the company. Control over the delivery of services would be exerted through the contract and through the annual service delivery plan, to be agreed by the Council and monitored by Overview and Scrutiny. Control over the company would be exerted through the Board of Directors and a Joint Shareholder Committee made up of Members of both Councils.

4.8 The risks associated with Option A concern the inability of the Council to generate additional income in the future and to be able to maintain services, resulting in a potential loss of service or potential outsourcing of services.

4.9 Option B does give the opportunity to make further savings and generate additional income, however there is the risk that the company may fail to do this, that the predicted market may not materialise or that the company does not attract the business required to generate sufficient income.

4.10 Options concerning the waste collection and street cleansing contract have also been considered.

4.11 To aid the evaluation of the proposals contained in this report, officers commissioned the accounting and consultancy company Grant Thornton to provide an independent review. They were also commissioned to provide a financial appraisal of the options for the waste contract. Their reports are attached as **Appendix B – Options appraisal for the establishment of a local authority controlled company,** and **Appendix C – Waste report.** Appendix C is exempt from publication because it contains information about the Council's financial affairs. The public interest test has been applied and it is considered that the public interest lies in not disclosing this report because it contains financial information which could prejudice the Council if the information was disclosed at this time.

4.12 In relation to the options to continue with the current arrangements or for the establishment of an LACC to provide services (Options A and B), the Grant Thornton report concludes that:

"Option A – 'as is' has been successful and enabled the Councils to develop new ways of working and begin to develop a commercial culture. The key risk of this option is that existing service levels would have to change to meet future financial challenges and that existing arrangements would be unable to meet the recently identified budget funding gap.

Option B – a LACC, will provide greater longer term opportunities to reduce cost and generate additional income from outside the Councils from other public sector bodies and the private sector. However, it will take at least two years before it will become profitable, 2019 at the earliest".

4.13 In their report Grant Thornton have set out projected income and expenditure for the first year of trading and this identifies a budget deficit for the company of £360k. However, 90% of this deficit (£330k) is due to depreciation cost of assets transferred to the company. A different approach to the treatment of assets could take out the depreciation costs altogether and the associated deficit.

4.14 If the Councils decide to progress with the establishment of the LACC then a detailed business case will need to be prepared which will give further consideration to key features including:

- The financial business case from the perspectives of both the councils and the company
- Governance arrangements
- Tax considerations
- Pension considerations
- Assets and depreciation
- Terms and conditions of new LACC employees

4.15 In October 2014 the Councils agreed to set up a company for the purposes of generating income. This company has been dormant to date. It would be possible to use this as the basis for the new companies (either the Teckal LACC or the Section 95 company) or to start afresh. The detailed business case would assess the best option.

5.0 Proposed Way Forward

5.1 If the councils decide to progress with the establishment of the LACC then a detailed business case will need to be prepared which will give detailed proposals, timescales and greater detail into the potential incomes streams which can be realised.

5.2 Officers will need to procure professional support to complete the detailed business case and implementation plan. This work will be subject to a value-for-money procurement exercise. It is estimated by Grant Thornton that a budget of £328,500 will be required and this will need to be split 50:50 between the two councils subject to both councils agreeing to proceed. Currently each council has a budget pressure of £150k identified in their budget reports. Grant Thornton's estimate is broken down on page 31 of their report attached at **Appendix B** (see below for extract) and further detail is given on page 32 of their report.

	South Hams LACC	West Devon LACC	Total
Estimates			
Staff Change Management	10,000	10,000	**20,000**
Pension Administration	8,500	8,500	**17,000**
Legal Advice	44,500	44,500	**89,000**
Finance Support & Advice	22,500	22,500	**45,000**
IT system & resource	5,000	5,000	**10,000**
Recruitment	11,250	11,250	**22,500**
Project Management & Implementation	25,000	25,000	**50,000**
Cost of full business case and implementation plan	37,500	37,500	**75,000**
Total	**164,250**	**164,250**	**328,500**

It should be stressed that these are initial estimates from Grant Thornton to be used as a guide for budgeting purposes.

5.3 Officers will continue to engage with Staff, Members and Trade Unions to ensure that all stakeholders are appraised of developments and progress.

5.4 If agreed, it is anticipated that the full business case and implementation plan will be presented to Members in June 2016 for a decision on whether or not to proceed.

6.0 Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance		The Councils can only trade for commercial purposes through a company. In order to do this, the Councils must approve a business case. Local Authority trading powers as contained in Local Government Act 2003, Localism Act 2011, Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009 have been considered and there are no known legal risks to the Councils in proceeding with this option. However, more detailed legal advice will be required should the Council adopt the report and agree to the setting up of a controlled company on matters such as, pensions, tax, incorporation, shareholder agreement, TUPE. Incidental powers to

		participate in external organisations (Local Government Act 1972) have also been considered and again, no legal risks to the Council have been identified. This report makes it clear that if the recommendation is adopted a detailed business case will need to be prepared and brought back before the Councils for approval. Detailed governance arrangements and constitution of the company will need to be agreed between the councils. The constitutional documents will need to be clearly drafted so that the newly formed company can satisfy the Teckal requirements as codified in the Public Contracts Regulations 2015. In relation to waste, Public Contracts Regulations 2015 will need to be complied with should the need to re-procure or extend the term arise. Appendix C is exempt from publication because it contains information about the Council's financial affairs as defined in Paragraph 3 of Schedule 12A to the Local Government Act 1972. The public interest test has been applied and it is considered that the public interest lies in not disclosing this Options Appraisal because it contains financial information which could prejudice the Council if the information was disclosed at this time.
Financial	Y	One-off Investment costs of setting up trading company of £328,500 have been identified. (This is set out on Page 31 of Grant Thornton's report on the local authority controlled company). Each Council has put a one-off cost pressure of £150,000 into its Revenue Budget for 2016-17 to meet these costs. Grant Thornton's Executive Summary (Page 7) on the Local Authority Controlled Company (LACC) states that they have not identified any significant hurdles that would prevent a LACC being established, conversely neither have they identified any distinct benefits that make a LACC the preferred option. A LACC will provide greater longer term opportunities to reduce costs and generate additional income from outside the Councils from other public sector bodies and the private sector. However, it will take at least two years before it will become profitable, 2019 at the earliest. Its profitability will be dependent on it generating additional income, how this income will be generated is currently unclear.

		In their report Grant Thornton have set out projected income and expenditure for the first year of trading and this identifies a budget deficit for the company of £360k. Over 90% of this deficit (£330k) is due to depreciation cost of assets transferred to the company. A different approach to the treatment of assets could take out the depreciation costs and the associated deficit. **WASTE** For the cash flow modelling performed using the assumption and calculations described in Sections 7 and 8 of the Waste report, Option 2: LACC Option (NPV of £36.4m) appears to be the most favourable option, offering 13.0% savings against Option 1: The Comparable Option (NPV of £41.9m). It should be noted that almost half of this saving is due to the economies of scale which have been assumed to occur once the service delivery of the two Councils has been combined. Sensitivity analysis has been carried out, which is detailed in Grant Thornton's waste report on Pages 37 to 41.
Risk		A key risk is the capacity to get everything in place for April 2017, particularly given that the organisation is still undergoing significant change from the implementation of the T18 programme. A consideration could be to phase the transfer of services into the new company. However, this would be much more complex and very unlikely to yield the economies of scale and other efficiencies due to the way in which the organisation is now structured following T18 and the cost of implementation would be as much, if not more, therefore this is not recommended. If a decision is made that West Devon waste should form part of the suite of services to be transferred to the newly formed company, then, the proposed procurement exercise currently underway will cease. The Council will therefore need to work to a timetable of setting up and getting the new company operational by April 2017 so that West Devon waste contract can be transferred to the new company. But, should, for reasons beyond the Council's control, it become clear that there will be a delay in meeting the April 2017 deadline, then the Council will need to consider a short term extension to the existing contract.

		Procurement advice will need to be taken on the risks associated with such an extension. However, should the proposed exercise of setting up a new company to deliver these services fail (i.e. the Councils decide to abandon the project), the councils will need to consider the timetable for re-procurement and costs associated with any short term extension that may be required in order to allow for meaningful competitive tender exercise to be undertaken. Again, procurement advice will need to be taken on risks associated with such an exercise. If South Hams District Council were to opt not to establish the LACC, WDBC will be unable to pursue this option and the officer recommendation would be rescinded. A fresh review and benefit analysis would need to be prepared in order to determine the best course of action. See also page 65 of Appendix B for a summary of the key risks identified by Grant Thornton.
Comprehensive Impact Assessment Implications		
Equality and Diversity		N/A
Safeguarding		N/A
Community Safety, Crime and Disorder		N/A
Health, Safety and Wellbeing		N/A
Other implications		N/A

Supporting Information

Appendices:

Appendix A – LGiU Policy Briefing 10th December 2015 Local Authority Trading Companies: A Policy in Practice Briefing

Appendix B – Grant Thornton Options appraisal for the establishment of a local authority controlled company

Appendix C - Grant Thornton Waste Review (exempt from publication)

Background Papers:

- Agenda Item 4 entitled "Transformation Programme 2018" presented to WDBC Special Council on 4th November 2013

- A report entitled "Creating a Local Authority Trading Company" presented to WDBC council on 7th October 2014 by the Head of Environmental Health and Housing

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	**Yes**
SLT Rep briefed	**Yes**
Relevant Exec Director sign off	**Yes**
Data protection issues considered	**Yes**
If exempt information, public (part 1) report also drafted	**Yes** (Appendix C only)

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POLICY BRIEFING

Local Authority Trading Companies: a Policy in Practice briefing

10 December 2015

Alan Weaver LGiU associate

Summary

- Local authorities are becoming more interested in Local Authority Trading Companies (LATCs), particularly for income generation purposes
- Local authorities can set up LATCs providing Teckal exemptions, and other statutory requirements are met
- LATCs are developing rapidly, particularly in areas like social care and housing
- There have been LATC successes, failures, and challenging circumstances, particularly for social care LATCs
- A useful methodology to apply to the setting up and development of LATCs is Grant Thornton's 'Spreading the Word' model
- Major issues or sticking points when developing LATCs include: strategic fit of the LA and the LATC; business planning; governance and staff.

Briefing in full

Background

As councils have come under financial pressure, they have considered how to reduce costs, generate income and improve efficiency by developing commercial approaches to their services. Two recent briefings have dealt with commercial activity and income generation in local government. This briefing specifically deals with Local Authority Trading Companies (LATCs).

LATCs are bodies that are free to operate as commercial companies but remain wholly owned by the parent local authority. As trading bodies, they can provide their services to a much wider market than a council department. Part of the reason for the growing interest in LATCs is local government's desire to generate income to protect other services. But there are also secondary drivers including:

- the need for certain services to compete in a wider geographical area to be sustainable;
- a view that greater commercialisation will drive efficiency;
- a view that non-essential services would be better managed separately;

- a view that a different statutory and service environment will provide more flexibility and impact, eg housing development, social care.

Local authorities are also attracted to the fact that less bureaucratic organisations like LATCs may be able to react more quickly and sensitively to changes in markets. Also, unlike with outsourcing, the scope to retain control of the company and reverse their decision if things go wrong appeals to some local authorities.

This year, many local authorities have taken decisions to adopt LATCs. For example, Newcastle has established 'Newco' a new trading body to help the council expand its current trading ventures. East Cambridgeshire District Council is currently recruiting a Chairman of the Board to provide independent leadership and a strategic vision to its LATC.

Legislation

The Local Government Act 2003 enables local authorities to establish LATCs to trade in a wide market. The General Power of Competence under The Localism Act 2011 allows local authorities to expand their trading activities into areas not related to existing functions. It also removes geographical boundaries to local authority activity so that they can set up a trading company that can trade anywhere in the UK or elsewhere.

If trading is to be done in the wider commercial market with a view to generating a profit (rather than just on a broad cost recovery basis) the council must establish a company. This can be a company limited by shares, a company limited by guarantee or an industrial and provident society The 2009 Trading Order requires that a business case ('a comprehensive statement') be prepared and approved before exercising trading powers. Local authorities cannot trade in services they are already statutorily required to provide.

Teckal

When councils want to sell goods or services to other councils or public bodies, they will only be dealing with each other and not operating in a wider market. These are 'shared services' or public-public partnerships. They do not have to put the work out to competitive tender, are still able to generate a profit and are not restricted to cost recovery – as long as they only trade with each other. This avoids the downside of a company status, including the need to pay VAT and corporation tax. If a local authority wishes to set up a company the EU procurement regulations usually require them to undertake a prescribed competitive tendering process before they can award work to the company. This poses a problem as there is no guarantee that the trading company will win the tender. However, local authorities can set up a company without competitive tendering provided they undertake not to trade significantly with external organisations. This is known as the 'Teckal' exemption from procurement rules.

The tests for whether a local authority owned company qualifies for the Teckal exemption are:

- The council(s) must control the company and its activities in the same way as their own departments and activities (control test);

- The company must predominantly undertake work for its controlling council(s) – any activity undertaken for external bodies is minimal (function test).

The council must have decisive influence and control over all decision making. A Teckal company cannot focus on trading commercially in the wider market. If councils are seeking to do this, they must put any work out to tender. A limit of 20% of turnover from external trading activity is now applied. In practice, an early decision the council should make is whether it wishes to use the company for commercial trading, or as a vehicle primarily for delivering the council's own services.

Development of LATCs

Leading LATCs - LACTS have been around for over many years in the form of large, standalone bodies such as airports, and also organisations like Commercial Services (formerly Kent Commercial Services)- described in a recent briefing. LATCs have developed more recently into areas such as highways, housing and social care.

The best examples of recent successful LATCs include Norse Group, Kingstown Works Limited, and CORMAC.

Norse Group is by far the largest LATC in the country and has an annual turnover in excess of £250 million. It is a holding company owned by Norfolk County Council and the Group brings together three local authority trading companies concerned with: facilities management; property design and management consultancy; and providing residential care homes and 'housing with care' schemes. Collectively, the group employs over 10,000 people nationwide and have good relations with their staff and unions. UNISON has signed a recognition agreement with them and praised them for their staff training and development programme, apprenticeship schemes, staff morale and low turnover rates.

Kingstown Works Limited (KWL) is a LATC delivering building maintenance and repairs work to Hull City Council, but they also trade with other local councils and housing associations. Created in 2006, by 2012 it had returned over £3 million to Hull City Council in the form of surpluses. It employs 390 local people and has recruited 107 apprentices in the period 2007 to 2015.

CORMAC are two wholly owned companies of Cornwall Council which has been trading since 1982, and using the CORMAC brand since 1992. In 2012, two companies were formed into a Teckal company for the work passported from Cornwall Council; and a trading company. Since then CORMAC has increased its turnover by an additional £35m per year; increased staffing numbers by 16% and returned benefits to the Cornwall Council to the tune of £20m over three years through productivity improvements and from profit on external work. The vast majority of the work is in highways maintenance and construction. From April 2016, it will manage a 10 year joint venture company responsible for highways and fleet management services for Nottinghamshire County Council. CORMAC is a living wage employer and the majority of the 690 highways staff currently employed by Nottinghamshire CC will transfer to the new company with existing terms and conditions.

Social Care

Social Care LATCS have become prevalent in the last six or seven years as demographic changes, continuing funding cuts, constraints on in-house service provision, and new Care Act responsibilities have increased pressures on local authorities. A key issue has been the barrier on service provision to those receiving direct payments – the principal customers for care and support and upon which the viability of community based provider services are based. It has been estimated that about 20 social care LATCs are now trading in England and Scotland with many more in the pipeline. Examples of the more prominent social care LATCs are Buckinghamshire Care, ECL (formerly Essex Cares), Optalis (Wokingham), Olympus Care Services (Northampton), Your Choice (Barnet) and Tricuro (Dorset).

The sector has developed rapidly but it has not been without problems. Chelsea Care was set up by Kensington and Chelsea Council in 2008 as a wholly owned trading company to provide home care and brokerage services in the borough. After running into significant financial problems, Chelsea Care was put into liquidation in May 2011, when the council refused to inject further capital into the business to enable it to keep trading. ISSK was set up as a trading company owned by Stockport Council in 2009, with a view to making adult social care and support services more cost effective. However by 2012 the council had serious concerns about both the value for money and quality of care of the company. A period of consultation led to a decision to take back in-house some of the key services that had gone out to the company – reablement, intermediate care and night support teams. The council cited significant changes in the focus of services which meant that the trading company was no longer appropriate:

Essex Care became England's first successful social care LATC when it was launched in 2009 and quickly became a cash cow for the council. In 2010-11, it made a profit of £3.5m, but in 2012-13, the profit, though still healthy, had dropped to £1.5m and last year the company made a pre-tax loss of £828,000. The result has been a 'reshaping' of the organisation, with new multi-skilled community teams and cuts in administration and management. The company also acquired a new name ECL. ECL employs 900 staff and supports more than 50,000 mainly older or disabled people at home or in activity centres. Its services remain popular with high levels of customer satisfaction. It offers a wide range of workplace training and also has a contract with West Sussex County Council, providing reablement services to people who are regaining independence.

By the beginning of 2014, Optalis Ltd had been trading successfully for three years, increasing turnover to £12m and reaching savings targets. However, Optalis reported an operating profit of just £5K in year ending March 2014, a drop from £143K the previous year. Another social care LATC, Your Choice Barnet, set up in 2012 and projected to make a surplus of £500K by 2015-16, has also run into trouble. Staff salaries were recently reduced by 9.5% and a Care Quality Commission report earlier this year branded the company's supported living services inadequate.

Tricuro, launched in July 2015, is the first cross boundary social care LATC. The original plan was to set up a single plan for Dorset County Council but it was quickly realised that county wide company taking in Bournemouth and Poole would offer significant economies of scale. Its services include residential care, day services and catering and it is also the largest social care LATC, with a budget of more than £38 million and 1,200 staff.

Housing

There has also been a proliferation of housing LATCs. A survey published in August 2015 indicated that more than 50 councils in England have either set up or are considering setting up their own housing company. This has been particularly attractive for those authorities who do not have sufficient borrowing headroom within their Housing Revenue Account (HRA) or who want to explore other funding opportunities to develop housing outside the HRA. The most common approach is the creation of a 100% council owned subsidiary or council owned company, usually constituted as a company limited by shares with council officers acting as directors and company secretaries. Purposes include the provision of new build private sale, mixed tenure and affordable homes; the purchase and repair of affordable homes; the provision of affordable rented property by leasing empty property, etc. However, not all local authorities are attracted to the idea. A common reason is that the expected revenue is not high enough to make a business case for such a company. This is often the case where house prices are very low. Uncertainty also arises from a lack of clarity over the government's position and the threat to take measures against council owned housing companies that circumvent Right to Buy legislation.

There are also LATCs set up to provide DLO housing maintenance work or to include it within their proposed work, eg. Kingstown Works Limited.

Thurrock Council set up a wholly owned housing company, Gloriana Thurrock Ltd. Gloriana will enable the Council to kick start house building through directly developing around 1,000 new homes. It aims to accelerate housing delivery over the next five years and support regeneration objectives in growth locations. Council land is sold to the company at a commercially valued rate and Gloriana borrows prudentially against the council general fund to fund the housing development. Gloriana pays the interest on the loan through its rental income and the debt can be repaid when the homes are sold. The design of the first Gloriana development at the St Chad's scheme in Tilbury for over a hundred homes has secured a top national award

Nuneaton and Bedworth Council set up its trading established trading arm, named Nuneaton and Bedworth Community Enterprises LTD (NABCEL) in March 2014. The first business stream chosen for NABCEL was the purchase of properties to rent out at full market rent. As well as generating income, this also helps address the local need for affordable rented properties. A capital budget of £1m was approved as part of the 2014/15 budget. This has so far secured seven properties and with a further two to three being planned. Forecast income generation for 2015/16 is £50k, which will go towards protecting services and jobs.

Ashford Borough Council has set up a council owned housing company to build new homes for rent because its housing market is not keeping pace with demand for privately rented accommodation or providing alternatives for people without sufficient income to buy their own homes. The council is seeking to target this gap in the housing market through a new trading company to provide additional housing capacity. The new property company will be council owned and funded initially by council borrowing. The company will offer homes to rent and sale, with a mix of rent levels. It will also provide an income stream for the council through the borrowings.

South Cambridgeshire District Council set up Ermine Street Housing in 2014 and invested £7 million in property to rent as an "ethical commercial landlord". During the pilot Ermine Street Housing generated £100,000 of income for the Council. The company now owns 34 properties worth a total of £6,837,970 providing homes for people who cannot get an affordable housing tenancy. South Cambridgeshire District Council have now expanding a Council owned housing company investing £100 million to acquire a property portfolio of 500 homes over the next five years.

Approaches to LATCs

A useful 'Spreading Their Wings' model to consider LATCs has been developed by Grant Thornton. Its three stage process and comprehensive range of steps model is listed below together with a link.

SPREADING THEIR WINGS MODEL

1.DECIDING TO SET UP A LATC	2.SETTING UP A LATC	3. BUILDING A SUCCESSFUL LATC
• Consider the strategic fit of the company with the council's vision • Appraise options • Develop an outline business case	• Obtain the right professional advice • Company registration • Trading • People • Pensions • Governance • Financing and Taxation • Transfer of assets and support service costs • Performance Management and contracting	• Put the right leadership team in place • Create the right culture • Reconsider reward • Build a customer focus • Build an appropriate vision and gain the commitment of the local authority • Prepare for the future • Creating and promoting the brand • Get to grips with costs • Build appropriate risk management and group governance

Each of the steps in developing a LATC merits careful examination or problems will be experienced. In addition, there are a range of major issues or sticking points which cause problems across most LATCs and these warrant closer attention.

