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Council

WEST DEVON COUNCIL - TUESDAY, 16TH APRIL, 2013

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Summons Letter** (Pages 1 - 4)

2. **Reports**

Reports to Council:

- a) Item 10 - Judicial Review Judgement relating to the former Focus DIY Store, Tavistock Retail Park, Plymouth Road, Tavistock (Pages 5 - 8)
- b) Item 11 - Pay Policy Statement 2013/14 (Pages 9 - 18)
- c) Item 12 - Council and Committee Meeting Schedule for the 2013/2014 Municipal Year (Pages 19 - 20)
- d) Item 13 - Political Structures Working Group (Pages 21 - 26)

3. **Minutes** (Pages 27 - 34)

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Agenda Item 1

Please ask for: Tony Rose

Your ref:

Direct Line/Ext: 01822 813664

My ref AAR/Council.16.04.2013

email: arose@westdevon.gov.uk

Date: 8th April 2013

COUNCIL SUMMONS

You are hereby summoned to attend a Meeting of the **WEST DEVON BOROUGH COUNCIL** to be held at the Council Chamber, Council Offices, Kilworthy Park, **TAVISTOCK** on **TUESDAY** the **16th** day of **APRIL 2013** at **4.30 pm**.

Prior to the Meeting, the Reverend N Shutt, Vicar of Walkhampton, has been invited to say prayers.

THE FOLLOWING BUSINESS IS PROPOSED TO BE TRANSACTED.

1. Apologies for absence
2. Declarations of Interest
Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting.

Page No.

3. To approve and adopt as a correct record the Minutes of the regular Meeting of the Council held on 26th February 2013 1
4. To receive communications from the Mayor or person presiding
5. Business brought forward by or with the consent of the Mayor
6. To respond to any questions submitted by the public and to receive deputations or petitions under Council Procedure Rule 21
7. To consider motions of which notice has been submitted by Members of the Council in accordance with Council Procedure Rule 15
8. To consider questions submitted by Members under Council Procedure Rule 21
9. To receive the Minutes of the following Committees, to note the delegated decisions and to consider the adoption of those Minutes which require approval

- (i) **Community Services Committee**
Meeting held on 26th February 2013 6
- Unstarred Minute to agree**
Members are recommended to agree:
- CS 42 South Hams and West Devon Shared Local Plan**
RESOLVED to RECOMMEND that a joint Local Plan with South Hams District Council be developed and prepared and that, on adoption, replace the existing adopted Local Development Documents.
- (ii) **Overview & Scrutiny Committee**
Meeting held on 12th March 2013 13
- Unstarred Minute to agree**
Members are recommended to agree:
- O&S 38 Review of the Connect Partnership and Related Delivery Arrangements**
RESOLVED to RECOMMEND that the suggested way forward for the Connect Partnership and related delivery arrangements, as set out in paragraph 4 of the report, be adopted.
- (iii) **Planning & Licensing Committee**
Meeting held on 5th March 2013 18
- Meeting held on 9th April 2013 **To follow**
- (iv) **Resources Committee**
Meeting held on 26th March 2013 30
- Unstarred Minutes to agree**
Members are recommended to agree:
- RC 43 Meeting the Financial Challenge**
RESOLVED to RECOMMEND that:
- (i) the broad thrust of the presented report be accepted to bridge the 2014/15 gap by a combination of measures including the use of New Homes Bonus; a presumption not to fill vacant posts as they arise in 2013/14 and further efficiency savings;
- (ii) The following potential savings discussed at paragraph 3.4.3 of the presented report should be pursued to enable early notice to be given to affected staff, stakeholders and partners;

- a) cessation of Borough Council funding to the TICs and officers to pursue alternative means of innovative service delivery
- b) economy service reduction
- c) discretionary rate relief

In addition, a further report be brought back to the Resources Committee outlining the overall impact of ending Giro payments, and the above list is not exhaustive and does not preclude additional initiatives for indentifying potential further savings or additional income; and,

- (iii) Those elements of earmarked reserves and capital where expenditure trends or commitments indicate it is safe to do so be stripped out, as set in Appendix A, to free up New Homes Bonus.

(v) Standards Committee 34
Meeting held on 19th March 2013

- 10. To receive the report of the Chief Executive on the review of the process and decisions that led to the Judicial Review Judgement relating to the former Focus DIY Store, Tavistock Retail Park, Plymouth Road, Tavistock 36
- 11. To receive the report of the Personnel Manager on the Pay Policy Statement 2013/14. 40
- 12. To receive the proposed Council and Committee Meeting Schedule for the 2013/2014 Municipal Year as prepared by the Member Services Manager. 48
- 13. To receive the report of the Democratic Services Manager to establish a Political Structures Working Group 50
- 14. To Order the affixing of the Common Seal
For the information of Members, a list of documents sealed by the Council and witnessed by the Mayor and the Chief Executive during the period from 30th January 2013 to 27th March 2013. 54

PART TWO – ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED (if any).

If any, the Council is recommended to pass the following resolution:

“**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting for the undermentioned item of business on the grounds that exempt information may be disclosed as defined in Part I of Schedule 12(A) to the Act.”

15. To receive the report of the Corporate Director (AR) on the Future Leisure Provision Post 2014 – Extension of current contract and update on emerging opportunities – (Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)).

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Dated this 18th day of February 2013

A handwritten signature in black ink, appearing to read "R. Heard". The signature is written in a cursive style with a large initial "R".

Chief Executive

NAME OF COMMITTEE	Council
DATE	16 April 2013
REPORT TITLE	Review of the process and decisions that led to the Judicial Review Judgement relating to the former Focus DIY Store, Tavistock Retail Park, Plymouth Road, Tavistock
REPORT OF	Chief Executive
WARDS AFFECTED	Tavistock Wards with financial impact across all Council Taxpayers

SUMMARY OF REPORT: This report responds to the resolution from the last Council on 12 February 2013 to the effect that “when the full Judgement is available, the Chief Executive shall advise the Council as to the appropriate means for carrying out an investigation”.

FINANCIAL IMPLICATIONS: None anticipated from the report with the exception of officer and Member time engaged in the review. Costs awarded as a result of the High Court decision were contained within the £50,000 budget indicated in the reports to Council in April and May 2012.

RECOMMENDATION:

That Council agrees a review of the process and decisions that led to the unfavourable High Court Judgement, along the lines set out in this report.

OFFICER CONTACT:

Richard Sheard, Chief Executive
 Email: richard.sheard@swdevon.gov.uk; Tel: 01803 861363

1. BACKGROUND

1.1 Members need little reminder that the High Court dismissed the application to seek an extension of time to judicially review the grant of planning permission for external works at the former Focus DIY Store, Tavistock Retail Park, Plymouth Road, Tavistock.

2. ISSUES FOR CONSIDERATION

2.1 Having taken into account the views of the Deputy Leader of the Conservative Group, the Leader of the Independent Group and the Leader of the Liberal

Democrat Group, and having now received the Judgement, I recommend the following:

- (a) that five Members – two Conservatives, two Independents and one Liberal Democrat – form a Review Group to investigate the process and decisions that led to the Judgement and report back to Council on 30 July 2013 with any recommendations and learning points from the review;
- (b) that Tavistock Town and Ward Councillors and those Councillors who have made public comment be excluded from the Review Group;
- (c) that the Review Group reports its findings to Council via the Overview & Scrutiny Committee on 4 June 2013;
- (d) The scope of the review will include considering:
 - (i) should officers have understood the implications of granting consent to divide the retail unit without requiring the re-imposition of conditions from the planning permission granted in 2007? If so, was the failure to understand the implications due to a matter of professional error or a system failure or some other cause;
 - (ii) why it took some 11 months after the grant of permission to make the application for Judicial Review and what, if anything, should have been done to expedite matters;
 - (iii) why Members were not made fully aware of all the practical options available to them;
 - (iv) the quality of the external legal advice received;
 - (v) the involvement of elected Members before the matter was reported to Council in April 2012 and the role of local Ward Members in matters of this kind;
 - (vi) had the Council fully considered the planning merits of the permission when it was granted or when provided with Counsel's Opinion would it have drawn different conclusions on the impact of the potential food retail use.
- (e) The Review Group will invite the Development Manager and the Borough Solicitor to support the review and will have the ability to interview officers and Members who may have a contribution to make as well as having access to all documents. The Review Group will decide how to conduct the review and will give those who wish to make an input an opportunity to submit their views.