Strategic Fit of the Company Vision with the Local Authority Vision – This is sometimes overlooked by local authorities because income generation usually overwhelms other considerations. But the strategic fit needs to be examined in far more detail. The council and the LATC need to have clarity about how the LATC will fit with the council's longer term strategic priorities and how the company will grow. A failure to properly address this can and will cause tensions between the council and the LATC, particularly over company growth and expansion and the redistribution of profits. In addition, it is almost inevitable that the vision and strategy will need to be refreshed as the company develops.

Grant Thornton feels that most problems arise when council and company are not on the same wavelength and where councils set 'heroic' savings targets. CORMAC appear to have negotiated this issue 'well'. The council was clear it was not just about achieving savings. It was about increasing its client base and offering increased job opportunities for the people of Cornwall. CORMAC sees commercial opportunities and partnerships with other councils as the future, while the council describes the current position as a" nice little corridor between the public and private sector".

Business Planning - Business planning is a key element. The lack of a business plan for the transfer of council services into the company is a common failing.

Buckinghamshire Care saw the first step as developing a business case as it enabled the council to determine whether the business would be a success but also gave a clear objective in the first year of trading.

For more details of LATC business planning, please access publicly available reports and models produced in respect of Tricuro. The report considered in October 2014 anticipated that the LATC would save £6.8m over five years or around £1.4 million per year from the base budget. The report contains a high level options appraisal and detailed business plan and a risk assessment, equality impact account, a five year profit and loss and balance sheet forecast is presented. Details of staff consultation arrangements and results, market research, implementation and programme management sections are also available.

Governance – LATCs need appropriate governance, including board chairship and composition, and appropriate procedures, protocols and systems to support human resource and risk management and service planning and associated monitoring and reporting arrangements. How these are developed, managed and balanced within the context of a new relationship with the local authority can be fraught with ambiguity, controversy and problems.

Effective governance is key to protecting Norse and the councils working with Norse. Over time, Norse has established a clear governance structure that supports the business and provides surety to Norfolk County Council in risk management. Key factors are:

- The two council appointees on the board have double votes and therefore control of company decisions;
- A shareholder committee has oversight pf the company and receives a quarterly report;
- Each group company has a liaison board that holds the company to account.

For Buckinghamshire Care, the council felt that it was important to give Buckinghamshire Care directors sufficient space and control to drive the growth and develop the company. They also wanted to maintain strong links with the company – through the shareholders' scrutiny group – ensuring the company's direction was in line with the council's objectives. They wanted to have the flexibility to incorporate additional services in the future. To achieve this, Buckinghamshire Care's shareholder scrutiny group includes two council members, the Section 151 officer, the director of adult services, the commissioning director and contracts manager. The group meets quarterly and aims to hold the company directors to account for the quality and value of the services provided to the council. This group is an essential component for the council to exert influence over the company and therefore meet the requirements of the Teckal exemption[1]. The structure aims to balance the council's need for control with the space the company needs to achieve the council's aims. The council remains 100% shareholder, thereby retaining a role in scrutiny and a level of control.

KWL is a company controlled by Hull City Council which is the sole shareholder. Democratic accountability is ensured through the Kingstown Works Limited Shareholding Committee which receives reports from the board of KWL, which is itself made up of eight elected members from Hull City Council. The organisational model developed by KWL prioritises tight financial controls ensuring that the company has the freedom to innovate and bid for work as it arises within an overall framework of democratic accountability. Indeed, one important condition of its success, as recognised by its Business Leader, is that the board offers an effective challenge and scrutiny to senior management.

Arrangements for social care and highways LATCS can be contrasted with some of the housing LATCs where service provision is more focused on discrete strategic outcomes with a small number of staff, and therefore less critical. For NABCEL, concerned with trading and the purchase of housing for rent in the private rental sector market, governance issues are slightly different.

For NABCEL, the company board structure comprises two non-executive directors – the council's director of finance and director of housing – and three executive directors who are councillors. NABCEL has an AGM which takes place at a full council meeting, as the council is the only shareholder in the company. NABEL has board meetings but there is no review by the council's scrutiny or audit committee.

In general, Grant Thornton believes shareholders committees are the most effective means of council governance.

People - The motivation and development of staff transferring to the LATC is a recurring and vital theme. Most LATCs cite this as a key factor in creating a successful company and it appears to have been a key feature of the success of successful companies like CORMAC, Kingstown Works Limited, Kent Commercial Services and Norsk Ltd.

LATCs have to find a way of winning the hearts and minds of the staff transferring into their LATC, and to tap into their creative potential and talents at a time when many may be feeling anxious, battered and bruised by threats of redundancy, a lack of information, and poorer terms and conditions.

Poorer terms and conditions are real tangible problems, often involving changes to sick pay, holiday entitlement, and pensions, although pension liabilities are often resolved by local authorities retaining responsibility for past and future pension liabilities associated with transferred staff.

Many LATCS have embraced organisational development interventions to help culture changes designed to build trust and flexibility within staff. Change agents or professional trainers are often engaged to develop commercial mindsets within their staff, when people are encouraged to develop and strengthen the business, and where they are trained, supported and developed.

At Ashford, taking a more entrepreneurial role in housing has enabled staff to develop new skills and services in house. The council now has its own architects for example.

Changing terms and conditions can provide opportunities to improve on some element eg reward mechanisms and improved rates of pay. At CORMAC, the initial TUPE transfer of staff to CORMAC gave employees the opportunity to move to CORMAC contracts. Key changes were on the sickness policy, with CORMAC not paying the first three days of sickness. This was mitigated with increases in rates for overtime pay and unsocial hours, where the council was struggling to offer competitive industry rates. In addition, a small bonus based on the profit share of the company was also part of the new CORMAC contracts. Take up of the CORMAC contracts was significant.

Comment

LATCs are interesting developments in the local government world. Many members and officers may perceive LATCs as one of the more positive developments at a time when there appears to be little light at the end of the tunnel for local government resourcing and service delivery.

However, LATCS are not excluded from the prospects of a bumpy ride, not least because of continuing changes to the public service environment driven by central government, particularly in respect of housing and social care. That aside, when contemplating and planning the role of LATCS, local authorities need to think beyond shorter term public service environment, income generation, and Teckal considerations to the long term implications i.e. on the local authority side – to the acceptance of likely long term loss of direct control over discretionary service provision, on the LATC side to exposure to the vagaries to a commercial environment where growth or survival is dependent on the ability to adapt and develop new ways of delivering services, and where no safety net exists.

Within this context, the development of LATCs may present a way forward in many areas and some grounds for optimism.

Related briefings

Income Generation – Charging & Trading: Policy in Practice Briefing

Income Generation – General: Policy in Practice Briefing

LGiU and Mears report

Under Construction

Sources of information

Grant Thornton – Spreading their wings – Building a successful local authority trading company (LACT)

Highlights key principles and details in developing successful LACTS. Considers TECKAL issues. Considers a range of detailed case studies.

Grant Thornton – External Audit Update for the Corporate Governance and Standards Committee of Guildford Borough Council

Contains a summary of the above and other relevant Grant Thornton financial reports but also a summary of existing local authority trading companies.

LGA - Supporting housing – A Case Study Guide

Provides examples of entrepreneurial activity led by councils to provide new homes in response to the demands of their local housing market and housing pressures and shares some of the learning from these councils. Considers a whole range of housing delivery options and case studies plus issues to consider in selecting the investment and delivery model, including those involved in council owned housing companies eg. Ashford – Housing, Thurrock - Housing.

LGA – Enterprising Councils – getting the most from trading and charging Guide designed to help councillors and senior officers to navigate their way through difficult choices to be made about engagement in trading activities. Includes 3 case studies (The South West Audit Partnership; Norse Group, Essex Cares, Kent County Council).

Branch Unison Guide to local authority trading companies A different perspective looking at LACTS and procurement rules, how they can be challenged and case studies.

Capita – Creating council commercialism – A conversation – The purpose of the paper is to unpack the notion of 'commercialism' applied to councils and to offer some observations about how the councils that wish to pursue a degree of commerciality potentially achieve it.

Localis - Commercial Councils – The rise of entrepreneurialism in local government – The report outlines how local government can secure its finances and boost local growth prospects by developing entrepreneurial approaches. It has a range of case studies dealing with local authority traded services. (Civic Enterprise Leeds, Kent Commercial Services, Barnet and Capita Joint Venture).

Localis – Policy Platform – Trading Councils: How Local Authorities can innovatively use commercial powers. A range of local government leaders consider local authority capacity to trade and reap the rewards of commercial opportunities.

Other Sources

West Lindsey District Council Commercial Plan 2015 to 2020

South Hams District Council – Creating a LACT

Folkestone – Regeneration and Housing Company – Purpose and Options

Guardian – Gloriana Thurrock – Is this the future of council house building

AgendaNi – Service and Savings: the ALMO model

www.dorsetforyou.com Tricuro – LATC – Adult and Community Services in Dorset

Wokingham BC – range of LACTS

Range of articles and publications relating to the Barnet Group

Range of LGA Case studies

For more information about this, or any other LGiU member briefing, please contact Janet Sillett, Briefings Manager, on janet.sillett@lgiu.org.uk

Grant Thornton
An instinct for growth™

South Hams District Council and West Devon Borough Council

Options appraisal for establishment of a local authority controlled company

Final report

13 January 2016

Our Ref SHWD/GC/GB

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14 January 2016

Dear Sirs

Option appraisal for proposed set up of a local authority controlled company Consultation Draft

We have pleasure in enclosing a copy of our report (the 'Report') containing the findings from our review in relation to South Hams District Council and West Devon Borough Council's (the 'Councils') proposal for establishing a local authority controlled company ('LACC'). The scope of this review was agreed in the Letter of Engagement dated 20 November 2015.

Notwithstanding the scope of this engagement, responsibility for management decisions will remain with the Councils and not with Grant Thornton UK LLP.

Context

The Councils have worked closely together for a number of years, providing a range of shared services to the residents of South Hams and West Devon. The Councils have made a decision to consider setting up a jointly owned local authority controlled company to reduce costs further and generate income. The Councils are therefore seeking advice to assist them to understand the likely costs and benefits to be gained from introducing a LACC to deliver services.

The findings for this work will enable the Councils and their elected members (Members) to understand if a local authority controlled company will meet the strategic objectives of the Councils.

Limitation of liability

We draw the Councils' attention to the limitation of liability clauses in paragraphs 3.1 to 3.9 contained in our engagement letter dated 20 November 2015.

Forms of report

For the Councils' convenience, this report may have been made available to the Councils in electronic as well as hard copy format, multiple copies and versions of this report may therefore exist in different media and in the case of any discrepancy the final signed hard copy should be regarded as definitive.

Confidentiality and reliance

This report is for sole use of the Councils. We stress that our report and other communications are confidential and prepared for the addressee(s) only. They should not be used, reproduced or circulated for any other purpose, whether in whole or in part without our prior written consent, which consent will only be given after full consideration of the circumstances at the time. We agree that an addressee may disclose our report to its employees, officers, Members, directors, insurers and professional advisers as required by law or regulation, the rules or order of a stock exchange, court or supervisory, regulatory, governmental or judicial authority without our prior written consent but in each case strictly on the basis that we owe no duties to any such persons.

To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the addressee(s) for our work or for our report and other communications.

To the fullest extent permitted by law, we do not accept any responsibility for any loss or damages arising out of the use of the report or other communications by the addressee(s) for any purpose other than in connection with the Purpose.

General

The report is issued on the understanding that the management of the Councils have drawn our attention to all matters, financial or otherwise, of which they are aware which may have an impact on our report up to the date of signature of this report. Events and circumstances occurring after the date of our report will, in due course, render our report out of date and, accordingly, we will not accept a duty of care nor assume a responsibility for decisions and actions which are based upon such an out of date report. Additionally, we have no responsibility to update this report for events and circumstances occurring after this date.

We would like to thank the Councils' officers for making themselves available during the course of the review.

Yours faithfully

Grant Thornton UK LLP

Grant Thornton UK LLP

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Executive summary

Background

South Hams District Council and West Devon Borough Council (the Councils) have worked closely together for a number of years, providing a range of shared services. Through the transformation programme, T18, the Councils have brought teams and services together into the following service blocks:

- Customer First
- Commercial Services
- Support Services.

The Councils have demonstrated their ability to be agile and have delivered new ways of working achieving a Gold Award for 'Delivering through Efficiency' and the Silver Award for 'Council of the Year at the Improvement and Efficiency Social Enterprise Awards (iESE). Through the transformational programme they plan to deliver £2.1m in savings by 31 March 2016.

The Councils are now considering the next stage of joint working and are looking to establish a local authority controlled company (LACC). All services will transfer to the LACC, with only a small number of people remaining with the Councils; the Strategy and Commissioning function. Within this report we have considered the following two options, as requested by the Councils:

- Option A - 'as is' position – continuation of the current arrangements
- Option B - establishment of a Teckal exempt, LACC (the proposed company) to deliver all services.

Other alternative delivery models have not been considered as they are outside the scope of this review. The setting up of the LACC would result in the Councils no longer directly delivering services and the Councils functioning as commissioning Councils.

Options for waste services delivery

Grant Thornton have been commissioned by the Councils to produce cash flow projections for the Councils' waste services and to quantify the potential risks and benefits posed by the options available to the Councils going forward from expiry of the FCC Environment contract.

Therefore waste services for both Councils are outside the scope of this review and have been reported separately by Grant Thornton.

Approach

Our approach included:

- stakeholder meetings (officers and key Members), to understand the risks and benefits
- documentation review and analysis, in relation to relevant information such as staff, accommodation and service costs
- an income and expenditure forecast for the first year of operation for the LACC, based on information and assumptions provided by officers. This has enabled us to take account of the savings and income generating opportunities that might arise, such as staff costs, economies of scale and increased revenue.

Executive summary

Purpose

We were engaged to identify the risks and benefits of the two options and in particular to consider the risks and implications for the Councils if they were to establish a LACC.

Summary findings

We have not identified any significant hurdles that would prevent a LACC being established; conversely neither have we identified any distinct benefits that make a LACC the preferred option.

Option A – 'as is' has been successful and enabled the Councils to develop new ways of working and begin to develop a commercial culture. The key risk of this option is that existing service levels would have to change to meet future financial challenges and that existing arrangements would be unable to meet the recently identified budget funding gap.

Option B - a LACC, will provide greater longer term opportunities to reduce costs and generate additional income from outside the Councils from other public sector bodies and the private sector. However, it will take at least two years before it will become profitable, 2019 at the earliest.

Its profitability will be dependent on it generating additional income, how this income will be generated is currently unclear. In order to generate additional income the proposed company will need to develop its commercial skills and ensure its culture is aligned to being a commercial entity. This can be achieved by building on the changes began through the T18 transformation programme and investing in cultural change within the LACC.

The Council should consider the most appropriate time to establish the LACC taking into account how the investment costs will be funded and the lead time required before it will be able to generate additional income. Based on our review we have not identified any clear indications as to whether it would be more beneficial to phase the transfer by service block.

The Councils are proposing a LACC which will include over 400 members of staff TUPE transferring as well all services transferring to the proposed company. This may result in services transferring to the LACC which may be subsidised by the Councils. However, these services could still be provided by the LACC to other councils and provide additional income for the proposed company.

The first year will be a transitional year, as the new company adapts and identifies its potential market. As a result we have assumed that no additional income will be generated in the first year, but some savings will be made as a result of restructuring; this is shown in the summary Income and Expenditure forecast, set out overleaf.

The opportunities are likely to increase as other councils look for others ways to meet the financial challenge. These opportunities could be maximised if the LACC was able to demonstrate its competitiveness in the relevant markets. Public sector organisations are also more likely to commission services from other public sector organisations than commission the private sector, but this will vary between organisations.

Within the proposed company the Councils should satisfy themselves that existing staff have the appropriate skills and capacity to drive the change in culture from the beginning. In our experience, successful LACCs have invested considerable amounts in staff consultation, change management and commercial leadership to ensure the development of its commercial acumen from the outset. Delaying this aspect is likely to extend the time it will take for the LACC to become commercially successful.

The Council should be aware that neither option A or B will enable the Councils to meet their short term funding gaps identified as a result of the recent spending review. If successful the LACC will provide a longer term solution, for the short to medium tern alternative solutions will be required.

Executive summary

Summary income and expenditure forecast

The table below sets out the expected income and expenditure for the proposed company in its first year of operation. A deficit is forecast in the first year of operation.

LACC forecast income and expenditure account

	£m
Income	(6.67)
Expenditure	7.12
Savings	(0.0.9)
(Surplus)/deficit	**0.36**

Source: The Councils' 2015/16 budget

Investment costs

There are one-off investment costs involved in establishing the LACC. We estimate that based on discussion with officers these could be in the region of £329,000**.** These costs are important to ensure the transition is effectively managed, the LACC is set up appropriately, both from a financial and legal position and the LACC is able to effectively operate in a commercial environment. Further details are set out in Appendix 2.

In our experience other councils have incurred expenditure in the region of £400,000.

The Council should consider how these costs are to be funded and if this has an impact on when the LACC should be established.

Strategic fit

The future for local authorities is uncertain, both as a result of financial constraints and as English authorities begin to consider devolution. Both Councils recognise that change is inevitable and have begun to develop their vision and strategic direction within their corporate plans. These are at differing stages of development and are consistent with the Councils' objectives for transformation:

- financial sustainability
- maintain and protect front line services
- provide quality services.

Both options are not able to guarantee financial stability, although the proposed company would provide greater opportunities with more possibilities to generate income from outside the Councils. The LACC offers longer term solutions which existing arrangements are unable to provide without having an impact on existing service provision.

More detailed information can be found in Appendix 3.

Executive summary

In order to assess the two options for the direct delivery of services we have compared the two options below using the following considerations: governance, financial, people and tax.

	Key features	Governance	Financial	People	Tax
As is	• All services are directly controlled by the councils • Members are able to affect changes through their committee structure as set out in each individual constitution • Future uncertain as a result of devolution • More difficult to identify further savings	• Elected Members within each council are accountable and the key decision makers • Slow decision making process in comparison to commercial organisations	• South Hams: - net budget - £8.7m - Total budget gap over five years to 2020/21 is £1.4m • West Devon: - net budget - £7.3m - Total budget gap over five years to 2020/21 is £1.1m • Limited external revenue generation opportunities	• No significant changes, employees will remain employed by the councils on the existing terms and conditions • The culture is likely to remain the same • Employees will remain in the Devon County Council Pension Fund (DCCPF)	• There will be no impact
LACC, with teckal exemption	• Wholly owned company Councils being equal shareholders • Greater freedom to make quicker commercial decisions • Greater risk and potentially greater reward • Potential to reduce costs and increase income • Preferred cultural fit in comparison to other models eg. outsourcing or joint venture	• Control through LACC Board and shareholder committee • Development of stronger commissioner side in the Councils • Financial and reputation risk of failure • Exit strategy required	• Turnover in the region of £6.7m with a £0.36m deficit • Will take at least two years to be profitable • Investment costs - £329,000 • Market – limited unlikely to deliver benefits for two years • Separate accounts required	• Over 400 people will TUPE transfer • Potential to revise T&Cs • Cultural change required • Pensions – agreement on past deficit and admission of LGPS required	• Subject to corporation tax (currently 20%; 19% from 2017 and 18% from 2020) • Potential to apply to HMRC for dispensation from CT where trading solely to the Councils • VAT registration required • The activities will be regarded as business activities and the normal VAT rules will apply, but important to understand the nature of the LACC activities and to model precise tax impacts on the Councils

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Next steps

The establishment of a LACC is complex and will require at least 18 months to set up. The Councils are aware of this are considering operating shadow arrangements prior to becoming fully operational.

The proposed timeline is as follows:

- February 2016 – Councils decide if a detailed business case for a LACC should be developed
- June 2016 – Councils decide if a LACC should be established
- April 2017 or April 2018 - the LACC would be operational

If the Councils agree to proceed then we consider that the following should be undertaken:

- strategic business case
- outline business case
- detailed business case, which should include detailed market analysis.

Detailed legal advice has not been provided as part of this report and we recommend that it should be obtained to support the next stage of this process.

Structure of this report

During the remainder of the report we set out our detailed findings in relation to the two options that have been considered.

For both option A 'as is' and option B 'LACC' we have considered the following key features:

- governance
- financial
- people
- tax considerations.

The appendices that provide more detailed information on:

- scope of the services
- investment costs
- strategic fit and drivers for change
- LACC income and expenditure forecast
- account and asset considerations
- market analysis
- tax considerations
- pension considerations
- strengths and weaknesses
- key risks.

Evaluation of Option A: ‘As-is’

Option A: 'As-is'

Summary

Existing partnership arrangements between the two Councils have delivered new ways of working and transformational savings. Further savings are planned in the short term, but the savings required to meet the budget gap in the medium to long term require further development. The Councils need to consider if there are still other opportunities within the existing arrangements that are not yet explored to reduce costs, or whether the opportunities have been exhausted.

In order to establish the continued fitness for purpose of the direct delivery of services we have compared this option to a LACC using the following criteria: governance, financial, people and tax considerations. This should help the Councils to identify the model that best meets their future requirements

	Key features	Governance	Financial	People	Tax
As is	• All services are directly controlled by the councils • Members are able to affect changes through their committee structure as set out in each individual constitution • Future uncertain as a result of devolution • More difficult to identify further savings	• Elected Members within each council are accountable and the key decision makers • Slow decision making process in comparison to commercial organisations	• South Hams: - net budget - £8.7m - Total budget gap over five years to 2020/21 is £1.4m • West Devon: - net budget - £7.3m - Total budget gap over five years to 2020/21 is £1.1m • Limited external revenue generation opportunities	• No significant changes, employees will remain employed by the councils on the existing terms and conditions • The culture is likely to remain the same • Employees will remain in the Devon County Council Pension Fund (DCCPF)	• There will be no impact

Option A: 'As-is'

Key Features

Type of delivery vehicle

The majority of services are delivered directly by the Councils, although leisure and West Devon waste services are outsourced. Members are able to effect change through their committee structure as set out in each individual constitution. Members are involved and good relationships exist between officers and Members.

Accounting requirements

Councils in the United Kingdom are required to prepare their statutory financial statements in line with the Code of Practice on Local Authority Accounting in the United Kingdom (the Code) which is based on International Financial Reporting Standards (IFRS), except where these are inconsistent with specific statutory requirements. This will remain unchanged.

Assets and transfer arrangements

No asset transfers are required for the continuation of in-house service. Further information can be found in Appendix 5.

Market analysis

Local authorities are able to generate additional income and do so by charging for services which they provide, such as car parking and licensing and regulation services. Evaluation and looking at ways of maximising their income is outside the scope of this review.

The Councils are able to trade with other public bodies without setting up a company. They can do this under Section 1 of the Local Authorities (Goods and Services) Act 1970, which enables local authorities to sell certain goods and services to other "public bodies" at cost. However, few take advantage of this option as it does not enable them to make a profit.

Further information on the market analysis can be found in Appendix 6.

Governance

Structure

The elected Members within each Council are the key decision makers. In West Devon Borough Council a committee structure is in place and issues will be discussed first by the 'Hub' committee, before decisions are made by full council. Whereas in South Hams District Council an 'Executive ' decision making process is in place. Both systems result in a slow decision making process in comparison to a commercial organisation.

The Councils do not have robust contract management controls in place. These are not considered necessary for in-house services, as a result service level agreements are not in place. Service delivery is monitored against key performance indicators, but the level of monitoring varies. At present the Councils' contract management arrangements are focused on outsourced services, such as leisure and waste services (West Devon). These arrangements are considered adequate by the Councils.

Exit Strategy

An exit strategy is not required for this option.

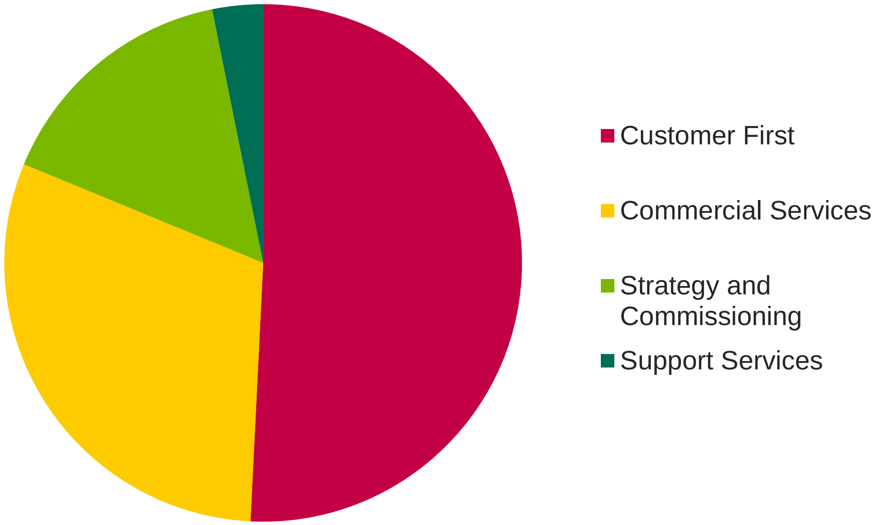
Option A: 'As-is'

Financial

Financial Case

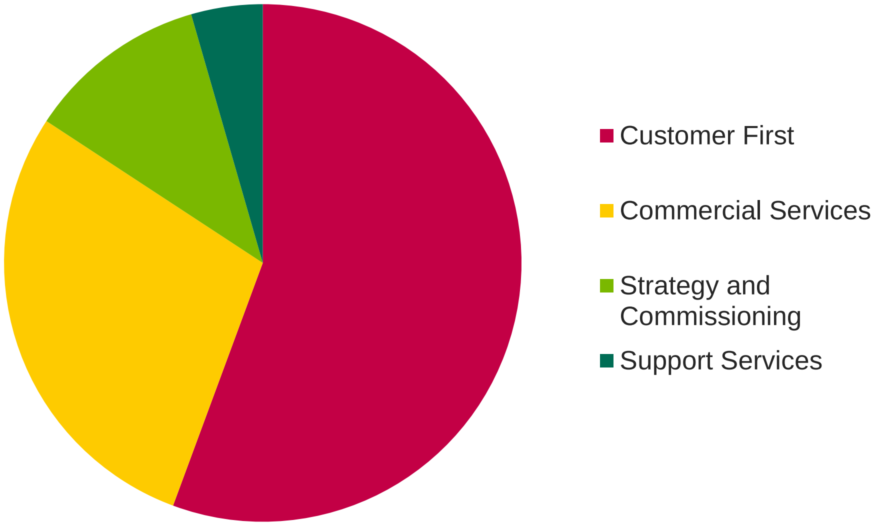
The charts below illustrate the net budget for each Council in 2015/16. The Councils need to deliver £2.5m in savings by 2020/21. The Councils are currently looking to identify how this budget gap will be met. The Councils will have to identify how these funding gaps will be achieved, which ever option is selected.

South Hams DC
2015/16: Net budget – £8.7m



Total budget gap over the five years to 2020/21 - £1.4m.

West Devon BC
2015/16: Net budget – £7.3m



Total budget gap over the five years to 2020/21 - £1.1m.

Option A: 'As-is'

People

There is no impact on people as they will continue to be employed by either South Hams District Council or West Devon Borough Council.

Savings could be achieved through changes to the terms and conditions, such as changes to sickness absence, travel expenses and redundancy benefits.

Staff savings have been delivered through the T18 programme and will continue in 2016.

Culture

Through the transformation T18 programme the Councils have begun to change and develop a more commercial culture. This has begun through the recruitment process with both new and existing staff being recruited by behaviours, which include commercial attributes. Going forward the Councils need to consider how cultural change could be further stimulated.

Pensions

Both Councils participate in the Devon County Council Pension Fund (DCCPF), also know as the Peninsula pension fund. The contribution rates differ between the two Councils as identified opposite and would continue for the foreseeable future.

Further information can be found in Appendix 8.

Pension contributions by Council

	2014/15		2015/16		2016/17	
	%	£	%	£	%	£
WDBC	12.2	417,000	12.2	432,000	12.2	452,000
SHDC	14.1	141,000	14.8	146,000	14.8	153,999

Tax

VAT

The existing VAT arrangements are VAT efficient and the Councils will not suffer any irrecoverable VAT in its provision of services.

Corporation tax

The Councils, as local authorities are exempt from corporation tax on any surpluses arising from the provision of services.

Employment taxes

As there would be no change existing arrangements would continue.

Further information can be found in Appendix 7.

Key risks

A significant risk for this option is that it will be unable to meet the planned budget gap without having to change or stop the delivery of some services. Further risks are identified in Appendix 10.

Evaluation of Option B:
A local authority controlled company

Option B: A local authority controlled company

Summary

The establishment of a LACC will require significant change across the Councils. The LACC has the ability to generate additional income from other public sector bodies and the private sector, but needs to develop its commercial skills to ensure this opportunity is realised.

	Key features	Governance	Financial	People	Tax
LACC, with teckal exemption	• Wholly owned company Councils being equal shareholders • Greater freedom to make quicker commercial decisions • Greater risks and potentially greater rewards • Potential to reduce costs and increase income • Preferred cultural fit in comparison to other models such as outsourcing.	• Control through LACC Board and shareholder committee • Development of stronger commissioner side in the Councils • Financial and reputation risk of failure • Exit strategy required	• Turnover in the region of £6.7m with a £0.36m deficit • Investment costs - £329,000 • Market – limited unlikely to deliver benefits for two years • Separate accounts required	• Over 400 people TUPE transfer • Potential to revise T&Cs • Cultural change required • Pensions – agreement on past deficit and admission of LGPS required	• Subject to corporation tax (currently 20%; 19% from 2017 and 18% from 2020) • Potential to apply to HMRC for dispensation from CT where trading solely to the Councils • VAT registration required • The activities will be regarded as business activities and the normal VAT rules will apply, but important to understand the nature of the LACC activities and to model precise tax impacts on the Councils

Option B: A Local authority controlled company

Key Features

Type of delivery vehicle

The proposed vehicle is a local authority wholly owned company, limited by shares with Teckal exemption. The proposed company would have equal share ownership between the two Councils and have limited liability.

A LACC would enable the Councils to retain control and where there is a commercially viable proposition, to trade separately through a commercial vehicle. They have become increasingly popular, as authorities need to reduce costs and look to how they might generate additional income. The range and type of services they provide is also becoming more diverse.

This type of legal entity enables profits to be both retained by the proposed company and to be shared by the Councils. It also offers greater flexibility in how the profits will be shared, between the two Councils and across different services.

At present the profit share is uncertain, but is likely to reflect the same proportion as resources invested into the proposed company.

The main purpose of the proposed company will be to deliver existing Council services, whilst it develops its commerciality and ability to trade. The Teckal exemption allows the Councils to award contracts directly. The contracts with the Councils would be protected and have legal exemption from European procurement laws. It also gives the proposed company freedom to trade up to 20% of its turnover, in the region of £1.33m in the first year. It should be noted that this figure is indicative only and detailed work will be required to understand the level of activity and turnover for each service provided by the proposed company.

In order to meet the Teckal requirements, the proposed company has to satisfy the control and function test. The Councils have to exercise control over the proposed company similar to that which it exercises over its own departments, the control test. The function test requires that the majority (80%) of activity undertaken by the proposed company should be undertaken for the controlling Councils.

Accounting requirements

Implications for the proposed company

In the UK, the Companies Act 2006 allows companies, other than charities to prepare their accounts in accordance with either the International Financial Reporting Standards (IFRS) or the Companies Acts and UK Generally Accepted Accounting Practices (UKGAAP). The Financial Reporting Council (FRC) has issued three new accounting standards, FRS 100-102, which will replace all existing FRS's, SSAPs and UITFs. The new financial reporting framework will be applicable on a mandatory basis for the majority of UK entities for reporting periods starting on or after 1 January 2015.

Implications for the Council

The Councils will be required to prepare their statutory financial statements in line with the Code of Practice on Local Authority Accounting in the United Kingdom (the Code) which is based on International Financial Reporting Standards (IFRS), except where these are inconsistent with specific statutory requirements.

The Code requires Councils to prepare group accounts in accordance with IFRS10 Consolidated Financial Statements and that Councils with interests in subsidiaries, associates or joint arrangements may need to prepare Group Accounts in addition to their single entity financial statements, unless their interest is considered not material.

Each Council will need to consider whether the company is a subsidiary, associate or joint arrangement before establishing how to account for the proposed company. The Councils will need to account for any initial investment in the proposed company in its single entity accounts.

Option B: A Local Authority controlled company

Assets and transfer arrangements

The Councils have a number of options relating to the use of assets:

- retain ownership and lease to company, either operational of finance lease
- sell the assets
- transfer the assets to the proposed company

It is likely that the Councils will use a combination of the above. Within the Income and Expenditure forecast we have assumed that land and property have remained with the Councils and that other assets would transfer to the proposed company. This would have the effect of putting value into the company's accounts. However, legal advice should be taken to ensure the proposed company is not given an unfair advantage and state aid is not being provided.

Further details can be found in Appendix 5.

Market analysis

The proposed company will need to develop and build on its existing commercial expertise and as a result will require at least two years to develop its skills and understanding of the market before it can expect to generate additional income. Therefore we have not included any additional income within the company's income and expenditure forecast.

Currently there is no clear market for which the proposed company should focus, but a range of possible opportunities which will require significant development before the company might win new business.

In the potential market areas we explored we found that the most successful traders were private companies such as Capita or joint venture companies, where the local authorities had established a company with an experienced private sector partner.

The indications are that demand across Devon and Somerset is limited as a large proportion of services are provided in-house, where services have been outsourced the proposed company will have to compete with these experienced commercial companies.

However, opportunities are likely to increase as other councils look for others ways to meet the financial challenge. These opportunities could be achieved if the LACC was able to demonstrate its competitiveness in the relevant markets. Public sector organisations are also more likely to commission services from other public sector organisations than commission the private sector, but this will vary between organisations. This may give the proposed company an advantage over the private sector if the other councils have a limited appetite to trade with the private sector in the South West.

Therefore the Councils have made the assumption that as other councils in the south west look for ways to reduce costs then a far wider range of service contracts may become available to the proposed company. They have assumed that if the proposed company was able to win 1% of the net budget from the Devon districts, this could generate£600,000 in additional income. If this assumption is correct then similar benefits would be possible from within Somerset and Cornwall. However, the cost for the LACC to deliver this service is unknown at the stage, so the likely profit is also unknown.

More detailed information can be found in Appendix 6.

Option B: A Local authority controlled company

Governance

Structure

Appropriate governance arrangements are essential and important to both the Councils and the proposed company.

The proposed company requires a Board of Directors with clear roles and responsibilities to drive and develop the LACC's purpose, culture and values in order to achieve success. The Board requires a chair and membership from both Councils, to enable it to influence the activity of the company but also in order to retain control – a Teckal requirement. This can be achieved by appropriate membership on the Board or through a shareholder committee, also members of the board can have double voting rights to achieve this.

Membership of the Board requires further consideration, the following is a possible option and the additional costs have been taken into account within the Income and Expenditure forecast in Appendix 4:

- Independent Chair (part time) – recruitment of a suitable candidate required
- Managing Director – post to be filled by the Executive Director, employed by the LACC
- Councils' Representative (possible 2 votes) – Executive Director, employed by the Councils
- Other Councils' representative members to be identified.

The role of elected members also needs to be considered. Elected Members could be members of the Board or members of the joint share holder committee, which is discussed below.

A critical success factor for establishing a successful LACC is the ability to create a commercial culture and to develop commercial skills across the workforce. The proposed company Board has to be commercially aware and lead the cultural change. The Managing Director should have the skill set to drive the change required, to enable it to compete and generate additional income. Local authority experience will be beneficial in the transition period as the company moves from a local authority culture to a competitive commercial focus, but is not essential.

The Council should also consider the benefits of other councils joining the proposed company and becoming a shareholder, once it has been established. This is possible for a LACC and the governance arrangements should be future proofed when the company is being established, such as the company's article of association. Legal advice may be required to ensure the Councils' future requirements are met and potential shareholders are not excluded.

Shareholder/Commissioner relationship

To begin with the proposed company will be focused on its formation, but needs to ensure its relationship with the shareholders and the commissioner/client function is developed and effective. The Councils will have to hold both these roles.

At this stage only one LACC is being considered; the business case should consider if more than one LACC would be beneficial.

Option B: A Local Authority controlled company

Shareholder/Commissioner relationship

Shareholder committees are an effective means of council governance as they provide:

- an effective focus for contact between the LACC Board and the Councils
- a mechanism for the shareholders to communicate their views to the LACC
- the ability to evaluate the effectiveness of the Board in line with its agreed strategic objectives without becoming involved with the operational detail.

In order to provide oversight, avoid duplication between the Councils and prevent members becoming involved in the operational detail we suggest that the proposed company should have a shareholder committee. It would include elected members and should operate as a sub-committee of both Councils in order to be effective and ensure timely decisions are made.

The shareholder committee would need to have delegated authority and be able to make decisions relating to the proposed company. The proposed company could loose its competitive edge and not be able to react quickly enough if decisions have to be passed to the Executive in South Hams DC and to the hub committee in West Devon BC. Although reserved matters could be identified for decisions by the Executive or the hub committee, we recommend that due consideration is given to these to ensure an effective approach is adopted.

The Councils anticipate having a strong commissioner/client side role with the proposed company which will be distinct and clearly separate from its shareholder role. The Councils intend to have clear contract management arrangements in place. At present a soft approach is taken and robust procurement controls are not maintained over the Councils' in-house services. The Councils consider that these capabilities and skills require development, as a result they intend to invest in these skills and incur additional cost to the Councils.

In our experience having strong contract management arrangements in place is highly contentious and strongly resisted by LACCs. In some instances such arrangements were considered to have had an impact on service delivery and stifled the LACC's commercial freedom.

Exit Strategy

An exit strategy is a pre-agreed approach which would be followed if the LACC was no-longer beneficial and beginning to make significant losses. It should be agreed when the LACC is set up and not be consider when things begin to deteriorate. It should be a contractual agreement.
The Councils should be clear as to the level and extent of support they would provide and how this might differ for separate aspects of the service. Although the LACC is limited by shares, and limits the Councils' liability, the Councils will need to take into account their reputational risk and their statutory responsibilities.
Consideration should also be given to whether all services would be brought in-house or an alternative supplier identified should the LACC fail. We are not aware of any Councils which have not met their liabilities when their LACC failed, but clarity is required and should be set out in the exit strategy.
The treatment of and transfer of assets and leases should be included. Any leases which will transfer to the LACC should have a defined length and should allow for transfer back to the Council.

Option B: A Local Authority controlled company

Financial

In the first year of trading, the LACC is expected to generate a deficit of £0.36m. The deficit position after one year of trading is in line with expectation given that the cost of service delivery is not expected to reduce and additional costs associated with operating as a commercial entity are anticipated.

Income and expenditure forecast for the proposed LACC

	£m
Income	(6.67)
Expenditure	7.12
Savings	0.09
(Surplus)/deficit	**0.36**

A detailed income and expenditure forecast is set out in Appendix 4.

Investment costs

There are one-off investment costs involved in establishing the LACC. We estimate that based on discussion with officers these would be in the region of £329,000.

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The main costs associated with setting up a LACC are:

- Legal costs – registration of the company and associated documents e.g. memorandum of understanding
- Staff consultation and change management
- Creation of service contract between the Councils and the Company and agreement of associated key performance indicators
- Establishment of a governance structure – to manage the transfer and to effect the cultural change necessary for increased commerciality
- Project management and implementation

Further detail on the investment cost can be found in Appendix 2

What will remain with each Council?

South Hams

- Net budget – £1,358,000
- 16% of the council's original budget
- 15 FTE

West Devon

- Net budget – £820,651
- 11% of the council's original budget
- 14 FTE

Option B: A Local Authority controlled company

People

We would anticipate that the transfer of undertakings (Protection of Employment) Regulations 2006 (TUPE) would apply and that staff would transfer under these regulations. This is complex legislation and legal advice should be sought to ensure compliance.

If all service blocks including the South Hams waste services were to transfer the proposed company then over 435 people, equivalent to approximately 410 FTEs would transfer.

The transfer of people would be a key stage in establishing the company and would require careful consideration to ensure the process is effectively managed to ensure everyone is fully engaged.

A significant number of Councils are able to deliver efficiencies and savings through the introduction of a LACC. These are achieved through changes to the terms and conditions, scale economies as well as redesigning services.

The Councils are not anticipating delivering significant efficiencies through the establishment of the proposed company as efficiencies have been delivered through the T18 programme. Some management re-structuring is possible and this has been taken into account in the Income and Expenditure forecast in Appendix 4.

Many LACCs have taken the opportunity to revise the terms and conditions to transferring people. TUPE does not apply to new starters and some LACC have reviewed the terms and conditions for new starters.

The Councils do not intend changing the terms and conditions in the early stages of the process. We are aware that any changes have to be considered against equal pay and other legal requirements but this is one area where savings might be possible and the Councils should ensure they do not miss this opportunity.

The terms and conditions for individual services should be benchmarked against the market. This would identify if existing services are competitive and whether they would be able to compete for commercial contracts.

The Councils should also consider how best to communicate any changes to employment arrangements to employees with the aim of avoiding where possible a negative impact on employee morale.

Culture

The motivation and development of the people transferring to the proposed company will be a critical success factor and the development of commercial skills is vital. Through the transformation T18 programme the Councils have begun to change and develop a more commercial culture. Further cultural changes will be required, but the scale of the transfer and the numbers involved are unlikely to result in positive changes without clear specific focus on what is required and how this can be achieved.

To begin with very few things will appear to have changed, everyone will continue to deliver the same work in the same location. There is also the risk that some staff may not view the change as positive change and this could have negative impact on culture. As discussed earlier this change in culture needs to be driven and led by the Board, building on the work already undertaken.

In our experience successful LACCs have invested in staff consultation, change management and commercial leadership to ensure development of its commercial acumen from the beginning. The Councils do intend to invest in one-off set up costs, but should also satisfy themselves that existing staff have the appropriate skills and capacity to drive the change in culture from the beginning. We consider that delaying these changes is likely to extend the time it will take for the LACC to be successful.

Option B: A Local Authority controlled company

Skills and capacity gaps

In order to win new work and generate additional income the proposed company will need to write bids and tenders. These skills may exist within the proposed company, but if they do not or there is insufficient capacity, they can be achieved either by directly employing someone with those skills or by buying in those skills as required. During the transition period the proposed company will develop existing skills, up-skill its workforce and will buy in these services as required.