3. LEGAL IMPLICATIONS

3.1 None over and above the matters considered in the High Court.

4. FINANCIAL IMPLICATIONS

4.1 None other than the costs involved in bringing this matter to the High Court and the costs awarded to the interested party which fall within the budgeted sum.

5. RISK MANAGEMENT

5.1 The risk management implications are as set out in the Appendix attached to this report.

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	Economy, Environment and Community Life
Statutory powers:	Section 2 of the Local Government Act 2000
Considerations of equality and human rights:	N/A
Biodiversity considerations:	N/A
Sustainability considerations:	The proposal will help to support a sustainable economic future for the town and protect its heritage
Crime and disorder implications:	N/A
Background papers:	Report to Council - 15 April 2008 (CM118)
Appendices attached:	Strategic Risk Assessment

STRATEGIC RISK ASSESSMENT

No	Risk Title	Risk/Opportunity Description	Inherent risk status			Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel		
1	Failure to learn from the process	That we have an opportunity to learn lessons from a Judicial Review process and thereby reduce the risk of future mistakes	5	2	10 ⇄	If the Review Group identifies lessons and these are taken on board by officers and Members the future risk of following this path will be significantly mitigated in future	Review Group

Risk Score 20-25: very high; 12-19: high; 8-12; medium; <8: low

8
 direction of travel symbols ↓ ↑ ⇄

NAME OF COMMITTEE	Full Council
DATE	16th April 2013
REPORT TITLE	Pay Policy Statement 2013/14
Report of	Personnel Manager
WARDS AFFECTED	All

Summary of report:

The purpose of this report is to set out the Council's statutory obligation to adopt a pay policy statement in accordance with the provisions of the Localism Act.

Financial implications:

There are no financial implications as a result of this report.

RECOMMENDATIONS:

It is recommended that Council **RESOLVES** adopts the attached pay policy statement for 2013/14.

Officer contact:

Andy Wilson

Andy.wilson@swdevon.gov.uk

01803 861154

1. BACKGROUND

1.1 Section 38 of the Localism Act 2011 requires local authorities in England and Wales to produce and publish a statutory pay policy statement for 2012/2013 and each financial year thereafter. Once approved, the policy will be published on the Council's website.

1.2 The pay policy statement must be approved by a resolution of the Council before it comes into force and each subsequent statement must be prepared and approved before the end of the 31 March immediately preceding the financial year to which it relates.

2. ISSUES FOR CONSIDERATION

2.1 A draft pay policy statement is attached at Appendix A for consideration.

2.2 Under the terms of the statement, the Leader of Council will take independent pay advice from South West Councils or a similar body and make a recommendation on the level of remuneration for senior officers that will be subject to the approval of the Full Council as and when levels of remuneration are reviewed.

3. LEGAL IMPLICATIONS

3.1 The adoption of a pay policy statement is necessary to meet the Council's statutory obligations under the provisions of s. 38-43 of the Localism Act 2011.

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications arising from the adoption of the senior pay policy statement

5. RISK MANAGEMENT

5.1 The risk management implications are:

Opportunities	Benefits
To meet the provisions of the Localism Act To give Members a greater say in the setting of senior officers level of remuneration	A transparent and accountable pay policy for senior officers
Issues/Obstacles/Threats	Control measures/mitigation

Corporate priorities engaged:	Community Life
Statutory powers:	S38 Localism Act 2011
Considerations of equality and human rights:	There are no equality or human rights considerations
Biodiversity considerations:	There are no biodiversity considerations
Sustainability considerations:	There are no sustainability considerations
Crime and disorder implications:	There are no crime and disorder considerations
Background papers:	Localism Act: Pay policy statements guidance for local authority chief executives: LGA and SOLACE; 25/11/2011
Appendices attached:	Pay Policy Statement