Training is also likely to be required.

We do not anticipate that there would be any redundancy costs within the first year of operation of the proposed company.

Pension considerations

Whilst there are hurdles and some costs to overcome there should be no major issues associated with jointly setting up a local authority controlled company, whose employees have continuous membership of the Devon County Council Pension Fund (DCCPF).

The potential hurdles and costs are likely to relate largely to agreement over the treatment of any past service deficit associated with current employees, and with the completion of an admission agreement into the DCCPF.

We anticipate that the past service deficits for all employees of West Devon Borough Council and South Hams District Council are likely to be in the region of £7.0m and £3.1m respectively as at 31 March 2013. These figures are indicative only and will need to be recalculated, but provide a basis for discussion between the Councils and the proposed company. Agreement should be sought as to whether these deficits should remain with the Councils or transfer to the proposed company and how the deficits will be funded.

In our experience LACCs see pension costs as a significant hurdle and the cost of funding the deficit as prohibitive. In the majority of instances the pension deficit remains the responsibility of the council; or the council issue a guarantee indemnifying the LACC.

If the Councils were to retain the responsibility of the pension deficit then the contract rates could be increased to compensate. However, the proposed company needs to ensure it remains competitive wherever the responsibility for the deficit lies.

An admission agreement will need to be entered into with DCCPF. The Councils could offer open or closed membership for new starters. Although if the proposed company opted for closed admission this could provide an opportunity to control or reduce pension costs going forward. A revised contribution rate for the employees of each Council would be calculated and could be higher or lower than the current rates.

Pension arrangements are complex and will require both legal and actuary advice going forward and will contribute to the set up costs of the proposed company.

The Income and Expenditure forecast for the proposed company has not taken into account the cost of the pension deficit for the new arrangements, but does include existing pension deficit costs.

More detailed information is set out in Appendix 8.

Option B: A Local Authority controlled company

Tax considerations

VAT

VAT registration is compulsory if the UK turnover of taxable goods and services (any sales that are not exempt from VAT) over the previous 12 months goes over the VAT threshold. The proposed company will need to register for VAT as its taxable income is likely to exceed the current VAT registration threshold (currently £82,000 per annum).

If the Councils transfer services to the proposed company, these activities will be regarded as business activities and will not be subject to any Special Legal Regime. This means that normal VAT rules will apply. If the activities are fully taxable (standard, reduced or zero rated) there should be no restriction on the input tax recovery. If, however, there are exempt activities then there may be some input tax restriction. This will depend on the nature of the activities and services that the proposed company is planning to supply.

Corporation tax

Currently Councils are not taxed on the profits arising from the provision of services. In contrast, a LACC will be chargeable to corporation tax on these profits.

A LACC can benefit from tax reliefs such as capital allowances. Further reliefs may also be available but these will rely on a holding company structure (reliefs could include group relief/consortium relief and capital gains tax relief).

It may be possible to achieve tax exempt status by setting up the LACC as an Arms-Length Management Organisations (ALMOs) in respect of some of the services to be undertaken by the LACC or by obtaining mutual trade status. These tax exemptions are only available when the services are provided wholly to Councils and not to third parties. (These are discussed in more detail in the corporate tax section in Appendix 7).

Employment taxes

There should not be any major employment tax pitfalls in setting up the proposed company, although this should be reviewed to confirm the position once draft arrangements are agreed.

The proposed company will need to set up a new payroll and ensure employment tax governance processes such as an expenses policy and system are in place. It might be possible to use the Councils' existing systems and processes in respect of this.

The proposed company should review what its approach will be to employee reward and benefits in the context of the governance requirements and design its benefits and (if applicable) incentive offering accordingly.

Option B: A Local Authority controlled company

Outline timeline

A number of possibilities exist depending on whether the outsourced waste services transfer into the proposed company. The timeline opposite is scenario one and two:

1. all services including West Devon waste services transfer when the existing contract expires on the 31 March 2017
2. as above but the waste contract would be extended for one year

If waste services do not transfer to the LACC then the timeline would be the same as scenario two.

Key decision/milestone	Deadline	Deadline
	Scenario one	Scenario two
Discussions began with people and trade unions	November 2015	November 2015
Councils in principle agree to establish a LACC	January and February 2016	January and February 2016
Full Business case developed	April 2016	April 2016
Councils agree to establish a LACC	June 2016	June 2016
Planning implementation stage	July 2016 to March 2017	July 2016 to March 2018
LACC established	January 2017	
Shadow run of LACC begins		1 April 2017
People and services transfer into the proposed company	1 April 2017	1 April 2018

Appendix 1:
Scope of Services

Scope of Services

Background

The Councils have worked closely together for a number of years, providing a range of shared services. Through the transformation programme T18 the Councils have brought teams and services together into the three service blocks. We have set out below the services that are expected to transfer to the proposed company within the three service blocks.

The 2015/16 budgets include those services that might transfer to the proposed company and exclude leisure services which are outsourced.

The FTE figures have been based on the employing authority, it should be noted that staff may work across both Councils.

Customer first

- Field based customer contact teams
- Customer Contact Centre/Reception
- Planning & Building Control
- Licensing & Enforcement
- Strategic Planning/Development Management
- Housing Advice
- Revenue & Benefits
- Environmental Health
- Assets & Civil Engineering
- Economic Development (technical advice).

Planned budget and FTEs for customer first

2015/16	South Hams	West Devon
Budget	£3,229,691	£3,292,825
FTE	119	49

Commercial Services

- Waste Management Function (South Hams waste services are provided in-house, whereas West Devon services are currently outsourced)
- Transport
- Environmental Services
- Grounds Maintenance
- Estates Maintenance
- Street Cleansing
- Car Parks & Park & Ride
- Management of Salcombe Harbour
- Management of Dartmouth Lower Ferry

Planned budget and FTEs for commercial services

2015/16	South Hams	West Devon
Budget	£2,648,058	£2,076,869
FTE	160.18	3

Scope of Services

Support Services

The third service block includes back-office services. These services would provide support to the LACC and the Councils should a LACC be established.

The budget for West Devon includes an element of cost for the pension deficit for all West Devon employees.

- HR
- ICT
- Finance
- Legal
- Payroll
- Project Management
- Print & Design
- Post / Logistics

Planned budget and FTEs for support services

	South Hams	West Devon
2015/16 Budget	£275,200	£324,280
FTES	39	17

Appendix 2:
One off investment costs

Estimated one off investment costs

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	South Hams LACC	West Devon LACC	Total	Reference
Estimates				
Staff Change Management	10,000	10,000	**20,000**	**Note 1**
Pension Administration	8,500	8,500	**17,000**	**Note 2**
Legal Advice	44,500	44,500	**89,000**	**Note 3**
Finance Support & Advice	22,500	22,500	**45,000**	**Note 4**
IT system & resource	5,000	5,000	**10,000**	**Note 5**
Recruitment	11,250	11,250	**22,500**	**Note 6**
Project Management & Implementation	25,000	25,000	**50,000**	**Note 7**
Cost of full business case and implementation plan	37,500	37,500	**75,000**	**Note 8**
Total	**164,250**	**164,250**	**328,500**	

Source: The Councils and Grant Thornton

- We anticipate that an additional cost in respect of branding and marketing will be incurred as part of this investment, however, this will be at the discretion of the Councils.
- The Councils anticipate that there will also be some contingent costs which have not been factored into these estimates.
- There are potential savings to be made should the Councils decide to bring the West Devon waste and ground maintenance services in house, the Councils estimate that these savings will be in the region of £50k and £20k, respectively.

Assumptions of one off investment costs

Assumptions

General

- One off investment costs have been allocated 50:50 between South Hams and West Devon.

1. Staff Change Management

- This is based on our research of the appointment of 0.5 FTE salary of an external change management specialist over a period of 12 months. Change management will focus on cultural change for staff.

2. Pensions Administration

- This is based on the advice provided by our pensions experts. We have prudently assumed the higher allowance of £10,000 for actuarial costs for calculating and discussing the deficit allocation and calculating a contribution rate for a new body and £7,000 of consultancy costs for guidance of setting up a new admitted body and liaison with legal advisors, the DCCPF and actuarial advisers.

3. Legal Advice

- This is based on our experience of working with legal firms and includes £10,000 of legal costs associated with pensions, £15,000 for governance arrangements within the LACC, £6,000 for an options report, £10,000 for the incorporation of the company, £14,000 for the service delivery contract, £25,000 for the provision of the legal document for ten leases and £9,000 for the establishment of six Service Level Agreements.

4. Finance Support & Advice

- This is based on 30 days of external financial support for a fee of £1,500 per day.

5. IT System & resource

- This is based on information provided by the Councils' support services. It is anticipated that Civica will charge a one off fee of £6,000 and there will also be a requirement for internal resource for the initial process of £4,000.

6. Recruitment

- This is based on a recruitment fee of 25% of the anticipated external appointments' salary, including the NED, change management specialists and project manager.

7. Project Management & Implementation

- This is based on our research of an average salary for an external project manager over a period of 12 months. The project manager will focus on implementation of the trading company.

8. Cost of full business case and implementation plan

- For external support, in our experience, business cases for LACC's range from £50,000 to £100,000, we have therefore included a cost of £75,000 as an indication of what the Councils might expect to pay.

Appendix 3: Strategic fit and drivers for change

Strategic fit

Strategic fit

The future for local authorities is uncertain, both as a result of financial constraints and as English authorities begin to consider devolution. Both Councils recognise that change is inevitable and have begun to develop their vision and strategic direction within their corporate plans. These are at differing stages of development and are consistent with the Councils' objectives for transformation:

- financial sustainability
- maintain and protect front line services
- provide quality services.

The table opposite compares how these the Councils' strategic principles can be achieved by the existing arrangements and the proposed company.

Principle	'As is'	LACC
Financial stability	Further transformational change required. Both Councils have yet to identify how MTFP funding gaps will be met	Other opportunities in addition to T18 to reduce costs. Ability to generate additional income from the wider public and private sector
Maintain and protect frontline services	Services can be protected to a point through transformational change, decisions may then have to be made to reduce or stop some services	Offers longer term solutions and acts as a catalyst to reduce costs and generate new income Provides a commercial environment
Provide quality services	Achieved through 'soft' service delivery monitoring	The Councils intend to introduce more robust contract management arrangements to ensure quality is maintained

Drivers for change

Both Councils have faced (and will continue to face) significant financial pressures for the foreseeable future. The Councils have demonstrated their ability to be agile and have delivered news ways of working. Through the transformational programme T18, they have delivered £450,000 in savings in 2015/16 and plan to deliver £2.1m in savings by 31 March 2016.

Both Councils recognise that the financial pressures will continue and consider that opportunities within the existing arrangements are becoming more limited. As a result, they are exploring alternatives that will enable them to continue to focus on protecting their workforce and current service levels.

The key drivers for change are:

- financial pressures, the need to reduce costs and generate additional income
- protecting existing level and quality of service
- protecting the Councils' existing workforce
- to position the Councils where they can be flexible and more responsive to a rapidly changing environment and able to take advantage of any opportunities that the market may offer.

Appendix 4:
Local Authority controlled company income and expenditure forecast – Year 1

Local authority controlled company income and expenditure forecast – Year 1

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	South Hams	West Devon	Total
Income			
Contract Income	(4,044,359)	(2,624,004)	**(6,668,363)**
Total Income	**(4,044,359)**	**(2,624,004)**	**(6,668,363)**
Services (inclusive of support services)			
Customer First	2,156,638	2,914,799	**5,071,437**
Commercial Services	1,258,711	1,792,081	**3,050,792**
Waste (outsourced (WD))		(2,348,955)	**(2,348,955)**
Recurring expenses			
Customer First Rent	449,884	195,830	**645,714**
Commercial Services Rent	179,126	70,249	**249,375**
NED (Independent Chair)	10,000	10,000	**20,000**
Procurement/bid expert	7,500	7,500	**15,000**
Audit & Tax advice	20,000	20,000	**40,000**
FD/Financial support	12,500	12,500	**25,000**
Depreciation	305,386	31,750	**337,136**
IT (system and licencing)	6,500	6,500	**13,000**
Total expenditure	**4,406,245**	**2,712,254**	**7,118,499**
Savings			
Savings - Restructuring	(45,786)	(45,786)	**(91,571)**
Total	**(45,786)**	**(45,786)**	**(91,571)**
(Surplus)/deficit	**316,100**	**42,464**	**358,565**

Source: The Councils 2015/16 budgets and Grant Thornton

Local authority controlled company income and expenditure forecast – Year 1

Assumptions

Contract Income

- We have assumed that rental charges will be included in the contract income.

Rent

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Rental costs have been allocated based on the current market rates as estimated by the Councils under the following assumptions:

- This has been undertaken as a desk top exercise
- No measurements have been checked
- Rental Valuations are based on best estimates, no specific comparisons have been sought at this stage
- Split for HQ buildings has been based on a study of floor plans and assumptions of staff number splits.

Depreciation

- Depreciation has been calculated based on a listing of assets to be transferred to the trading company as provided by the Councils.

Pensions

- The current pension deficit costs for both Councils £583k have been included in the income and expenditure forecast, we have not included a revised estimate for the pension deficit should the LACC be established.
- We have assumed that the pension contributions will remain consistent.

FD/Financial Support

- This estimate is based on the Councils' assumption of the level of additional support required.

Procurement expert

- This estimate is based on the Councils' expectation that the majority of procurement/bid work will be performed using in-house expertise. We estimate that £15k will provide support for up to three bids.

General

- The total cost of services has been included on a net basis. For example for South Hams, car and boat parking income and expenditure totals£2.9m and £1.4m respectively. In our income and expenditure forecast this has been included as a net figure of £1.6m
- The contract income has been calculated on a net basis and assumed to be the cost of providing the service
- Costs have been allocated 50:50 between South Hams and West Devon where this has yet to be confirmed
- We have excluded waste from the cost of services for West Devon which totals £2.3m and therefore the associated contract income as this has been considered in a separate report.
- We have excluded leisure from the cost of services (South Hams £1.2m and West Devon £0.7m) and therefore contract income as this is currently outsourced.
- The total income and expenditure relating to housing benefits has been included in the income and expenditure forecast, however, as this is shown as an income and expenditure, it has a nil net impact.
- We have assumed on-costs of 40% for restructuring savings.

Appendix 5: Accounting and asset consideration

Accounting and asset considerations

Introduction

In this section we set out the advice relating to local authority accounting implications and requirements in relation to the establishment of the proposed company. This includes our consideration of the accounting issues based on the Code of Practice on Local Authority Accounting in the United Kingdom 2015/16 and any relevant statutory provisions in force at the date of the report. In particular, The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended) provides specific statutory accounting requirements with regards to share capital.

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Accounting frameworks for the Councils

Accounting framework and requirements

Councils in the United Kingdom are required to prepare their statutory financial statements in line with the Code of Practice on Local Authority Accounting in the United Kingdom (the Code) which is based International Financial Reporting Standards (IFRS), except where these are inconsistent with specific statutory requirements.

Accounting requirements for the proposed company

Accounting framework and requirements

- In the UK, The Companies Act 2006 allows companies, other than charities to prepare their accounts in accordance with either the International Financial Reporting Standards (IFRS) or the Companies Acts and UK Generally Accepted Accounting Practices (UKGAAP). The Financial Reporting Council (FRC) has issued three new accounting standards, FRS 100-102, which will replace all existing FRS's, SSAPs and UITFs. The new financial reporting framework will be applicable on a mandatory basis for the majority of UK entities for reporting periods starting on or after 1 January 2015.
- It should be remembered that the statutory over-rides for items such as depreciation, pension costs, asset revaluations do not apply to companies, therefore the presentation of financial information is very different. Similarly there is no requirement for a company to revalue its assets, it can show at initial valuation or historic cost.

Assets

Options for transferring assets

The Councils need to consider how they would want to account for the assets used by the proposed company. Three options are available:

1. retain ownership and lease to the company
2. sell the assets to the company
3. transfer the assets to the company

1. Retain ownership and lease to the company

This option would mean that both Councils retain the legal ownership but transfer the right to use the asset to the proposed company for a rental income. This rental should at a comparable market value to avoid a risk of a claim of state aid.

These assets would be leased to the LACC and either be leased as an operating or finance lease, depending on the terms of the agreement. An accounting analysis will need to be undertaken to for each lease to determine the accounting treatment.

If the leases were operating leases, the proposed company would recognise rental expenditure. The Councils would retain the assets on their balance sheet and account for the assets as they currently do, considering whether these should be classified as investment property, and recognise rental income over the lease period.

Accounting and asset considerations

If the leases were finance leases, the proposed company would recognise the assets. The Councils would derecognise the assets on their balance sheet and recognise a finance lease receivable, treating the lease payment as principle repayment and interest charges. Principal repayments will need to be accounted for as capital receipts.

2. Sell the assets to the company

The Council's could sell the assets to the proposed company at market value. Thus making the assets from both Councils the property of the proposed company. The proposed company would need to pay, or establish a debtor, to the parent Councils. The cash would need to be generated through loans or the issue of share capital.

Both these options have legal implications that would need to be considered further, i.e. there are rules over councils making loans.

3. Transfer the assets to the proposed company

The owning Councils dispose of the assets at nil or nominal value and ownership is transferred to the proposed company. The proposed company on purchase of the assets, revalues them to market value. Thus negating the need for related party loans.

In holding this property, plant and equipment on the balance sheet LAAC will need to account for depreciation charges in profit or loss. Where a policy of revaluation is adopted, upward revaluations will be recognised in the revaluation reserve. Downward revaluations and impairment losses will also need to be accounted for in profit or loss (to the extent that revaluation reserves balances are not sufficient). Any gain or loss on disposal will need to be recognised in profit or loss when the item is derecognised.

This would have the effect of putting value into the proposed company balance sheet and giving the responsibility of the asset to the proposed company using the asset. LACC would account for acquisition as it would any other capital purchase, by an addition to Property, Plant and Equipment.

The Councils would account for the disposal of assets in the normal way showing the effects of disposal in the Comprehensive Income and Expenditure Statement and reversing the capital effects through the Movement in Reserves statement (Adjustments between accounting basis and funding basis under regulations), including any loss that might occur.

Legal advice should be taken to ensure the proposed company is not given an unfair advantage and state aid is not being provided.

Investment in companies

Accounting for interests in LACCs

The Councils need to consider:

1. whether the LACC is a subsidiary, a joint arrangement or an associate by assessing the Councils' control over the company. This will depend on how the company is established and voting and other decision making rights
2. this will then lead to consider whether group accounts need to be prepared, whether the arrangement should be accounted for as a joint operation in the single entity or alternatively that there is no impact other than third party transactions
3. accounting for the interest in the company will depend on the form of initial investment in the company, ie loan or share capital. This interest will need to be accounted for in the single entity accounts and the investment held at cost (if group accounts are prepared) or otherwise at fair value.

Further work

Each council will need to consider whether the company is a subsidiary, associate or joint arrangement, before establishing how to account for the company.

Appendix 6: Market analysis

Market analysis

Background and approach

We have explored potential markets in which the Councils could compete and identified competitors locally and nationally. We have considered services provided in-house and externally among local authorities in Devon and Somerset. We have looked at ten district Councils across Devon and Somerset, Torbay Council and Plymouth City Council as well as both county Councils.

In the following areas, we have established both the public and private sector markets in the UK, with a focus on Devon and Somerset:

- Customer First
- Commercial Services
- Support Services.

Where possible, we have attempted to estimate the income that could be generated from these activities.

The following sources have been used to inform our work:

- Fame (companies database)
- Standard Industrial Classification of Economic Activities (SIC) codes.

In addition, we have identified LACCs and other alternative delivery models across the UK competing in these markets to provide an indication of potential returns.

Overall potential market

The Councils have made the assumption that as other councils in the south west look for ways to reduce costs then the majority of services may become available to the proposed company. They have assumed that if the proposed company was able to win 1% of the net budget from the Devon districts, this could generate £600,000 in additional income. However, the cost for the LACC to deliver this service is unknown at the stage, so the likely profit is also unknown.

Customer First

Customer Contact Centre

While Councils in Devon run their contact centres in house, three Councils in Somerset have outsourced this service.

As part of a wider support service contract, Capita provides contact centre services to Mendip District Council, in common with many other Councils around the UK. Taunton Deane Borough Council and Somerset County Council commission this service to South West One, a joint venture between these Councils and Avon Police Authority, in partnership with IBM.

There are a large number of private sector providers of call and contact centre services – 11 based in Devon and Somerset and 960 nationally.

It is a largely unexplored market by public sector bodies and we have not identified any LACCs in the UK providing this service. Birmingham City Council set up Service Birmingham, a joint venture in partnership with Capita. Service Birmingham did run the Council's call centre but this proved unsuccessful and the call centre has since been brought back in-house.

We have been unable to quantify the value of this potential market. While research suggests that there are opportunities to provide these services to others, it is a highly competitive market in the context of both the public and private sector.

Planning and building control

We have considered the market for a fully outsourced planning service as well as looking specifically at planning application services and building control.

Few Councils in the UK deliver their entire planning service through outsourcing, although we have identified that Capita offers this service and is engaged to do so by three Councils in the UK. We anticipate that the likely level of income that could be generated from the running of planning services for a council in Devon and Somerset would be £6m per annum. However, it is unlikely that a LACC would deliver a comprehensive planning service to Councils and we have not identified any nationally.