PAY POLICY STATEMENT

Purpose and scope of the Policy

1. Section 38 of the Localism Act 2011 (the Act) requires local authorities in England and Wales to produce a statutory pay policy statement for 2012/2013 and each financial year thereafter.
2. The pay policy statement must be approved by a resolution of the Council before it comes into force and each subsequent statement must be prepared and approved before the end of the preceding financial year to which it relates.
3. The Council may by resolution amend this pay policy statement at any time during the year, subject to the amended statement being published as soon as is reasonably practicable.
4. The Act requires local authorities to have regard to the guidance issued by the Secretary of State. The guidance draws upon the Code of Recommended Practice for Local Authorities on Data Transparency published by the Secretary of State on 29 September 2011, the commitment in the Coalition Agreement to strengthen councillors' powers to vote on large salary packages for council officers and the recommendations made by the Hutton Report published in March 2011 for promoting fairness in the public sector by tacking disparities between the lowest and highest paid in public sector organisations.
5. The pay policy statement brings together these strands of increasing accountability, transparency and fairness in the setting of chief officer pay.
6. The pay policy must set out the authority's policies for the financial year relating to—
 - 6.1 the remuneration of its chief officers,
 - 6.2 the remuneration of its lowest-paid employees, and
 - 6.3 the relationship between—
 - 6.3.1 (i) the remuneration of its chief officers, and
 - 6.3.2 (ii) the remuneration of its employees who are not chief officers.
7. For the purposes of this pay policy, and in accordance with section 43 (2) of the Act, the following officers are considered to be relevant chief officers and deputy chief officers within scope of the Councils' statutory obligation:

- Chief Executive
 - Corporate Directors
 - Heads of Service (including s151 officer responsibilities)
 - Monitoring Officer
8. The above officers are collectively known as Chief Officers for the purpose of this pay policy statement.
9. In addition, the pay policy sets out the council's overall pay strategy that is applicable to all employees.

Shared Services

10. For the purposes of this pay policy statement, it should be noted that all of the identified chief officers operate under a shared service agreement with South Hams District Council and their salary costs are shared on an agreed basis. For the purpose of this pay policy statement, all shared chief officers are shown, notwithstanding the identity of their employing authority.

Remuneration for Chief Officers

11. The council has chosen to introduce local arrangements for senior manager pay because it believes that this delivers a better outcome in terms of manager performance and flexibility.
12. In reviewing the remuneration package for the chief officers identified above, the Leader of Council will take independent pay advice from South West Councils or a similar body and make a recommendation that will be subject to the approval of the Full Council.
13. The Leader of the Council may recommend to Full Council changes to the remuneration package following a review. Any changes to the remuneration packages will be subject to Full Council approval.
14. Salary increases in relation to cost of living will be made in line with the relevant recommendation of the National Joint Council for Local Government Services (the NJC) or other relevant national negotiating body for each chief officer.
15. The salary for the relevant chief officers will be 'spot' salaries, that is to say all officers will be paid in accordance with a fixed salary upon appointment and there will be no further incremental progression as a result of seniority, experience or performance.
16. Where possible, salary levels will be consistent with similar organisations, although the Council will retain the right to have due regard to market forces that may affect its ability to recruit and retain high quality officers, whilst balancing this against the need to ensure value for money for residents.
17. The 'spot salary' is the only remuneration for work carried out. At present, there are no additional payments made to chief officers relating to performance or any other matters and no bonus is payable.

18. Additional payments are made by Central Government to officers carrying out additional duties at elections. The determination of the allowance is made by the Government and these payments are not within the scope of this policy. There are no payments made by the Council for election duties.
19. In accordance with the provisions of the Council's Travel and Subsistence Policy that applies equally to all employees, the relevant chief officers may attract an essential car user lump sum allowance and be reimbursed with business expenses subject to the submission of a claim with receipts. For 2013/14, all of the Chief Officers are designated as casual car users and will not receive an essential car user lump sum allowance, subject to the agreed transitional payments detailed in Appendix A(1).
20. From 1 April 2013, all business mileage will be reimbursed in accordance with the approved HMRC rates, currently 45p per mile. This replaces the previous policy under which business mileage was reimbursed at the higher rate agreed by the NJC, currently 50.5p per mile for essential users and 65p per mile for casual users.

Severance payments

21. Any termination payments payable to the relevant chief officers will be in accordance with the Council's Redundancy and Interests of Efficiency Policy. All such payments are equally applicable to all employees and no additional payments will be made without the express approval of the Full Council. All severance payments are subject to the provisions of the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, as amended.