Market analysis

Planning and building control continued

Planning application services in Devon and Somerset are provided in-house, with the exception of South Hams District Council for which IP&E provides a planning application report service at £160 per application. Another private company in this market is TerraQuest whose services include planning application validation, quoting £50 per application. The proposed company is more likely to be able to offer this type of service. In order to generate £10,000, this would require 63 applications at £160 per unit, or 200 applications at £50 per unit. In addition it would also need the skills and capacity necessary to compete, which are not currently available.

Building control services in Teignbridge, West Devon and South Hams are currently provided by Devon Building Control Partnership, a partnership set up by these Councils in 2005. Similarly, five Councils in Somerset and Dorset are in discussions over the formation of a Somerset Plus Building Control Partnership. Although it would be difficult for private companies to compete with the level of expertise and experience held by these partnerships, the nationally picture suggests there is an available market .

The market share held by private sector practitioners certified as 'approved inspectors' (therefore capable of providing building control services) has gradually increased nationally. While there are only two approved inspectors held on the Construction Industry Council register that are based in Devon and Somerset, there are 90 listed elsewhere in England and Wales.

A LACC competing in this market is Acivico Building Consultancy, set up by Birmingham City Council in 2012 to provide design and construction, facilities management and building control services across the public and private sector. It has reported small losses in its first two years of operation.

In Devon and Somerset we identified that the average spend on building control is £700,000. Therefore, if a LACC was successful and won a contract to deliver the building control services for a council in Devon or Somerset we anticipate the additional income might be in the region of £700,000.

However, the cost for the LACC to deliver this service is unknown at the stage, so the likely profit is also unknown. It should also be noted that there is likely to be strong competition from both local public sector partnerships and national private approved inspectors.

Licensing, enforcement, environmental health and strategic planning

These services are provided in house among Councils in Devon and Somerset. The market for these service areas is small but with the potential to grow as an increasing number of Councils in the UK are considering plans to outsource regulatory services.

We have not identified any LACCs in the UK which provide these services. In terms of alternative providers, Capita is essentially the only competitor. It has set up a joint venture with a Barnet Council to set up a company delivering licensing, strategic planning, environmental health and development management services to the Council. It has been in operation since 2013 and reported a £2.4m profit in 2014.

There is a potential market for these services in Devon and Somerset, if local authorities feel there would be a benefit to outsource these, although the proposed company could be competing with a joint venture.

Housing management and advice

These services are run in-house in Devon and Somerset, with the exception of Sedgemoor District Council. Homes in Sedgemoor, a LACC providing a housing management and advice service to the Council since 2007, has recorded a profit every year averaging £500,000. The management fee paid by the Council for 2014/15 was £8.5m. Although it does not currently offer its services to other local authorities, it has the potential to do so due to its high level of expertise transferred from the Council's previously in-house team managing its housing stock

Although there is a market for these services – five Councils in Devon and Somerset own housing stock – any competing LACC would need to acquire similar skills in order to compete.

Market analysis

Revenues and benefits

Although all but one council in Devon and Somerset keep this service in-house, many Councils across the country outsource this function to the private sector. This is a competitive market in which many well established companies are providers, including Capita, Civica and Liberata. There are no LACCs in the UK offering this service.

There is limited potential to compete in this market – any new entrant would require a unique selling point that sets it apart from its highly skilled and experienced competitors.

Commercial services

Grounds maintenance

District Councils in Somerset provide this service themselves, while the County Council uses South West One. In Devon, however, private companies are the main providers. ISS Facility Services Landscaping is contracted until 2021 to provide services to North Devon Council, Torridge District Council and Devon County Council. Teignbridge District Council buys services from Quadron Services, with which it has a five year contract to 2020 worth £543,000 per annum.

The private sector market is competitive locally and nationally. There are 226 companies offering grounds maintenance services in Devon and Somerset, and 9,096 nationally.

A LACC operating in this area is Streetwise, set up in 2014 by Rushcliffe Borough Council to provide grounds maintenance services to businesses in addition to the Council. The annual cost of the contract to the Council is £1.3m.

There are opportunities to offer this service to public sector clients after any existing contracts expire, but it is a highly competitive market. A LACC operating in Devon and Somerset could expect to generate annual income of £500,000, if it was able to break into the market.

Car park management

The majority of district Councils in Devon and Somerset manage their own car parks, while Exeter and Plymouth city Councils and local businesses either do the same or buy services from car park management companies, for example Devon based Premier Parking Solutions and Premier Park provide services for Plymouth City Council and Exeter City Council respectively.

There are 21 companies that manage car parks in Devon and Somerset and 1,438 nationally.

Glasgow City Parking, a LACC set up by Glasgow City Council in 2007, provides off-street and on-street parking management services to the Council. It has reported losses in each year of operation including £300,000 in 2014/15.

A LACC offering this service would face strong competition since the preferred provider is generally within the private sector, and would need to able to convince local Councils of the benefits of outsourcing this service.

Transport

Community transport services in Devon and Somerset are provided by voluntary organisations and charities therefore no private companies compete in this market.

Buses are operated by First Group in Somerset and Stagecoach in Devon. Several authorities in other regions have set up LACCs to operate buses and other passenger transport, including Swindon Borough Council, which set up Thamesdown Transport in 1986. The company's recent financial history is mixed, with profits reported between 2009-12 and losses in the past two years (of £1.3m in 2014).

While there are opportunities to explore this area, competition with large national companies operating in the local area would be tough.

Market analysis

Support services

ICT services

In Devon, most support services are provided in-house. ICT services for three local authorities are delivered via a local authority wholly owned joint venture, Strata Service Solutions. Strata Ltd was formed in 2014 to provide ICT services to East Devon District Council, Exeter City Council and Teignbridge District Council. The company reported a £2.5m loss in 2014-15. ICT services for Plymouth City Council are provided by DELT a joint venture owned by Plymouth City Council and NEW Devon CCG.

In Somerset, Capita are the providers for Mendip District Council and South West One for Somerset County Council.

While there is scope to explore offering ICT services, a LACC would face competition from well established private sector providers and the two ADMs already operating in the region.

Finance, payroll, HR

In Devon, these services are provided in-house. In Somerset, South West One provides support services including finance, payroll and HR to Somerset County Council and Taunton Deane Borough Council. There is an opportunity to compete for these services when the contract with South West One expires in 2017. The annual charge for the services they provide is £5m.

Mendip District Council contracts many of its support functions to Capita, including ICT, finance and payroll, in addition to revenues and benefits. Other large private sector companies offering these services to Councils include Serco and Arvato.

The market for a comprehensive back office function is highly competitive due to the scale, expertise and experience of private sector providers.

Appendix 7: Tax considerations

Tax considerations

VAT

If its services are transferred to the proposed company it will need to consider whether any of its services are likely to be exempt and could create an irrecoverable VAT cost. It is recommended that this is reviewed in detail once the final provision is agreed.

If the Councils transfer their services to a separate LACC, this will be a separate legal entity from the Councils. The LACC would also provide flexibility to provide services to third parties should it decide to trade more widely.

The current VAT position

For VAT purposes, Councils are section 33 bodies which means that they have a Special Legal Regime and all VAT that they incur on the provision of non-business activities can be recovered. However, Councils also provide business supplies which are, in the main, subject to VAT, so the Council can recover all VAT incurred in relation to such business activities, subject to the normal rules.

Unlike other taxable persons, section 33 status also enables them to recover any VAT that they incur in connection with VAT exempt business activities provided certain conditions are met.

In fact, a local authority can recover any input tax (VAT on purchases) that it incurs that is attributable to VAT exempt business activities provided the total of such 'exempt input tax' is less than 5% of the total amount of VAT incurred by a local authority on business activities and non-business activities in a financial year.

Thus, the existing arrangements are VAT efficient and the Councils should not suffer any irrecoverable VAT in its provision of services.

Transfer of activities and assets into a LACC

The transfer of trade and assets to the proposed company will be subject to VAT unless the transfer can qualify as a Transfer Of a Going Concern (TOGC). When these rules apply, the transfer to a LACC will be treated as outside the scope of VAT. There are special rules which apply to a TOGC when it includes property, so should this be the case, we will advise you separately.

Transfer of services

If the Councils transfer services to the proposed company, these activities will be regarded as business activities in the LACC and will not be subject to any Special Legal Regime. This means that normal VAT rules will apply. If the activities are fully taxable (standard, reduced or zero rated) there should be no restriction on the input tax recovery. If, however, there are exempt activities then there may be some input tax restriction. This will depend on the nature of the activities and services that the proposed company is planning to supply.

It is advised that the proposed company should consider the VAT liability of its supplies and seek advice on how to maximise its taxable income. For example, if there is a transfer of commercial property to the proposed company, then it should opt to tax these properties.

The Councils will also incur additional VAT due to receiving these services, we would recommend a modelling exercise is undertaken to determine whether their 5% deminimis will be breached.

Also the proposed company could inadvertently make exempt supplies if its meets the conditions of the Cost Sharing Exemption, these are listed on the next page. If this were the case the proposed company may become exempt so it will incur irrecoverable VAT.

Tax considerations

VAT registration

The proposed company will need to register for VAT as its taxable income is likely to exceed the current VAT registration threshold (currently £82,000 per annum). VAT registration is compulsory if the UK turnover of taxable goods and services (any sales that are not exempt from VAT) over the previous 12 months goes over the VAT threshold.

Technically the proposed company could VAT group with one of the Councils. It cannot VAT group with both Councils as one of them needs to control the company. This is rarely done as it deprives the grouped Council from the benefit of the partial exemption 5% 'test of insignificance' rule.

Cost Sharing Groups (CSG)

Definition of a CSG

Where two or more organisations, with exempt or non-business activities, join together on a cooperative basis, to form a separate independent entity to supply themselves with certain qualifying services at cost, these supplies are exempt from VAT.

Criteria to be met if the supplies are to fall under CSG exemption

A CSG is a separate taxable person from its members, as a separate entity it is able to make supplies for VAT purposes to its members, these supplies will be exempt from VAT if the relevant conditions are met.

A 'member' of the CSG is defined as a business or organisation that is capable of jointly owning and controlling a CSG as well as receiving supplies from the CSG. Therefore, the Councils should enter into a joint agreement to form a new CSG entity. Both members will receive supplies from the CSG. Both entities will need to consider if there are other tax implications in respect of setting up this CSG entity.

The exemption applies to services provided to members, and not to third parties outside of the CSG.

The exemption will only apply to goods where they are ancillary to the main supply of services.

Exemption is mandatory for all supplies of services made by the CSG to its members that meet ALL of the following five conditions:

1. An independent group of persons (CSG) supplying services to persons who are its members
   It must be a separate entity, but can take a number of different forms eg a partnership, or a limited company either by shares or guarantee. the proposed company would need to agree on the type of entity to be set up and there may be other tax implications that each member needs to consider. This condition could be met.
2. All the members must carry on an activity that is exempt from VAT or one which is not a business activity for VAT purposes
   Both Councils carry on exempt and/or non-business activities. HMRC's guidance indicates that an entity would be eligible for CSG membership if 5% or more of its total supplies were exempt or non-business. It is considered that this condition could be met.

Tax considerations

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3. The services supplied by the CSG must be 'directly necessary' for a members exempt and/or non-business activity

   If the supplies are not 'directly necessary' the exemption would not apply and the supplies would be subject to normal VAT rules. HMRC's guidance indicates the methodology which can be considered as outlined below; although there is an option for the CSG to suggest an alternative method if it is more appropriate:

   Supplies of services received from the CSG, that can be directly attributable to the members exempt and/or non-business activities, will be regarded as 'directly necessary' and therefore qualify for exemption. If the CSG incur expenditure on services that are attributable to taxable and exempt/non-business activities these would not qualify as 'directly necessary', as they are not linked exclusively to exempt or non-business activities of the CSG.

   Where a member of the CSG has wholly exempt and/or non-business activities or low levels of taxable activity, all the supplies they receive from a CSG will be regarded as 'directly necessary' for the exempt/non-business activities. HMRC consider that a low level of taxable is less than 15% of the members' total activities.

   It is understood that the Councils would meet this condition.

4. The CSG only recovers from its members, the members' individual share of the expenses incurred by the CSG in making the exempt supplies to its members

   Not all members have to receive the same services. Members can receive different volumes of service, but the CSG must only recover from its members, at cost, their share of the costs and expenses incurred by the CSG.

   There should be no profit in the charges made by the group to its members. If supplies to members of the CSG by the CSG do include a profit element the exemption will not apply, and those supplies will be subject to the normal VAT rules.

   It is understood that there is a clear audit trail of the services each member uses and the recovery calculation that the CSG undertakes.

5. The application of the exemption to the supplies made by the CSG to its members is not likely to cause distortion of competition

   A CSG is a cooperative self-supply arrangement. It is not a commercial outsourcing arrangement therefore it does not exist or compete in a market. As long as all the conditions of the exemption are met, particularly that it can only supply its members on a 'direct reimbursement' basis, that is, it self-supplies at cost, distortion of competition is unlikely to occur.

   It is considered these conditions could be met.

Tax considerations

Corporation tax

Under the current arrangements, the Councils have worked closely together to provide a range of services under Customer First, Commercial Services and Support Services. As the Councils are local authorities, they are exempt from the charge to corporation tax on any profits arising from the provision of services.

Corporation tax implications – trading company

The creation of a LACC to carry out all of the above services will mean that it will be:

- chargeable to corporation tax on all its UK and worldwide profits. The rate of corporation tax from 1 April 2015 is 20% (and this is set to reduce to 19% from 2017 and 18% from 2020)
- required to file a CT600 tax return (electronically) within 12 months of the accounting date

Corporation tax liability

Depending on the level of profits in the company, and any associated companies, the LACC will either pay its tax either nine months and 1 day after the end of the accounting period or by quarterly instalments. This could have a significant impact on the cash flow of the LACC. If trading losses arise in a respective period, they can be carried forward in that company and offset against the first available taxable profits of the same trade in future periods. It is also possible to carry losses back and offset against profits of the previous 12 months.

Capital allowances

Should LACC acquire any equipment or other fixed assets of its own, any new assets would be accounted for accordingly with depreciation charged to LACC's accounts which would not attract corporation tax relief. Instead, capital allowances should be available in either the main or special rate pool (receiving tax relief on a writing down basis at 18 per cent or 8 percent respectively, depending on the assets acquired). The company must also own the plant or machinery as a consequence of incurring the expenditure. We will need to explore further how assets currently owned by the Councils are to be 'owned' and used by the LACC.

Group structure – losses and group relief

As the LACC will be a joint venture company wholly owned by the Councils, it will not be possible to pass on any trading losses incurred to either Council or any other companies owned by the Councils. However, if the company were associated with other companies in a group structure and it qualified as a group relief group, then broadly, current year losses in one company can be surrendered to shelter current year taxable profits in the other group company. For a 'group relief 'group to exist in the structure, the ownership condition must be met, where:

- either one company has to be a 75% subsidiary of the other (i.e. indirect ownership must be at least 75%), or
- both have to be 75% subsidiaries of a third company

Tax considerations

Group structure - losses and group relief (cont.)

If the proposed LACC and any other future planned trading companies were separately owned by the Councils then group relief may not be available. This is because the relevant legislation states that a "company" does not include "a partnership, a local authority, or a local authority association". Therefore, a holding company should be considered within the proposed structure so that any future planned trading entities within the structure are still ultimately owned by the Councils but via a holding company. In this way, eligibility for group relief will be maintained. However, if a company is limited by guarantee it cannot qualify for group relief. (This may be in point further to the comments made under the section below regarding special tax status).

Consortium relief

Consortium relief is an alternative to group relief where current period losses of a consortium company can be transferred to consortium members and vice versa. However, a LACC jointly owned by the two Councils will not qualify for consortium relief as 75% of its ordinary shares will not be owned by companies.

Capital gains group
A capital gains group means that where assets are transferred from one company to another no capital gain or loss is triggered subject to certain conditions. Currently the Councils will not be able to achieve this capital gains group structure due to the percentage holding requirements. However, where a holding company wholly owns the trading company (and any future companies) the relevant requirements for a capital gains group should be met.

Special tax status

It may be possible for the LACC to mitigate its corporation tax liabilities through a special tax status. These may include:

- Local authority exemptions
- Mutual trade status
- ALMO tax status

We have provided a very high level overview of these. In addition, we will discuss, at a high level, the rebate system option and how we have seen this work in practice.

ALMO status

There are some circumstances when a company is not subject to corporation tax on all or some of its activities.

This is when HMRC agree that the nature of its activities lack the necessary element of commerciality to amount to trading, and therefore the activity is not subject to corporation tax. HMRC have agreed this treatment with Arms-Length Management Organisations (ALMOs). ALMOs manage, repair, improve and maintain the council's housing stock. The council remains the legal landlord. They also undertake a range of services; for example, collecting rents, dealing with arrears, tenancy enforcement, for which transactions with its council members are not viewed as taxable by HMRC.

Tax considerations

Almo Status (cont.)

HMRC takes account of a number of factors, including the fact that the company is usually a company limited by guarantee without share capital. The ALMO is funded by a management contract fee which is usually designed to break even and in the event of the ALMO being wound up, the surplus remaining is required by the articles to be paid back to the council.

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We have recently seen HMRC grant ALMO status to the following activities carried out in separate companies including waste management of community and businesses, grounds maintenance, street cleaning, technical advice regarding transport and planning, and services to the council in respect of the acquisition of land and property, and the development of council owned sites including planning, development, marketing and disposal of land for housing and corporation use. The response from HMRC determined that these transactions were not trading and therefore not taxable however, the LACC would still be liable to corporation tax in respect of transactions with third parties or any other group companies.

HMRC have not explained the factors that were critical in determining this position but the companies were not companies limited by guarantee which is typical for ALMO status but limited by share capital. We would be happy to explore how this position may apply to this LACC if appropriate in terms of the Councils longer term planning and strategy for the LACC. In order to consider this further, it would be necessary to consider the following matters:

- how the Councils will control the governance of the company
- how the Councils will monitor/control the approved activities and what service level agreements will be in place
- what arrangements will be in place to manage the pricing of services, the budgeting process and the surplus generated by the company on these activities and how this will be ring-fenced for these activities in the future

Mutual trade status

Mutual trading is a concept where a company is not liable to tax on any profit arising from the mutual trade. There is no statutory definition of mutual trade, however HMRC consider that certain criteria should be fulfilled in order that an entity qualifies as a mutual trading company.

The key principles are that:

If a group of people join together for a common purpose their transactions with the umbrella body can be seen to be mutual trade if:

- the entity's transactions are with its customers who are also members
- the legal framework for the entity passes the tests for mutual trading
- the immunity from tax only applies to transactions in the nature of trade with the entity's members
- the founding principle as set out in case law if the trade between the two parties is identical i.e. mutual is that there can be no taxable profit on a surplus from trading with yourself

Tax considerations

Key characteristics

There are four essential requirements for mutual trading status as set out by HMRC:

- Complete identity as a class between the contributors to the mutual surplus and the participators in it
- Arrangements which ensure that the surplus ultimately finds its way back to the contributors and no arrangements for it to go to anybody else
- A reasonable relationship between the amount a person contributes to the surplus and the amount distributed to them on winding up
- The members must control the common fund

Strictly this falls within self-assessment, however, our expectation and experience to date is that mutual trading status would need to be agreed with HMRC and we can provide assistance in liaising with HMRC.

HMRC is not always consistent in their approach to mutual status. We are aware of one circumstance where mutual status was granted to a Teckal company and then subsequently withdrawn. From experience, HMRC will also challenge the situation where a company has share capital and technically a dividend could be returned to a shareholder. This conflicts with the concept that the surplus must be returned to the contributors to the trade.

Rebate system

Other local authorities have established commercial trading subsidiaries and have implemented a rebate structure with regards to passported revenue with their local authority parent.

If you were to pursue this option, the arrangements would need to be on arms-length terms to meet the tax requirements under UK transfer pricing rules. Our transfer pricing team could research and identify an arms-length range of operating margins earned by comparable independent companies performing similar services. The rebate paid, if appropriately structured, could be deductible for corporation tax purposes.

Tax considerations

Employment taxes

There should not be any major employment tax pitfalls in setting up the proposed company, although this should be reviewed to confirm the position once draft arrangements are agreed.

The proposed company will need to set up a new payroll and ensure employment tax governance processes such as an expenses policy and system are in place. It might be possible to use the Councils' existing systems and processes in respect of this.

The proposed company should review what its approach will be to employee reward and benefits in the context of the governance requirements and design its benefits and (if applicable) incentive offering accordingly.

The Councils should also consider how best to communicate any changes to employment arrangements to employees with the aim of avoiding where possible a negative impact on employee morale.

The Construction Industry Scheme (CIS) position should be reviewed if any construction work is going to be carried out by or subcontracted by the LACC.

New payroll set up

We understand that employees will be TUPE transferred in from the Councils to the proposed company. On this basis, the the proposed company will become a new employer for PAYE/NIC operation purposes, and a new PAYE scheme will need to be set up for this entity.

Depending on how the proposed company is structured, there might be more than one legal employer, in which case further PAYE registrations with HMRC are likely to be required.

Registration as a new employer online is likely to be the most efficient way for the proposed company to set up the new PAYE scheme(s).