Relationship with the remuneration of other employees of the Council

22. The Hutton Report identified that the most appropriate way of measuring pay dispersion within an organisation is the multiple of Chief Executive to median earnings. Tracking this multiple will ensure that the Council is accountable for the relationship between the pay of its executives and the wider workforce. Through this pay policy statement, the Council will track this multiple on an annual basis and will publish the following information on its website each year (see Appendix A(1)):
 - The level and elements of remuneration to each relevant chief officer
 - The remuneration of the lowest paid employees
 - The relationship between the remuneration of the chief executive and the median earnings of all employees
 - Other specific aspects of relevant chief officer remuneration
23. Each year the published data will be reviewed by the Leader of the Council and if the multiplier between the Chief Executive and the lowest paid employee within the Council exceeds a factor of 10, the Leader shall present a report to the Full Council for consideration.
24. For the purposes of this pay policy statement, the 'lowest paid employees' are identified as those employees carrying out a substantive role within the Council's established workforce with the lowest annual full-time equivalent salary.

25. The 'median earnings' have been identified by listing all salaries paid to employees in ascending order and finding the salary paid to the employee ranked in the middle of the list.

The Council's overall pay strategy

26. In determining the pay and remuneration of its employees, the council will comply with all relevant employment legislation. This includes the Equality Act 2010, the Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000, the Agency Worker Regulations 2010, the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and, where relevant, the Transfer of Undertakings (Protection of Earnings) Regulations. With regard to the Equal Pay requirements contained in the Equality Act, the council ensures that all pay arrangements are fair and transparent through the use of Job Evaluation methods.
27. The council takes the following approach to assessing individual and overall pay levels:
- Defining the role – a job description is produced that describes the activities, responsibilities and accountabilities which relate to each job within the council. This helps to ensure that the role and its requirements are fully understood by the individual and the manager and enables the council to assess the performance of its staff and so improve efficiency and effectiveness.
 - Determining the job size – the council uses the Greater London Provincial Council Job Evaluation Scheme to enable the direct comparison of jobs across the council in a fair, transparent and consistent way.
28. The council's pay structure is based on the pay spine agreed by the NJC. Employees receive 'cost of living' increases in pay in line with NJC Agreements but there has been no national pay award since April 2009.
29. Using the nationally agreed NJC pay spine, the council determines locally the appropriate grading structure, taking into account the need to ensure value for money in respect of the use of public finances balanced against the need to recruit, retain and motivate employees who are able to provide high quality and efficient services to the community.
30. To encourage employees to develop in their role and to improve their performance, the council has arranged its pay levels within a series of pay grades. Each grade typically contains between 4 and 5 pay levels or increments. Progression through the pay grade is dependent on meeting identified performance targets and is assessed through the council's staff appraisal scheme.
31. From time to time, the council may pay special allowances to an employee in specific circumstances and in accordance with its policy, such as to reward an employee who temporarily takes on additional responsibilities.
32. From time to time, the council may make a one-off merit pay award to an employee in specific circumstances and in accordance with its policy, such as to reward exceptional performance.

33. Subject to qualifying conditions, employees have a right to belong to the Local Government Pension Scheme. The employee contribution rates, which are defined by statute, currently range between 5.5% for those on the lowest incomes to 7.5% for the highest income earners. The Employer contribution rates are set by Actuaries and are reviewed on a triennial basis to ensure the scheme is appropriately funded.

1. The levels and elements of remuneration for each Chief Officer are as follows:

Post	Salary (£)	Car allowance (£) **
Chief Executive	115,000	619.20
Directors x 2*	72,000	240.60
Head of Service x 3*	62,000	240.60
Head of Service x 4	62,000	619.12
Monitoring Officer	48,230	0
* employed by South Hams District Council		
** agreed transitional payment before withdrawal of allowance in April 2014		

Please note: All chief officers operate under a shared service agreement with South Hams District Council and all salary and associated costs are shared on an agreed basis between the two councils.

Following major organisational change in April 2011, the total salary cost of the shared senior management structure at South Hams District Council and West Devon Borough Council is £745,529pa. This compares with the previous total salary cost of the shared management structure across the two councils of £1,277,812 pa.