PAYE Filing obligations for previous employers (the Councils)

The first step in determining the filing obligations for the previous employers (the Councils) is to establish whether the change in circumstances should be regarded as a ‘succession’ for PAYE purposes or a ‘cessation’. In the case of a succession, the new employer takes over the pay records of the old employer and no form P45 is necessary. In the case of a cessation, form P45 needs to be issued and the new employer does not take over responsibility for the old employers' records.

On the basis that the LACC will be a jointly owned company set up between two parties transferring staff into a new PAYE scheme, it is likely that the TUPE transfer of staff from the previous employers should be treated as a cessation.

The employees leaving should be marked as leavers in the previous employers' RTI returns and forms P45 will need to be issued to the transferring employees by the previous employers. It is advisable to warn employees that this is the case and explain to them that it is only a consequence of the TUPE transfer and nothing to be concerned about.

Tax considerations

PAYE Filing obligations for new employer (the LACC)

Once the new PAYE schemes have been set up, the employees being TUPE transferred in should be marked as new starters in the new PAYE schemes and the information from the P45 input into the system.

PAYE/NIC should be operated and submissions made as required and amounts remitted to HMRC by the due dates.

Incentivising employees and employee benefits offering

Subject to governance requirements, there might be an opportunity to implement employee and management incentive plans with the objective of rewarding high performance from employees that would not be available within the traditional Local Authority environment. Such plans could be based on business profit targets or individual performance metrics.

Furthermore, (depending on what is currently being offered by the current employers) it may be possible to make increased use of salary sacrifice arrangements to maximise the value given to employees whilst making savings in employment costs for the employer. Salary sacrifice for cars, holiday buying and selling, mobile phones, bike to work and computer equipment are examples of possible schemes that may be considered.

Expenses and benefits

We recommend that in the new entity a written expenses policy is used to govern the incurring and reimbursement of employee expenses, and a system is put in place to control, check and authorise employee expenses.

P11Ds will need to be produced and filed with HMRC by 6 July following the end of the tax year for any benefits in kind that are not 'payrolled' in accordance with the legislation and HMRC guidance. However, any benefits or expenses covered by a tax exemption or a PAYE Settlement Agreement (see below) will not need to be payrolled or reported on P11Ds.

If the proposed company wishes to payroll benefits, the current position is that the benefits should be registered via HMRC's online Payrolled Benefits in Kind (PBIK) service. The rules are developing in this area, so this area should be reviewed again before the arrangements go live and the benefits offering is established.

The proposed company might provide taxable expenses or benefits to employees on which they wish to protect the employees from incurring a tax liability. Examples of this would be gift vouchers provided as an incentive for high performance, or teambuilding events that are 'fun' in nature. If this is the case, the new entities may wish to apply to HMRC for a PAYE Settlement Agreement (PSA) which will allow the employers to meet the cost tax and NIC on benefits and expenses included on behalf of employees.

Employment law position

We recommend that employment law advice is sought on any employment law issues (e.g. TUPE) that may arise in relation to this transaction as we are not employment lawyers and therefore cannot comment on any employment law implications.

Construction Industry Scheme (CIS)

We understand that it is unlikely that the proposed company will carry out any 'construction operations' and it should therefore not be within the CIS as a mainstream contractor. However, it may be necessary to register as a 'deemed contractor' as set out below. The proposed company will be required to register as a CIS 'deemed contractor' if it does not carry on a construction business but still spends an average of £1million per annum over a three year period on construction operations, calculated by reference to the accounts.

We recommend that the CIS position is reviewed if any construction work is going to be carried out by or subcontracted by the proposed company, whether in connection with the Councils or otherwise.

Appendix 8:
Pension considerations

Pension considerations

Summary

Whilst there are hurdles and some costs to overcome there should be no major issues associated with jointly setting up a local authority controlled company, whose employees have continuous membership of the Devon County Council Pension Fund (DCCPF).

The potential hurdles and costs are likely to relate largely to agreement over the treatment of any past service deficit associated with current employees, and with the completion of an admission agreement into the DCCPF.

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Background

Both Councils participate in the DCCPF. The contribution rates following the Actuarial Valuation of the DCCPF as at 31 March 2013 are set out below

	2014/15		2015/16		2016/17	
	% pay	£	% pay	£	% pay	£
WDBC	12.2	417,000	12.2	432,000	12.2	452,000
SHDC	14.8	141,000	14.8	146,000	14.8	153,000

The difference in the '% pay' (the future service contribution) is due to the differing demographics and salaries within each Council for current employees. The difference in the '£' contributions (past service deficit cost) is due to the differences in accrued liabilities for each council since starting to accrue benefits within the DCCPF. In addition the deficit recovery period for WDBC is 20 years, with 27 years for SHDC.

A summary of relevant active membership data for the Councils as at 31 March 2013 is set out below.

	Number	Annual pay (£000)	Average age
WDBC	117	2,944	45
SHDC	392	8,452	48

Pension considerations

Past service deficit

The past service deficit represents the excess of the value of the members' benefits (liabilities) built up in the fund, over the assets held in the fund. It is the responsibility of the employing body to meet this deficit over time (the recovery period).

When setting up a new body, the question arises as to who will take on the past service deficit for the employees being transferred.

a)Will the transferring company keep responsibility for all or part of the liability to enable the new body a "clean slate" start?

b) Alternatively, will the new body have to take on some or all of this liability itself?

The past service deficits for all employees of WDBC and SHDC were calculated as approx. £7.0m and £3.1m respectively as at 31 March 2013.

This could be complicated further when the new body is being formed from a combination of 2 transferring companies, with differing past service deficits. If a "clean slate" start is not used then careful agreement of how the past service deficits are funded in the future must be reached and clearly documented. If not then the transferring company with the smaller deficit would be subsidising the other.

Future service costs

A revised contribution cost would be calculated for the employees of each organisation transferred into the new employer. Depending on the average age and salary level of these members this may he higher or lower than the current future service contribution rates.

In addition, as mentioned above, altering the membership of any organisation will change the demographics of the Fund membership and will affect the contribution rate required. Removing a section of the membership from both WDBC and SHDC will consequently also affect their contribution rates, likely to apply following the results of the next actuarial valuation the Fund as at 31 March 2017.

Guarantees

On the admission of a new body into the Fund, the DCCPF will carry out an assessment of the basis on which it views the risks of admission. It is common for a Fund to subsequently ask for a guarantee or a bond to be put in place to guard against the risk of failure of the admitted body. This is generally negotiable.

In this case it could be argued that the new body is backed by WDBC and SHDC and so there is no reduction in security and so no further guarantees are needed.

Admission agreement/Documentation

An admission agreement will need to be entered into with DCCPF to document the admission of a new employing body. The new body must satisfy certain criteria to be included and it may be necessary to negotiate over or document any guarantee.

In addition, when an employer enters into a Local Government Pension Scheme it must also set out a policy in relation to the exercise of a number of discretions on issues such as redundancy and early retirement policies, which could have an impact on funding calculations.

Legal advice should be sought on the above in due course.

Pension considerations

Open or closed admission

WDBC and SHDC could take this opportunity to only offer membership of the DCCPF to current members and to set up an alternative pension scheme for any subsequent new starters. This could be used to better control or even reduce pension costs for new employees in the future, compared to current employees. This may be more relevant when considering the pending increase in employment costs for members of Local Government Pension Schemes due to the cessation of contracting out due in 2016.

Care would need to be taken however as this could affect the short term contribution rate payable on behalf of those remaining in the DCCPF. The deficit recovery period would reduce, as the membership grows older, and the pace of meeting deficit recovery payments would increase as a result. In addition, an older average membership would also lead to higher future service contribution rates, albeit for a reducing membership.

New plan implementation

If it is decided to no longer offer membership of the DCCPF to new starters then an alternative, auto-enrolment compliant, pension plan must be set up. It would be normal to also provide a group life insurance plan at the same time to replace life cover benefits associated with the DCCPF.

Auto-enrolment re-enrolment

Employees who opted out of the fund following the Councils' initial auto-enrolment Staging Dates will have to be re-enrolled approximately 3 years after the initial enrolment. This is likely to add to the pension costs of a new shared service company.

Potential costs

Pension contributions

Whilst the overall, long term costs of providing pensions for the employees of WDBC and SHDC will not change, the short term contribution rates may vary slightly due to the changes in the demographics of each employer and any agreement reached over the treatment of the past service deficit. Actuarial calculations will be needed to determine this.

Advisor costs

Legal costs – legal advice may be required to assist with the initial admission agreement, negotiation over a guarantee and with the drafting of an agreement between WDBC and SHDC over the treatment of the past service deficit. A reasonable allowance for such advice would be around £8,000–£10,000.

Actuarial costs – The DCCPF will accrue actuarial costs in calculating and discussing the deficit allocation and in calculating a contribution rate for the new body. A reasonable allowance for these costs would be in the region of £8,000 - £10,000.

Consultancy costs – You may require assistance in guiding you through the processes involved in setting up a new admitted body and in liaison with legal advisers, the DCCPF and actuarial advisers. Costs for this could be expected to be in the region of £5,000–£7,000.

Pension considerations

New plan implementation

The minimum company contribution rates to a new pension plan once auto-enrolment is fully active would be around 3% of employees' salaries. Companies can, and often do, offer higher contribution rates than this however, typically ranging from 3% - 10% of salaries.

Life cover, again can be provided at a number of levels, ranging from 1 times salary to 6 times salary. Costs of cover depend very much on the demographic of the employees but an approximate cost would be around £1 for every £1,000 of cover.

An adviser would expect to charge around £5,000 to set up a pension plan and £2,000 - £3,000 to set up a group life insurance plan. On-going advice would then cost in the region of £3,500 per annum and £2,000 per annum respectively.

Appendix 9: Strengths and weaknesses

Strengths and weaknesses

Strengths and weaknesses of the options

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LACC strengths

- ✓ 'future proof'- services delivered from a model that more is adaptable and responsive to change
- ✓ may be able to protect staff as local authorities more towards devolution
- ✓ maintain control by the Council, but slightly reduced in comparison to option A
- ✓ able to generate additional income from other public bodies and the private sector
- ✓ greater financial stability
- ✓ build on T18 partnership working
- ✓ services passport from the Councils to the proposed company
- ✓ more responsive and rapid decisions making processes
- ✓ opportunity to review staff terms and conditions

LACC weaknesses

- × income unlikely to be generated for one to two years
- × commercial skills and knowledge of existing staff may be insufficient to meet LACC requirements
- × lack of capacity to develop new market
- × individuals within the proposed company may lack the drive to lead the cultural change
- × subject to complex legal, tax and financial requirements
- × ownership uncertain under devolution

'As is' strengths

- ✓ control maintained by the Council, members and officers
- ✓ stability for people in short term, as the financial challenge prevents long term stability
- ✓ tax efficient arrangements

'As is' weaknesses

- × 'as is' model is more likely to be slower to change and have innovation
- × future uncertain as a result of devolution/ possible combined authority
- × limited commercial skills and expertise
- × unable to generate income from private sector and public sector
- × unlikely to generate additional income from other public sector organisations
- × additional financial savings will be required, likely to require changes to people and service delivery in the short to long term

Appendix 10: Key risks

Key risks

Option A 'as is'

The Councils
Council no longer financially viable, unable to meet financial challenge and revised budget gap
Services have to stop
The Councils' services are outsourced or delivered by other LACCs

Option B LACC

The Councils	Proposed company
Unable to agree and resolve an equitable approach to share the profit and any liabilities	Board not able to drive a change in culture, due to a lack of commercial expertise. Recruitment limited to part time chair.
Financial and reputation risk should the proposed company fail	Innovation and commercial development not able to develop due to rigorous procurement controls
Deterioration in service delivery due to ineffective contract/performance management	No market, unable to generate additional income
	Pension deficit does not enable the proposed company to be competitive in the market
	Failure to comply with legal requirements, such as tax and accounting requirements
	Wrong alternative delivery model selected for some services, one approach may not be suitable for all services
	Failure to effectively embed T18 and implement the LACC due to lack of staff capacity if full implementation is required by April 2017
	Staff dissatisfied and reluctant to embrace the change
	Elected Members too involved in operational detail and stifle the proposed company

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Our Plan – Local Plan Arrangements

Report to:	**Hub**
Date:	**26th January 2016**
Title:	**Our Plan. Local Plan Arrangements**
Portfolio Area:	**Strategy and Commissioning**
Wards Affected:	**All**

Relevant Scrutiny Committee: **Overview and Scrutiny**

Urgent Decision:	**N**	Approval and clearance obtained:	**Y**

Date next steps can be take: **Immediately after Council**

(e.g. referral on of recommendation or implementation of substantive decision)

Author: **Ross Kennerley** Role: **Lead Specialist – Place and Strategy**

Contact: **1379 ross.kennerley@swdevon.gov.uk**

Recommendations:

That HUB recommend to COUNCIL that

1. **The principle of a Joint Local Plan within the Housing Market Area (HMA) be agreed subject to appropriate arrangements being put in place with neighbouring planning authorities.**
2. **A detailed Collaboration Agreement establishing the operation of the Joint Local Plan be developed with neighbouring planning authorities (and any other relevant organisations).**
3. **The Collaboration Agreement include, but not necessarily be limited to, the following matters**
   - **Strategic Context**
   - **Objectives and Priorities**
   - **Joint Spatial Framework**
   - **Governance and working arrangements**
   - **Local Development Scheme and timescales**
   - **Evidence**
   - **Infrastructure**
   - **Policies**
   - **Allocations**
   - **Engagement and Consultation**

- **Resources and Staffing**
- **Examination**
- **Assessments**
- **Monitoring and Review**

4. **That a further report be submitted to Hub and Council setting out the detailed policy and allocation proposals that are to be subject to consultation, consideration and submission within the Joint Local Plan element of *West Devon - Our Plan***
5. **That those contents which are to be agreed under recommendations 1, 2 and 3 be delegated to the Lead Specialist – Place and Strategy, in consultation with the Hub Lead Member and Leader.**

1. Executive summary

Members considered and supported a refreshed approach to the Local Plan element of *Our Plan* at Hub on September 22nd and Council on September 29th 2015.

The substantive element of the refreshed approach was a recognition of the importance of planning comprehensively across the Housing Market Area (HMA) and, in particular, working closely under the Duty to Co-operate with neighbouring planning authorities.

Detailed discussions have now taken place to advance this co-operative working approach. The outcome of this further work is that the most effective and efficient manner to address the duty to co-operate is considered to be the formalisation of the arrangement within a Joint Local Plan across the HMA. This approach allows the overall housing numbers within the HMA to be allocated, delivered, monitored and reviewed within a shared and clearly defined spatial framework. This spatial framework will seek to identify and manage housing delivery at appropriate levels across the HMA.

In order to advance this arrangement Members are asked to agree the principle of the establishment of a Joint Local Plan and that this be secured through a collaboration agreement. It is anticipated that this agreement will include South Hams District Council, Plymouth City Council (with precise implementation of the joint approach and Joint Plan to be established in the agreement). Dartmoor National Park Authority will need to be appropriately involved and reflected in the agreement with the status of DNPA in relation to any joint local plan to be subject to further discussion.

The precise details of any policies, allocations and other matters of detail to be set out in in the Joint Local Plan will be brought back to Hub and Council for agreement before publication and consultation.

The refreshed approach agreed in September also identified a wide range of operational matters. These are progressing and will continue unhindered.

Our Plan – Local Plan Arrangements

2. Background

Our Plan will be the single strategic plan that sets out the vision, objectives and activities of West Devon Borough Council. It brings together all strategies and plans and sets out a comprehensive story of what the council wants to achieve through two blended and inter-related elements

- The corporate plan establishing the Councils vision, objectives, priorities, actions and delivery approaches and
- The Local Plan establishing land use planning policies and allocations

The overarching corporate plan role was recently reviewed at Overview and Scrutiny. This included a review of the 15/16 delivery plan for council wide activities with the recommendation to Council that this element be re-issued for the start of the 2016/17 financial year as a means of clarifying Council vision, objectives, priorities and delivery.

The Local Plan element of *Our Plan* was subject to review in the September reports to Hub and Council. This recognised the need to take account of a wide range of local and national issues impacting on local planning. This led to members agreeing to a refreshed plan timescale based around a duty to co-operate approach within the Housing Market Area incorporating South Hams, Plymouth and relevant parts of Dartmoor National Park. This report focusses on this Local Plan element.

The primary recommendation in the September Council resolution was to investigate a collaboration agreement focussed on the LPAs within the HMA. This has been pursued and been subject to consideration at senior officer and member level. The duty to co-operate and the constraints of needing to plan across the HMA leave the Council no option but to work closely with neighbouring LPAs. To really explore the opportunities Councils are encouraged to look beyond basic cooperation and to consider entering into a Joint Local Plan. In looking at this Joint Local Plan option a number of potential benefits have been identified including

- One Process, One Examination, One Inspector
- Aligned single strategic framework and timescales across the whole HMA.
- Enables a sensible distribution of growth across the whole area – focused on Plymouth as the growth hub
- Focusing growth on Plymouth enables the market towns and rural communities to focus on appropriate housing levels in the rural areas and establish clear context for Neighbourhood Planning
- Joint monitoring arrangements to ensure the strategy is delivered within context of spatial framework
- Duty to Cooperate & Soundness tests fully satisfied
- Resource efficiencies and cost savings realised due to a single process.
- A single evidence base, Sustainability appraisal and Habitats Regulations Assessment.

The Joint Local Plan would establish the overall housing and employment requirements across the HMA – and then allocate these to deliver specific spatial elements where there are distinctly different contexts for housing and employment. The following approaches are being investigated for inclusion

Our Plan – Local Plan Arrangements

- Britain's Ocean City –Plymouth and the Urban Fringe
- Thriving Towns and Villages – South Hams and West Devon
- Nationally Important Landscapes – AONBs and DNPA.

Any Joint Local Plan would only deal with land use planning, development policies, allocations and related matters. The distinct identities and roles of the participating Council's would be fully retained – as would the separate corporate plans into which the Joint Local Plan would sit. This can be illustrated as follows.

Discussions around this approach have taken place with Plymouth City Council, South Hams District Council and Dartmoor National Park Authority. SHDC has already agreed the Joint Local Plan approach with the other authorities considering this Joint Local Plan approach. The decisions for DNPA are complicated as it straddles two HMAs and further consideration will be needed. Discussions will also be needed with Devon County Council and Cornwall Council to establish their role in supporting the Joint Plan approach.

Any agreement by members only establishes the principle of the Joint Local Plan approach. It is proposed that the final decision be delegated and be subject to full and detailed further investigations, the establishment of appropriate arrangements and a suitable and legally robust Collaboration Agreement.

Detailed matters relating to policy, allocations and related development matters will continue to be progressed and will subsequently require agreement of Hub and Council prior to publication and consultation.

In proposing the option of a Joint Local Plan it is helpful to confirm what the Joint Local Plan isn't. It isn't

- A Proposal for joint Services, or broader joint working between the Local Authorities – it is simply the land use planning related Local Plan work.
- A Proposal for WDBC to accommodate increaded amounts of housing to meet Plymouth's growth – the emerging Spatial Framework anticipates Plymouth taking more than its share of the HMA needs
- A delay to plan timetables – all three Councils are already broadly aligned; a Joint Plan won't change that.
- Creating new, complex governance structures – the suggestion is a Member group, supported by an officer group, with all decisions taken back to individual Councils

Although the arrangement doesn't anticipate wider integration of services there may well be operational and resource benefits in the establishment of joint staff and resource arrangements to bring forward the Joint Local Plan. These could be time limited and details will be investigated further during establishment of the Collaboration Agreement.

3. Outcomes/outputs

The main requirement is to progress *Our Plan* to submission in a manner that will maximise the chances of it being found sound at Examination. To do so the Council needs to carefully consider and address a broad, and increasing, range of issues.

These issues, and implications, were considered in depth in the September Hub and Council reports and aren't re-iterated here. What this report does is advance the specific matter of how to address the Duty to co-operate and makes the proposal that addressing this within a Joint Local Plan offers benefits that are worthy of agreeing in principle and subsequently looking to establish in detail.

4. Options available and consideration of risk

The previous Council resolution established a timeline and process for progressing the Local Plan element of *Our Plan* set out as Option 1 below. The proposal in this report is to take a step further and formalise the duty to co-operate work into a Joint Local Plan. This is shown at Option 2.

Our Plan – Local Plan Arrangements

Option 1 Work with the other authorities within the HMA to demonstrate conclusively that all have complied with the Duty to Co-operate. *Potential timescale* Feb 2016 Duty to Co-operate principles agreed April 2016 Duty to Co-operate agreed and signed up by all authorities July 2016 Further consultation Autumn/Winter 2016 Submission	Pro's • Enable the plan to meet the requirements to show a full 15 year supply • Ensure evidence is robust and up to date • Link effectively to sub-regional HMA work • Provide adequate time to work with neighbouring authorities • More efficient distribution of resources across specialist pool within the Council • Fulfil our Duty to Cooperate and enable a common approach across the HMA which would make the plan more robust • Opportunity for further meaningful consultation with town and parish councils and local communities • There will be opportunities for resource efficiencies through joint working Cons • Perception of delay for NP groups, and others, who are awaiting plan requirements • Lack of certainty for new employment allocations • Need to carefully consider presentation to achieve co-operation without losing identity. • Will need to consider timing of neighbouring authorities and expectation for alignment • Uncertainty over emerging planning policies at national level may lead to unforeseen delays
Option 2 Work with the other authorities within the HMA on production of a Joint Local Plan *Potential timescale* Feb 2016 Joint Local Plan Collaboration principles agreed April 2016 Joint Local Plan Collaboration agreed and signed up by all authorities Summer 2016 Further consultation Autumn/Winter 2016 Submission	Pro's • As above but with additional clarity over joint working embedded in Joint Local Plan Collaboration Agreement • Comprehensive and seamless approach to spatial framework, policy and allocations • Single examination • Potential costs savings Cons • As above but requires all authorities to work under binding arrangement on Joint Local Plan thus reliance needed between authorities • Potential for loss of individual identity unless appropriately managed

Our Plan – Local Plan Arrangements

The agreement to investigate further the Joint Local Plan is an in principle decision. Final agreement (under delegation) will only progress if suitable arrangements are fully in place supported by an appropriate Collaboration Agreement across the authorities. Areas of potential risk will be identified and managed during this further work and prior to any final arrangement being put in place.

5. Proposed Way Forward

Members have already agreed the principle of collaborative working on the Local Plan. This report seeks the agreement of members to take a further step and endorse the principle of a Joint Local Plan within the Housing Market Area.

The establishment of an updated Local Plan incorporating a clear policy basis to support housing delivery as a key focus has already been agreed. The use of a Joint Local Plan is considered to be the most appropriate mechanism.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		Town and Country Planning (Local Planning) (England) Regulations 2012 National Planning Policy Framework 2012 The Planning and Compulsory Purchase Act (2004) Environmental Assessment of Plans and Programmes Regulations 2004
Financial		No further costs identified at this stage
Risk		See section 4.
Comprehensive Impact Assessment Implications		
Equality and Diversity		There are no direct implications relating to this report on equality and human rights. However, these issues will be considered as the plan is developed
Safeguarding		There are no direct implications relating to this report on safeguarding
Community Safety, Crime and Disorder		Policies will include positive measures to address Community safety, crime and disorder
Health and Wellbeing		Policies will include positive measures to address Health and wellbeing
Other implications		None identified

<u>Supporting Information</u>

None

Background Papers:

National Planning Policy Framework
National Planning Policy Guidance
Fixing the Foundations(July 2015)
Towards a one nation economy: A 10 point plan for boosting productivity in rural areas (August 2015)
National Planning Policy Framework. Consultations on amendments (Dec 2015)
New Homes Bonus. Consultations on amendments (Dec 2015)

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed	**Yes**
SLT Rep briefed	**Yes**
Relevant Exec Director sign off (draft)	**Yes**
Data protection issues considered	**Yes**
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	**No**

Community Right to Build Orders – delegated procedure

Report to:	**West Devon Hub Committee**
Date:	**26th January 2016**
Title:	**Community Right to Build Orders – delegated procedure**
Portfolio Area:	**Strategic Planning and Housing**
Wards Affected:	**all**
Relevant Scrutiny Committee:	Internal

N Approval and clearance obtained: **Y**

Date next steps can be taken: (e.g. referral on of recommendation or implementation of substantive decision) — **Decision to be referred to Council on 16 February 2016**

Author:	**Ross Kennerley and Rebecca Black**	Role:	**Lead Specialist Place and Strategy** **Specialist Place and strategy**

Contact: Ross.kennerley@swdevon.gov.uk

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Recommendations: That the Hub Committee

1. Recommends to Council that the authority to approve the Community Right to Build Orders Procedure set out in Appendix 2 be delegated to the Lead Specialist, Place and Strategy in consultation with the Lead Member for Strategic Planning and Housing and the ward member(s) for the relevant neighbourhood area.

2. Subject to approval of recommendation 1 above, recommends that the appropriate changes be made to the Council's Neighbourhood Planning Protocol.

Community Right to Build Orders – delegated procedure

1. Executive summary

Under the Town and Country Planning Act 1990, the Council has a statutory duty to assist communities in the preparation of Community Right to Build Orders (CRtBOs) which are a particular type of neighbourhood development order, and to take such Orders through a process of examination and referendum. CRtBOs may be applied for by community organisations for a specific site and are used to grant planning permission in full or outline for a particular type of development.

The Localism Act 2011 (Part 6 chapter 3, schedule 11) sets out the LPA responsibilities as:

- Designating the neighbourhood area
- Advising or assisting communities in the preparation of a community right to build order
- Checking a submitted order meets the legal requirements
- Arranging for the independent examination of the order
- Determining whether the community right to build order (CRTBO) meets the basic conditions and other legal requirements
- Subject to the outcome of the referendum, bringing the Order in to force (confirmation of the Order).

In addition and because a CRTBO is a type of Neighbourhood Development Order (NDO), the LPA are obliged under TCPA 1990 s 61 E – Q, to provide advice or assistance to qualifying bodies (as the LPA considers appropriate) for the purposes of proposals for NDOs in their area.
NB: There is no requirement to give financial assistance to the qualifying body.

(**note:** s 61 E – Q of TCPA 1990 was inserted by Schedule 9 Part 1 Localism Act 2011).

This reports sets out the case for adoption of a delegated process to enable CRtBO's to be processed through delegation to lead officers with the relevant and necessary safeguards and referral to the lead Member for Strategic Planning and Housing in consultation with the ward Member(s) as and when required.

It is also recommended that the existing Neighbourhood Planning Protocol be updated. This has clear links to the recommendation made in relation to *Our Plan* to provide updated guidance to Neighbourhood Plan groups.

The statutory process requires examination of all CRtBO's by an independent expert followed by public referendum. The delegated process simply takes the draft CRtBO as far as the independent

examiner and is not a substitute for the ultimate decision which is taken by public referendum. If the referendum results in 50% plus one vote in favour of the proposed Order, the Council MUST confirm the Order.

2. Background

1) South Hams District Council has received a pre-application for a CRTBO in Totnes from the Totnes Community Development Society (TCDS). It follows that the Council must be ready to meet its statutory obligations to advise, assist and implement the process prescribed under the Localism Act 2011 (outlined above) and, if appropriate ultimately confirm the required Neighbourhood area (if needed) and Order. Although there are no applications pending in West Devon at the moment, they remain a possibility and both Councils should be equally prepared.

2) The TCDS application has already reached the pre-application stage and the organisation is currently revising their proposal following informal consultation. There will be a full consultation period with the statutory consultees and the public when the application is formally submitted. This is expected to be approximately 18 January 2016 and the Council must be ready.

3) The council has the appropriate power to accept an application for a CRTBO under the Localism Act but in order to meet the tight deadlines and in the interests of efficiency, the process may be delegated to Officers provided that there is appropriate consultation with affected Ward Members, Lead Hub Member(s) and the option to refer such an application to the relevant committee in difficult, contentious or high profile applications.

4) All Councils need to be ready to comply with and embrace Localism in line with national policy as well as the statutory requirements. The CRtBO represents a direct interaction with community aspirations for the development they want to see in their own neighbourhoods. Being ready to accept and process these applications will demonstrate the Councils commitment to achieving their stated priorities including ‘helping communities to help themselves’.

5) The issues here are relevant to the Members, the relevant Officers in Development Management, Place and strategy, Legal and support services) and the community at large. It is also important for the Council as a whole to be able to demonstrate to the wider public and to DCLG that it can meet its obligations under Localism effectively and in a timely and cost effective manner.

3. Outcomes/outputs

Ideally, the Council should have a formal delegated process adopted by Full Council before a CRtBO or Neighbourhood Area application is submitted for examination; this will enable the relevant officers to scrutinise the application and check that it meets what the regulations describe as 'the basic conditions' *(see definition below Appendix 1)*. It will also enable the relevant officers to decline the proposed Neighbourhood Area or CRtBO proposal if it does not meet the requirements. Written reasons must be given if a proposed Neighbourhood area or CRtBO is declined.

If the CRtBO application meets the basic conditions, the LPA ***must*** refer the application onwards to the examiner. If there are difficult and outstanding issues about the planning merits or proposed conditions at this stage, officers may refer the application to the relevant Committee for a decision before examination but this would need to take place within the statutory time limits. (see Appendix 2)

Success or otherwise cannot really be assessed until after the independent examination. If the CRTBO application is acceptable to the examiner in planning terms, this could be regarded as 'success'.
It is perhaps also worth mentioning that an application which does not meet the basic conditions will be returned to the qualifying body and they will have to decide whether to amend or withdraw. This 'gate-keeping' principle might also be described as another measure of 'success' as it avoids the unnecessary expense and time of a futile independent examination.

Interestingly, if the proposed order is accepted by the independent examiner, the application will become the subject of a public referendum. At this point the community has to decide whether or not they accept the proposed development. A vote of 50% plus one vote in favour of the proposal will ensure that the LPA must confirm the Order – this is effectively permission to commence the development (subject to any conditions) without further recourse to the LPA.

There is opportunity to seek additional funding from the DCLG for fixed payments at various trigger points namely;

- Designation of Neighbourhood area (if needed) (£5,000)
- Submission of the Order (£5,000)
- Completion of a successful examination (£20,000)

These payments are to recognise the cost on the authority in supporting the CRtBO process, including the examination and referendum fees.

4. Options available and consideration of risk

1) What alternative approaches could we take?

   a) Do nothing
   b) Adopt an alternative procedure which relies on Member approval of the proposed Order at each of the key stages

2) Assessment of potential impacts and risks of these options

   a) Referral to the sub committees and Full Councils with attendant preparation and consideration of officer reports would slow down a process that has a short statutory timescale and duplicate work that will be scrutinised by an independent third party in any event. (The referral to the independent examiner is a mandatory requirement not a discretionary one). There is a role for the relevant committee should any applications touch on highly controversial issues or detail but the discretion to take the matter to committee when necessary should not detract from the thorough preparatory work, consultation and specialist consideration which will be required in every case.

5. Proposed Way Forward

1) To adopt the proposed recommendations
2) The justification for the recommendations is as set out above
3) The identified risks can be mitigated by consultation with Members and referral to the relevant committees where necessary.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	• Town and Country Planning Act 1990 • National Planning Policy Framework (NPPF) • Localism Act 2011 • Neighbourhood Planning (General) Regulations 2012
Financial	Y	TCPA 1990 Schedule 4B para 7 refers to the LPA duty to arrange (and pay for) the independent examination.

		The LPA will also be responsible for making the arrangements for a referendum when required. Fixed amount claims can be made to DCLG to assist with these 'additional burdens' at various stages of the process as set out above. The process will not generate additional income through CRTBO applications within the District/Borough but it does introduce the possibility of being asked to provide an independent examination for another authority. Once we have been through a complete cycle it may be worth promoting this idea to other authorities so that we receive the examination costs.
Risk	Y	Delay to delivery of CRtBOs: The increased delegation seeks to streamline the ability of WDBC to respond to the stages of CRtBO preparation in a proportionate manner. Reputation: These applications will by their nature always have a high profile in the community and delay or uncertainty by preparation and consideration of Hub reports could slow the process and raise concerns over WDBC commitment and support to the Neighbourhood Planning processes.
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	Any application should support Equality and Diversity in the proposed Order.
Safeguarding	N	No specific implications
Community Safety, Crime and Disorder	N	No direct consequences
Health, Safety and Wellbeing	Y	The proposed CRTBO should support health, safety and well-being
Other implications	N	

<u>Supporting Information</u>

Appendices:

Appendix 1: PAS / LGA Guidance at

Community Right to Build Orders – delegated procedure

http://www.pas.gov.uk/documents/332612/1099329/Legal+requirements+guide+CRTBO.pdf/b01830df-89cf-4170-8e2a-031de6e9cfe2

Or as attached.

Appendix 2 attached.

Background Papers:

CRtBO Guidance note

Approval and clearance of report

Process checklist	**Completed**
Portfolio Holder briefed	**Yes**
SLT Rep briefed	**Yes**
Relevant Exec Director sign off (draft)	**Yes**
Data protection issues considered	**Yes**
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	**N/A**

Appendix 2: Community Right to Build Procedures

No	**Relevant stage of the NP process**	**Specific requirements of delegated authority**
1	Designate the Area	Delegated authority to approve the Neighbourhood Area if not already designated.
2	Regulation 21 Pre-submission publicity and consultation The Qualifying Body (the CRtB organisation) are required to consult on their draft plan by conducting a Reg 21 consultation. The Local Planning Authority is a consultee in this process and has the opportunity to assess the contents of the draft order to ensure compliance with local and national planning policy.	Delegated authority to provide feedback to the Qualifying Body in response to the Regulation 21 consultation that confirms that the *basic conditions* of Schedule 4B to the 1990 Town & Country Planning Act have been met, or details of the matters that the LPA feel that need addressed before the *basic conditions* can be met.

3	Regulation 23 publication The Local Planning Authority is required to publicise a final draft of a Community Right to Build Order as submitted by the appropriate qualifying body. This consultation will run for no less than 6 weeks.	Delegated authority to issue the Reg 23 Order, to make further LPA comments as necessary and publicise all responses to the Regulation 23 consultation, as required by Regulation 21 of the regulations.
4	Regulation 24 Appointment Of Examiner and issuing of examination report The LPA and appropriate qualifying body need to work together to appoint an independent examiner. Regulation 25 Publication of Examiner's report and decisions.	No delegation necessary as this stage, as it is triggered by process. WDBC to approach the Neighbourhood Planning Independent Panel and Referral Service (NPIERS) to propose suitably qualified examiners who can conduct an independent examination of the draft order and to appoint an examiner in conjunction with the qualifying body. WDBC publish the examination report and any proposed modifications along with a decision statement.
5	Referendum The LPA is required to place the CRtBO (as revised in accordance with the Examiners report) to a local referendum	No delegation necessary as this stage, as it is triggered by process. WDBC to undertake a referendum, the terms of which are defined in Neighbourhood Planning (Referendum) Regulations 2012 (as amended by the Neighbourhood Planning (Referendum) (Amendment) Regulations 2013 and 2014) and the Neighbourhood Planning (Prescribed Dates) Regulations 2012.
6	'Making' the Order (regulation 26) The requirement lies with the LPA to make the order (the legal process by which the Order becomes part of the development plan)	Subject to retained approval by Hub Committee

Affordable Housing – Alternative Models

Report to:	**Hub**
Date:	**26th January 2016**
Title:	**Affordable Housing – Alternative models**
Portfolio Area:	**Customer First**
Wards Affected:	**All**
Relevant Scrutiny Committee:	

Urgent Decision:	**N**	Approval and clearance obtained:	**Y**

Date next steps can be taken:

Author:	**Alex Rehaag**	Role:	**Specialist – Place & Strategy**
Contact:	arehaag@swdevon.gov.uk	**01822 813722**	

Recommendations:

1. Members accept Octopus QSH as a model of alternative delivery to accompany RENT plus and other traditional models of affordable housing.

1. Executive summary

Members will be aware that affordable housing is changing from the traditional way in which it has historically been delivered. The traditional ways of providing rented accommodation and shared ownership properties is changing due to the governments drive for people to own their own homes. In light of this different methods of achieving affordable home ownership are being presented to officers for consideration.

The RENT plus model of delivery was accepted by West Devon Members on the 10th September 2013. In October 2015 RENT plus provided an updated presentation to members. Members may be aware that RENT plus have agreed to deliver a proportion of the affordable housing on the Callington Road site.

Since the RENT plus presentation in October 2015, further delivery models similar to Rent Plus which are aimed at home ownership have been introduced to officers. This report will focus on Octopus QSH although it is likely that other models will be presented in the future.

This report seeks to allow alternative delivery models to form a proportion of affordable housing delivery. It is important to note that rented accommodation continues to be a priority however, due to the reductions in affordable housing grant, alternative options will need to be considered.

In terms of affordable housing delivery, viability is already problematic and these alternative models could provide certainty in delivering affordable housing in our communities. Alternative models such as RENT plus and Octopus QSH are willing to be signatories to a Section 106 agreements and are willing to work with the council to ensure that the right type and size of properties are delivered. This will provide an element of certainty that schemes including these models will deliver.

Reports recently published by Shelter and the Joseph Rowntree Foundation have highlighted that the Starter Homes initiative is likely to be unaffordable for those wishing to access home ownership. Properties through the starter homes initiative will be capped at £250k in this area, with low wages this likely to be unachievable for many. The Octopus QSH scheme we are seeking approval for, would work with the local authority to ensure affordability and will provide good quality housing for local people.

It is important to note that neither of these delivery models have a financial impact on the council as these properties are delivered with nil grant. The properties currently attract New Homes Bonus.

2. Background

The government has stated its intention to increase the home ownership sector and has made this a priority. This is likely to be delivered through the Housing and Planning Bill and the grants and funding streams which are currently available are primarily aimed at home ownership.

The promotion of home ownership as the tenure of choice includes, amongst other initiatives, the intention to extend the Right to Buy to

Housing Associations. The information surrounding this is still unclear but further information is expected shortly. There are currently 5 Right to Buy pilot schemes arounds the country.

The drive for home ownership has caused concern to the authority in terms of how we can continue to deliver affordable housing in the future and the tenure which is promoted within our communities. In addition to this the Starter Homes initiative is also proposed to be included as part of the affordable housing provision on reasonable sized sites. In West Devon this means that a starter home would attract a discount of 20% and would not exceed £250k to the purchaser. Applicants for these properties would need to be under the age of 40 and not have owned their own home before. This is likely to limit the market in the area. The cost of a starter home would not be affordable to most people due to the low wages in the area. These properties could be sold after 5 years and would be sold at full market value, this means that the properties would be "lost" to the open market. Again further announcements are expected regarding this shortly.

Affordable housing has traditionally been provided through rented accommodation in perpetuity or through shared ownership properties. In rural areas stair casing in shared ownership has been restricted to 80% this has limited the mortgages as banks are reluctant to lend. This and the decrease in rents of 1% per year for the next 4 years is causing concerns to Registered Providers and their ability to borrow funds against their housing stock which could be sold through the right to buy. It is important to note that rented in perpetuity will no longer exist. Although the extension of the Right to Buy may be limited to those living in properties which have planning restrictions placed upon them at the time they were built, the tenants could 'transfer' their discount to another property. Information surrounding this is still not clear.

In addition to this many housing associations in the borough are now providing "fixed term" tenancies and the maximum tenancy that can be offered through housing associations is 7 years. The Octopus QSH model can provide a fixed term tenancy and you can "choose" if you wish to purchase. This scheme differs to the RENT plus scheme as tenants do not have to state their intention to purchase at the outset. If you do not purchase this would remain as a rented unit. This scheme will provide the opportunity for tenants to own their home at a point when their situation may have improved and rented accommodation is not the only option and could decrease demand on current rented properties. Octopus QSH will provide a rented property for as long as it is needed, subject to the usual provisions ie rent paid, good behaviour, with the option to buy. These properties will be exempt from the right to buy as they are owned by an investment company but the tenancy management is provided through a local housing association, South Devon Rural.

These models of housing do not seek to replace rented accommodation as this is not an option for many people however it does address the government drive for people accessing home ownership and provides an additional option for local people.

These schemes will continue to provide affordable housing and this will meet the aspirations of many of our communities who wish to own their own home. Many people struggle to access home ownership due to inability to save for a deposit due to high rents and the limited mortgages they can access. This scheme addresses both of these issues as mortgage companies will lend on this type of property because they are not restricted by mortgagee in possession clauses such as staircasing and local connection criteria as is the case with shared ownership properties. This also allows the option for people to save for a deposit to own their home as they will not be paying the open market rent.

The Octopus QSH model rents are charged at a maximum rent to tenants which is set at 90% of the Local Housing Allowance (LHA). This is used to allow for rent rises and to ensure they remain under the LHA as the rents would be subject to an annual rent rise of CPI plus 1%. This model additionally allows rents to be charged at varying different levels depending on need, for example affordable or social rents can be applied. If and when a tenant decides to purchase the property they will be gifted 50% of the rent paid. There is a maximum amount attached to this which is calculated at 10% of the open market value of the property. The gifted deposit stays with the property and not the person, therefore if someone moves out within the first 5 years the rent paid can be "inherited" as the gifted deposit element.

Members need to be aware that when an Octopus QSH property is sold those units of accommodation will be lost from the affordable housing stock. Although this may appear daunting, this could be the case with ex council stock which was transferred to a housing association or recent new builds depending on the Right to Buy detail.

Attached to this document is an FAQ on Octopus QSH information is also attached. This scheme has featured in Inside Housing and this is likely to be extended throughout the country.

3. Outcomes/outputs

If members agree to the adoption of this alternative delivery model, results may be seen in a relatively short period of time. These types of housing along with traditional rent are already being presented to officers by developers in the planning pre - application discussions. This is because the funding is in place and they are seen as low risk to developers when seeking a Registered Provider for affordable housing.

This is likely to be a favoured option by communities who are already seeking this type of home ownership product.

The model could increase our affordable housing delivery within the area and in some circumstances, potentially allow us to meet the current target of 40% affordable housing.

This will offer communities an additional choice to meet their needs and aspirations.

4. Options available and consideration of risk

If we do not accept alternative models of affordable housing this reduces options for our communities and may affect our statutory housing duties.

The RENT plus model is already an accepted form of alternative delivery.

There will continue to be a need for traditional rented properties and therefore these schemes cannot be the only form of delivery, this can complement the site and provide a mixed tenure community. This will need to be monitored to ensure that we are meeting our statutory duties in respect of homelessness.

These properties will be "lost" from the housing stock when and if they are disposed of to the tenant. This is likely to be less of a risk dependent upon the final outcome of the Right to Buy, this risk could be obsolete in the future.