2. The full-time equivalent annual salary of the lowest paid employee is an office cleaner, paid in accordance with spinal column point 6 of the National Joint Council for Local Government Services pay spine, currently £12,489.
3. The annual median salary of all employees is £23,708pa.
4. The Chief Executive's salary is a pay multiple of 4.85 times the median earnings.
5. The Chief Executive's salary is a pay multiple of 9.2 times the lowest paid employee.

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WEST DEVON BOROUGH COUNCIL SCHEDULE OF MEETINGS FOR 2013/2014

All meetings to be held in the Council Chamber at the West Devon Borough Council Offices,
Kilworthy Park, Tavistock PL19 0BZ

MAY 2013			
Monday	6	Bank Holiday	
Tuesday	14	Planning and Licensing Committee	10.00am
Tuesday	21	Annual Meeting	11.00am
Monday	27	Bank Holiday	
JUNE			
Monday	3	Reserved for Special Meetings (if required)	
Tuesday	4	Overview and Scrutiny Committee	2.00pm
Tuesday	11	Planning and Licensing Committee	10.00am
Tuesday	18	Audit Committee	2.00pm
Tuesday	25	Community Services Committee	2.00pm
JULY			
Monday	1	Special Council Meeting	4.30 pm
Tuesday	09	Planning & Licensing Committee	10.00am
Tuesday	16	Standards Committee	10.00am
Tuesday	23	Audit Committee	11.00am
	23	Resources Committee	2.00pm
Tuesday	30	Council Meeting	4.30pm
AUGUST			
Monday	5	Reserved for Special Meetings (if required)	
Tuesday	06	Planning & Licensing Committee	10.00am
Monday	26	Bank Holiday	
SEPTEMBER			
Monday	2	Reserved for Special Meetings (if required)	
Tuesday	3	Planning and Licensing Committee	10.00am
Tuesday	10	Community Services Committee	2.00pm
Tuesday	17	Audit Committee	11.00am
Tuesday	17	Resources Committee	2.00pm
OCTOBER			
Tuesday	1	Planning and Licensing Committee	10.00am
Monday	7	Reserved for Special Meetings (if required)	
Tuesday	8	Council Meeting	4.30pm
Tuesday	15	Standards Committee	10.00am
Tuesday	29	Overview and Scrutiny Committee	2.00pm
NOVEMBER			
Monday	4	Special Council Meeting	4.30 pm
Tuesday	5	Planning & Licensing Committee	10.00am
Tuesday	12	Community Services Committee	2.00pm

DECEMBER

Monday	2	Reserved for Special Meetings (if required)	
Tuesday	3	Planning & Licensing Committee	10.00am
Tuesday	10	Audit Committee	11.00am
Tuesday	10	Resources Committee	2.00pm
Tuesday	17	Council Meeting	4.30pm
Tuesday	25	Christmas Day	
Wednesday	26	Boxing Day	

**JANUARY
2014**

Tuesday	1	Bank Holiday	
Tuesday	7	Planning & Licensing Committee	10.00am
Tuesday	14	Overview & Scrutiny Committee	2.00pm
Tuesday	21	Community Services Committee	2.00pm
Tuesday	28	Resources Committee	2.00pm

FEBRUARY

Monday	3	Reserved for Special Meetings (if required)	
Tuesday	4	Planning & Licensing Committee	10.00am
Tuesday	11	Audit Committee	11.00am
	11	Standards Committee	2.00pm
Tuesday	18	Council Meeting	4.30pm
Tuesday	25	Meeting to set Council Tax	4.30pm

MARCH

Monday	3	Reserved for Special Meetings (if required)	
Tuesday	4	Planning & Licensing Committee	10.00am
Tuesday	11	Community Services Committee	2.00pm
Tuesday	18	Overview and Scrutiny Committee	2.00pm

APRIL

Tuesday	1	Planning and Licensing Committee	10.00am
Monday	7	Reserved for Special Meetings (if required)	
Tuesday	15	Audit Committee	11.00am
Friday	18	Good Friday	
Monday	21	Easter Monday	
Tuesday	29	Resources Committee	2.00pm

MAY

Monday	5	Bank Holiday	
Tuesday	6	Planning and Licensing Committee	10.00am
Tuesday	13	Annual Meeting	11.00am
Monday	26	Bank Holiday	

To confirm any meeting date, please contact Committee Services on 01822 813662

All meetings are open to the public

WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	COUNCIL
DATE	16 April 2013
REPORT TITLE	Establishing a Political Structures Working Group
Report of	Democratic Services Manager
WARDS AFFECTED	All

Summary of report:

To consider a report which seeks to establish a Political Structures Working Group at West Devon Borough Council until the end of the 2013/14 Municipal Year.