5. Proposed Way Forward

Members approve the alternative delivery model to provide affordable housing to meet the needs of our community. This meets the strategic policy of creating mixed and balanced communities within West Devon.

To minimise risk, with member's approval this model could be reviewed and monitored on a yearly basis. This may be important given the amount of changes and uncertainty in relation to affordable housing at the present time. Officers will be able to provide members with a scheme by scheme report with affordable housing totals and tenure type.

6. Implications

Affordable Housing – Alternative Models

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Meets with the proposals of the Housing and Planning Bill. This is a discretionary option of affordable housing. This will need to be monitored to ensure that we are meeting our statutory obligations.
Financial	Y	There is no financial impact on the council as this model does not require any grant funding.
Risk	Y	The properties will become open market properties over time. Officers need to ensure that this is an additional model of affordable housing and does not replace traditional rented accommodation. Reviews will need to be taken to ensure that the council continues to meet the statutory requirements.
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	There is a need to ensure that groups of people are not treated less favourably than others. There is a need to ensure we continue to meet our statutory duties.
Safeguarding	N	No direct safeguarding concerns with regard to this policy, however there are inbuilt processes and systems within the allocations policy to deal with our most vulnerable applicants
Community Safety, Crime and Disorder	Y	• Is there any potential positive or negative impact on crime and disorder reduction? This aspect is assessed on a site by site basis as part of the planning application.
Health, Safety and Wellbeing	Y	Octopus QSH will provide safe, secure homes which will ensure the wellbeing of the tenants/purchasers.
Other implications		

Supporting Information

Appendices: **Octopus QSH information**

Background Papers:

Approval and clearance of report

Process checklist	**Completed**
Portfolio Holder briefed	**Yes**
SLT Rep briefed	**Yes**
Relevant Exec Director sign off (draft)	**Yes**
Data protection issues considered	**Yes**
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	**Not applicable**

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Octopus QSH – extract from Inside housing

A giant private investor is targeting “market transformation” of the affordable housing sector, as it throws its £5bn weight into building cheap rented housing without grant.

Octopus Investments has formed a partnership with commercial affordable housing developer QSH to deliver thousands of grant-free units over the coming years, Inside Housing can reveal.

The fund, which already has multibillion pound investments in healthcare, sustainability and property, will provide debt and equity finance to a new company, Octopus QSH, which is a joint venture between the two groups.

It will build and own the homes, which will be for affordable rent and a pioneering rent-to-buy product, while seeking housing associations to take on management contracts for the properties. The fund has a total investment capacity of £5bn spread across a variety of markets. It says it hopes to achieve a “market transformation” in affordable housing but would not be drawn on how much specifically it will invest into the affordable housing sector.

Octopus joins merchant back Salamanca Group and equity investor Cheyne Capital in making significant moves into the affordable housing sector this year, as the growth of equity-funded affordable housing gathers pace.

The company is not registered as a housing association, meaning it will not be subject to recent government changes such as Right to Buy, the rent cut and Pay to Stay.

Work has already started on its first development – a 102-home scheme in Doncaster, where the builder will be Wates Living Space, a strategic partner of Octopus QSH.

The homes will be offered as rent-to-buy units, where half of tenants’ rent goes towards saving for a deposit for the home. The homes will be managed by St Leger – Doncaster Council’s arm’s-length management organisation. Ten further schemes are currently in the pipeline.

Mario Berti, head of the specialist finance team at Octopus, said: “There is a chronic shortage of affordable housing in the UK, which presents a huge opportunity for Octopus QSH.”

Octopus QSH’s management team all have social housing backgrounds, with founder and chief executive Paul Hardisty a former director at Birmingham City Council.

QSH has already developed schemes across the UK under a grant-free model, but the backing of Octopus will allow it to vastly expand its operation.

Steve Douglas, director of consultancy Altair, said: “I think this is the future – where social housing will be delivered without grant… and housing associations have to reimagine their role.”

Safeguarding Policy

Report to:	**Hub**
Date:	**26th January 2016**
Title:	**Safeguarding Policy**
Portfolio Area:	**Customer First & Health and Wellbeing**
Wards Affected:	**All**
Relevant Scrutiny Committee:	

Urgent Decision:	**N**	Approval and clearance obtained:	**Y**

Author:	**Louisa Daley**	Role:	**Specialist**
	Isabel Blake		**COP - Housing, Revenues and Benefits**

Contact: **Louisa.Daley@swdevon.gov.uk**
Isabel.Blake@swdevon.gov.uk

Recommendations:

1. That the Hub Committee RECOMMENDs that Council agree to adopt the Safeguarding Policy

1. Executive summary

- This policy replaces the safeguarding policy last refreshed in 2013. The existing policy is no longer fit for purpose due to changes introduced as part of the Care Act 2014. This Safeguarding policy has been developed in partnership with the other Safeguarding Officers in Devon, who represent all of the District Councils. If adopted this will provide a consistent approach across the County.

Aims of the Policy

The aims of the policy are to:

- Clarify the roles and responsibilities of all parties within scope of the policy.

- Support the promotion of a safe working environment and a culture of care in which the rights of all children, young people and adults with care and support needs are protected and respected.

- Promote best practice in how employees and associated workers interact with children, young people and adults with care and support needs while providing Council services.

- Develop clear guidance and procedures for those employees working with children, young people and adults with care and support needs and ensure through training and support that they are aware of these and able to implement them.

- Provide a framework for developing partnerships with appropriate external bodies e.g. Devon Safeguarding Children Board and Devon Safeguarding Adults Board, to ensure that the policy continues to reflect legal and best practice requirements in respect of the responsibility of care of children, young people and adults with care and support needs.

2. Background

This policy replaces the previous joint safeguarding policy, last updated in 2013. Since then a key piece of legislation – The Care Act 2014 has been introduced, increasing the responsibilities for local authorities around adults with care and support needs. Under this definition this is anyone over the age of 18 who;

- Has needs for care and support (whether or not the local authority is meeting any of those needs) and;
- is experiencing, or at risk of, abuse or neglect; and
- As a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

It is important that this new safeguarding policy makes provision for both children and young people and for adults with care and support needs in order for it to be fit for purpose.

The Council has previously had a safeguarding policy, and this underpins the statutory duty under section 11 of The Children's Act 2004. In which key people and bodies, including district councils are required to make arrangements to ensure that in discharging their functions they have regard to the need to safeguard and promote the welfare of children.

The Policy clearly sets out what the public and other statutory and voluntary organisations can expect from the Council. It covers all the functions and services of the council, its elected members, staff and contractors. Working in partnership to develop a policy for the whole of Devon will ensure consistency and lessen any chance of confusion around roles and responsibilities for other organisation such as the police or Devon County who have dealings across the County and in the past have needed to know the very slight differences between 10 local councils.

3. Outcomes/outputs

Since the Council's safeguarding policy was last reviewed there have been several high profile safeguarding cases nationally. It is the intention that this policy will be complimented with comprehensive guides and training opportunities for staff and members and that safeguarding becomes embedded throughout the organisation as everyone's responsibility rather than a few designated officers. This will ensure we are proactively and collectively working together to protect children and adults with care and support needs in our local area. Key staff have already undertaken some training in May and June of 2015 towards these requirements.

4. Options available and consideration of risk

It is essential that we refresh the existing safeguarding policy to ensure it is fit for purpose following the introduction of the Care Act 2014.
The Council is required to complete an annual audit for the Children's safeguarding board. This is designed to monitor and challenge the effectiveness of our arrangements for the purpose of safeguarding and promoting the welfare of children. One of the key standards is that we are up to date with safeguarding legislation and that our in-house documentation aligns with this, also that we have effective safeguarding policies and procedures which are regularly reviewed. We would not meet the requirements of the audit if we could not meet this standard and would not easily be able to identify how we meet our statutory obligation under the Children's Act 2004 to cooperate in safeguarding children and protecting their welfare.

5. Proposed Way Forward

1) If this policy is agreed the intention is to roll out to officers and members at the earliest opportunity with a comprehensive guide and additional training opportunities. The Policy is clear that in the intention to make safeguarding the responsibility of all while supporting people to do this. This will help safeguarding to become firmly embedded in the ethos of the organisation

2) The proposed way forward is for Members to adopt the Safeguarding Policy, understanding that the same policy will be adopted by the other Devon Councils. The operational document – Safeguarding Guidelines may have

some variation from other District Councils due to corporate alignment and working practises.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Children's Act 2004 Section 11 places a statutory duty on key people and bodies, including district councils, to make arrangements to ensure that in discharging their functions they have regard to the need to safeguard and promote the welfare of children. Section 10 outlines the duty to promote inter-agency cooperation between named agencies - including district councils.
Financial	N	There are no financial implications relating to adoption of this policy.
Risk	Y	It is necessary to have a policy to protect staff, Members and the public. The policy sets out responsibilities and expectations for all concerned.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	This policy does have high relevance to equality and has a positive or neutral impact on all protected characteristics
Safeguarding	Y	The policy is primarily concerned with safeguarding or children and adults with care & support needs
Community Safety, Crime and Disorder	Y	This policy has high relevance on community safety, crime and disorder and will be used for the purposes of detecting crime.
Health, Safety and Wellbeing	Y	This policy has high relevance to health safety and wellbeing of children and adults with care and support needs
Other implications		

Supporting Information

Appendices:

Appendix 1 – South Hams & West Devon Safeguarding Policy 2016

The Care Act 2014 in particular Sections 42 to 46 related to safeguarding, further information can be found at: http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted

The Children Act 2004, specifically Section 11 which places a duty on key people and public bodies, including district councils, to make arrangements to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. Further information can be found at: http://www.legislation.gov.uk/ukpga/2004/31/contents

The Counter Terrorism Act section 26 which places a duty on certain bodies, in the exercise of their functions, to have due regard to the need to prevent people from becoming terrorists or supporting terrorism. The Prevent Agenda is one of four strands which makes up the Governments counter-terrorism strategy. Further information can be found at: http://www.legislation.gov.uk/ukpga/2015/6/contents

The Modern Slavery Act 2015. Further information can be found at: http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted

The Anti-Social Behaviour, Crime and Policing Act 2014 in particular Part 10 relating to forced marriage. Further information can be found at: http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted

The Serious Crime Act 2015 particularly Part 5 relating to female genital mutilation, child cruelty and domestic abuse. Further information can be found at: http://www.legislation.gov.uk/ukpga/2015/9/contents/enacted

The policy is written with reference to the principle of Think Child, Think Parent, Think Family. Further information can be found at: http://www.publichealth.hscni.net/publications/think-child-think-parent-think-family-0

Approval and clearance of report

Process checklist	**Completed**
Portfolio Holder briefed	**Yes**

SLT Rep briefed	**Yes**
Relevant Exec Director sign off (draft)	**Yes**
Data protection issues considered	**Yes**
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	**Yes**

Safeguarding Policy

Version 1 Jan 2016

Working together

South Hams District Council

West Devon Borough Council

1. Introduction

1.1 This policy is based on the district council responsibilities under:

1.1.1 The Care Act 2014 in particular Sections 42 to 46 related to safeguarding, further information can be found at: http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted

1.1.2 The Children Act 2004, specifically Section 11 which places a duty on key people and public bodies, including district councils, to make arrangements to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. Further information can be found at: http://www.legislation.gov.uk/ukpga/2004/31/contents

1.1.3 The Counter Terrorism Act section 26 which places a duty on certain bodies, in the exercise of their functions, to have due regard to the need to prevent people from becoming terrorists or supporting terrorism. The Prevent Agenda is one of four strands which makes up the Governments counter-terrorism strategy. Further information can be found at: http://www.legislation.gov.uk/ukpga/2015/6/contents

1.1.4 The Modern Slavery Act 2015. Further information can be found at: http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted

1.1.5 The Anti-Social Behaviour, Crime and Policing Act 2014 in particular Part 10 relating to forced marriage. Further information can be found at: http://www.legislation.gov.uk/ukpga/2014/12/contents/enacted

1.1.6 The Serious Crime Act 2015 particularly Part 5 relating to female genital mutilation, child cruelty and domestic abuse. Further information can be found at: http://www.legislation.gov.uk/ukpga/2015/9/contents/enacted

1.1.7 The policy is written with reference to the principle of Think Child, Think Parent, Think Family. Further information can be found at: http://www.publichealth.hscni.net/publications/think-child-think-parent-think-family-0

1.1.8

2. Policy commitment

2.1 Devon District Councils believe that all children, young people and adults have the right to be safe, happy and healthy and deserve protection from abuse. The councils are committed to safeguarding from harm all children, young people and adults with care and support needs (see definition in point 4 relating to the Care Act 2014) using any council services and involved in any of their activities, and to treat them with respect during their dealings with the councils.

3. Aims of the Policy

3.1 The aims of the policy are to:

- Clarify the roles and responsibilities of all parties within scope of the policy.
- Support the promotion of a safe working environment and a culture of care in which the rights of all children, young people and adults with care and support needs are protected and respected.

- Promote best practice in how employees and associated workers interact with children, young people and adults with care and support needs while providing Council services.

- Develop clear guidance and procedures for those employees working with children, young people and adults with care and support needs and ensure through training and support that they are aware of these and able to implement them.

- Provide a framework for developing partnerships with appropriate external bodies e.g. Devon Safeguarding Children Board and Devon Safeguarding Adults Board, to ensure that the policy continues to reflect legal and best practice requirements in respect of the responsibility of care of children, young people and adults with care and support needs.

4. Scope of the Policy

4.1 The policy is in respect of the district council responsibility towards:

- Children and young people, legally defined as any person under the age of 18. From this point the terms child or children will be used to refer to this group.
- Adults with care and support needs are defined under the Care Act 2014 and for the purposes of this policy, as anyone over the age of 18 who:
    - has needs for care and support (whether or not the local authority is meeting any of those needs) **and**;
    - is experiencing, or at risk of, abuse or neglect; **and**
    - as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect.

- The employees of the council who have dealings with children, young people and adults with care and support needs and who are required to act in a position of trust and to act responsibly and within the law.

- The employees and elected members of the council who, while not required to act in a position of trust, will come into contact with members of these groups on a regular basis during the course of their work.

- Volunteers and other workers involved in the provision of council services but not employed by the council, including workers in organisations with whom the council has contracts for the delivery of services.

4.2 It covers all the functions and services of the council, its elected members, staff and contractors.

4.3 This document is primarily concerned with protecting children, young people and adults with care and support needs from harm and providing guidance on how to deal with issues. However it is important to remember that safeguarding has a wider meaning which includes the promotion of welfare and taking action to enable all children, young people and adults with care and support needs to have the best life outcomes.

4.3 The policy does not cover health and safety issues related to safeguarding children such as use of play equipment or provision of food at events. Separate guidance on this and appropriate behaviours when dealing with children and adults with care and support needs, should be read in conjunction with this policy.

4.4 Where available this policy should also be used in conjunction with the following documents:
- Disciplinary Procedure
- Grievance Procedure
- Whistle Blowing Policy
- Access to Information Policy
- Acceptable Use Policy
- Equality Policy

- Complaints & Feedback Procedure
- Harassment and Hate Crime Policy
- Health & Safety at Work guidance

5. Responsibility

5.1 Responsibility for the implementation of this policy lies at all levels of the council.

5.2 Elected Members are responsible for ensuring that the council has a policy, which adequately provides protection for children and adults with care and support needs in receipt of its services and for the regular review of this policy in the light of changes to legislation e.g. Data Protection Act, or new legislation or regulation.

5.3 Elected Members should report any concerns to the Corporate Safeguarding Lead.

5.4 A designated Lead Member will be appointed lead responsibility for safeguarding.

5.5 Safeguarding Officers within the district councils will have operation responsibility for safeguarding.

5.6 There are a number of staff across each council situated in teams which have the most experience of dealing with safeguarding issues in their day to day work. In addition each organisation has appointed a Corporate Safeguarding Lead responsible for co-ordinating the implementation of the policy and providing a single point of contact for the safeguarding boards.

5.7 Any staff who have a safeguarding concern should in the first instance discuss the matter with any one of the safeguarding leads who will make a decision whether or not to refer the matter to the appropriate external organisation.

5.8 Safeguarding leads have responsibility for:

- Receiving concerns, discussing them with whoever has raised the concern and taking advice from the relevant partner agency/County Council service: this could include complex matters such as consent and whether parents/carers should be notified.
- Making a decision about how to proceed and whether to make a formal referral. If there is disagreement on the appropriate course of action to take then the safeguarding lead has the final decision. Where staff are dissatisfied with the decision of the safeguarding lead, they should report their concerns to their line manager in the first instance and can still contact Devon County Council if they have strong concerns.
- Ensuring the procedure is followed on such matters as making a referral, confidentiality and recording.
- Working with colleagues to improve practice across the organisation.
- In the event of an incident or query, should a safeguarding lead not be available, staff should go straight to relevant Devon County Council service. They can be supported by a senior manager but details of any incident must not be shared unless absolutely necessary.
- Attending appropriate courses and updating of safeguarding legislation.

5.9 In addition the Corporate Safeguarding Lead has responsibility for:

- ensuring there is a secure central record relating to allegations and investigations
- acting as multi agency partner on the Local Children Safeguarding Board and Local Adult Safeguarding board
- advocating the importance of safeguarding to partners and customers
- ensuring all safeguarding policies, procedures and guidelines are implemented and promoted

5.10 Line Managers

- Ensuring that employees, volunteers and other workers dealing with these groups are adequately trained and aware of their responsibilities in this area.

- Ensuring that external contractors delivering council services are aware of the council's expectation that workers are aware of and abide by the standards of behaviour expected of council employees.

- Ensuring that carers and/or parents of the children and adults with care and support needs are aware that, in providing services, council employees are not normally acting in loco parentis, except in relation to events for unaccompanied children who have been formally registered.

- Ensuring the carers and/or parents of the children and adults with care and support needs who are in direct receipt of council services [1] are made aware that services will be delivered in line with this policy.

- Ensuring that any evidence or complaint of abuse or lack of care is reported to the appropriate body e.g. Devon County Council, Safeguarding Board or the Police, and to council's Human Resources or Personnel team where members of staff are involved.

- Ensuring that employees and others do not work with children or adults with care and support needs on regulated activities without an appropriate Disclosure & Barring Service (DBS) disclosure.

- Working with other associated agencies to ensure the proper transfer of information relating to dealings with children and adults with care and support needs, where necessary.

- Ensuring that adequate supervision and support is available to those who have been directly involved in dealing with safeguarding cases, including a de-brief of the case and any relevant outcomes.

5.11 In addition to the above, members of the senior management team are responsible for:

- Identifying those services and posts that are likely to have an involvement with children and adults with care and support needs, and undertaking an appropriate risk assessment of posts in respect of DBS disclosure requirements.

- Ensuring that those people appointed by them to the district council, whose normal duties fall into the definition of Regulated Activity as defined in the Safeguarding Vulnerable Groups Act 2006 and amended by the Protection of Freedoms Act 2012, are subject to the appropriate level of DBS disclosure and are appropriately qualified and/or trained in working with these groups.

- Ensuring that all necessary procedures and practices are in place to provide adequate protection both for the individuals in these groups but also protection for the employees involved with them.

- Ensuring that proper records are kept of any incidents occurring within their service and that these are held securely and/or passed on to the council's Human Resources/Personnel team if the incident involves a member of staff.

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[1] For example: this would include arranging accommodation for a vulnerable adult or holding an event for children at the museum. It would not include arranging accommodation for a family with children where the contract is with the parents/carers.

- Ensuring that the procurement framework for the authority includes expectations upon contractors to demonstrate effective safeguarding practices for all their staff

- The Head of Paid Service/ Chief Executive is the lead officer with overall responsibility for the organisation's safeguarding arrangements.

5.12 Human Resources/Personnel are responsible for:

- Working with senior managers in maintaining a record of those posts, requiring a DBS disclosure together with the level of disclosure required.

- Ensuring that recruitment procedures are robust and that information pertinent to working with these groups is obtained during the recruitment procedure.

- Ensuring that DBS Disclosures are carried out in compliance with legislation and DBS guidance.

- Supporting senior managers in dealing with allegations of abuse or lack of care by staff.

- Referring information to the DBS and Local Authority Designated Officer (LADO) about employees who have been dismissed or removed from working with vulnerable groups (or would have been had they not left/resigned) as a result of a relevant caution/conviction, conduct that has harmed or put a child/vulnerable adult at risk of harm, or satisfied the 'Harm Test' in relation to vulnerable groups.

5.13 All employees and particularly those working with children and adults with care and support needs are responsible for:

- Ensuring that they are familiar with and understand the policies and procedures relating to their work with or in the vicinity of children and adults with care and support needs.

- Ensuring that they feel confident in working within this environment and working with their managers to ensure that they have the knowledge and skills to carry out their tasks in this context.

- Treating all those children and adults with whom they come into contact while carrying out their work equally and with respect.

- Reporting to a safeguarding lead, any concerns they may have about abuse or a lack of care of children and adults with care and support needs either from other staff, from carers, parents or those in loco parentis or between members of the group.

5.14 Volunteers, contractors and other workers are responsible for:

- Working with employees of the council, to the same standard, in ensuring the safety and well-being of children and adults with care and support needs within their scope.

- Participating in any training or development opportunities offered to them to improve their knowledge of skills in this area.

6. Review

6.1 This policy and the guidance will be reviewed annually or whenever there is a change in the related legislation or an emerging risk is identified. This will ensure these documents are up to date and fit for purpose.