Financial implications:

There will be a minimal cost associated with administering an additional Working Group. However, delegating responsibility to the Working Group to lead upon the detailed work associated with the Boundary Review (rather than all Members) it could be viewed as generating a small saving to the Council.

RECOMMENDATIONS:

It is recommended that:

1. with immediate effect, a Political Structures Working Group be established until the end of the 2013/14 Municipal Year; and
2. the draft Terms of Reference (as outlined at Appendix A) be agreed.

Officer contact:

Darryl White, Democratic Services Manager (email: darryl.white@swdevon.gov.uk).

Lead Member contact:

Cllr Sanders, Leader of Council (email: cllr.philip.sanders@westdevon.gov.uk).

1. BACKGROUND

- 1.1 There are a number of ongoing and future issues which require Member involvement and which affect the democratic process at West Devon Borough Council. Such issues include: the Boundary Review, the two committee structure pilot, the merits of establishing a Council Tax Setting Panel and the increasing public opinion that the Council should be using electronic voting means at its Committee meetings.

1.2 In addition, the establishment of a Political Structures Working Group will enable Member(s) to bring forward additional issues which relate to the Council's decision-making processes for discussion and review.

2. ISSUES FOR CONSIDERATION

2.1 It is suggested that the Working Group has terms of reference as outlined in Appendix A.

2.2 Officers acknowledge that the Working Group could have been established at the annual meeting of Council. However, such are the tight time constraints associated with the Boundary Review that it has been concluded to establish the Working Group now in order for it to commence its work immediately.

2.3 If the Council is minded to support this proposal, it is felt appropriate for the Working Group to comprise of six Members and to meet on an ad-hoc basis. In light of the close proximity to the annual meeting of Council, it is suggested that these appointments are made for the period up to the end of the 2013/14 Municipal Year.

3. RISK MANAGEMENT

3.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

4. OTHER CONSIDERATIONS

Corporate priorities engaged:	All
Statutory powers:	Local Government Act 2000
Considerations of equality and human rights:	None directly related to this report.
Biodiversity considerations:	None directly related to this report.
Sustainability considerations:	None directly related to this report.
Crime and disorder implications:	None directly related to this report.
Background papers:	Council Constitution
Appendices attached:	A. Draft Terms of Reference

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Reaching a consensus view.	The Working Group is not able to reach a majority view on a recommendation to be reported to full Council.	1	2	2	↔	Officers will compile a report to reflect the differing views and it will be a matter for the full Council to reach a decision.	Democratic Services Manager
2	Cost of convening extraordinary Council meetings	Due to the nature of the issue, there could be a potential need to convene a number of additional extraordinary Council meetings.	1	1	1	↔	The proposal to establish a Working Group should negate the need to convene additional Council meetings and the subsequent cost.	Democratic Services Manager

Direction of travel symbols ↓ ↑ ↔

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Aims of Group

The Political Structures Working Group is set up to make recommendations to the full Council on any matters which affect the democratic process at West Devon Borough Council.

Membership

The membership will comprise of six Members. In accordance with political balance provisions, the membership will be made up of three Conservative Group Members, two Independent Group Members and one Liberal Democrat Group Member. These appointments will be made by the Group Leaders.

The Chairman of the Group will be appointed at the first Group meeting for the period until the end of the 2013/14 Municipal Year.

When a meeting date is arranged, all Members of Council will be invited to submit potential agenda items. It will be a matter for the Chairman of the Group, in consultation with the Chief Executive, to determine whether a matter should be included on the agenda.

Whilst only Working Group Members will have voting rights at meetings, other interested Members of Council will be able to attend and partake, if they so wish, subject to notifying Member Services in advance.

Quorum

The quorum of the Working Group will be four Members.

Frequency of Meetings

Meetings will be convened on an ad-hoc basis and will be arranged in consultation with the Chairman of the Working Group.

Authority

The Working Group will have no decision-making powers, but will have the ability to make recommendations to meetings of full council.

Duties

The duties of the Working Group will include:-

- To lead upon the work in connection with the Borough Council Boundary Review;
- To review the current two-committee structure pilot; and
- To make recommendations to the Council on any matters which may affect the democratic process.

Review

The Working Group will be established until the Annual Council meeting in May 2014. If the Working Group continues to operate after this date, then the Council will review its merits each year during the appointments process at Annual Council.

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Agenda Item 3

At the Meeting of the **WEST DEVON BOROUGH COUNCIL** held in the **COUNCIL CHAMBER, KILWORTHY PARK, TAVISTOCK** on **TUESDAY** the **16th** day of **APRIL 2013** at **4.30pm** pursuant to Notice given and Summons duly served.

Present

Cllr C R Musgrave – The Mayor (In the Chair)

Cllr S C Bailey	Cllr R E Baldwin
Cllr M J R Benson	Cllr W G Cann OBE
Cllr A Clish-Green	Cllr D W Cloke
Cllr M V L Ewings	Cllr C Hall
Cllr T J Hill	Cllr L J G Hockridge
Cllr A F Leech	Cllr C M Marsh
Cllr J R McInnes	Cllr M E Morse
Cllr J B Moody	Cllr N Morgan
Cllr D E Moyse	Cllr R J Oxborough
Cllr T G Pearce	Cllr P J Ridgers
Cllr R F D Sampson	Cllr D K A Sellis
Cllr J Sheldon	Cllr E H Sherrell
Cllr D Whitcomb	

Chief Executive
Deputy Monitoring Officer
Democratic Services Manager
Head of Planning, Economy and Community
Corporate Director (AR)
Personnel Manager

CM 83 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs K Ball, D M Horn, L B Rose, P R Sanders and D M Wilde.

CM 84 CONFIRMATION OF MINUTES

It was moved by Cllr A Clish-Green, seconded by Cllr R F D Sampson, and upon the motion being submitted to the Meeting, was declared to be **CARRIED** and “**RESOLVED** that the Council agree the Minutes of the Meeting of Council held on 26 February 2013 as a true record.”

CM 85 DECLARATION OF INTEREST

The Mayor invited Members to declare any interests in the items of business to be considered during the course of the meeting.

Cllr C M Marsh declared a personal interest in Item 15: ‘Future Leisure Provision Post 2014 – Extension of Current Contract and Update on Emerging Opportunities’ (Minute CM 93 below refers) by virtue of being an OCRA Trustee and remained in the meeting and took part in the debate and vote on this item.

CM 86**COMMUNICATIONS FROM THE MAYOR**

The Mayor highlighted the celebrations associated with the 30th anniversary of the twinning association with Wesseling, Germany. In order to mark the occasion, the Mayor advised of the intention to send his counterpart in Wesseling a token of the Council's appreciation. In addition, the Mayor hoped that the action in relation to re-naming a room the 'Wesseling Room' could be done officially via video conference with representatives from Wesseling also being invited to attend this event.

CM 87**BUSINESS BROUGHT FORWARD BY THE MAYOR**

The Mayor advised Members that he had no items of urgent business to be raised at this meeting.

CM 88**MINUTES OF COMMITTEES****a. Community Services Committee – 26 February 2013**

It was moved by Cllr R J Oxborough, seconded by Cllr R F D Sampson, and upon being submitted to the Meeting, was declared to be **CARRIED** and "**RESOLVED** that the Minutes of the 26 February 2013 meeting be received and noted, with the exception of Unstarred minute CS 42".

With regard to minute CS 44 'Addressing the Impact of Retail Development in West Devon – Draft Supplementary Planning Document', it was noted that a report would be presented back to a future Committee meeting outlining the results of the consultation exercise.

In relation to CS 45 'Draft South and South West of Tavistock Masterplan Supplementary Planning Document (SPD)', a Member advised that he would be seeking an amendment to this minute prior to it being signed as a true and correct record at the next Committee meeting. The amendment would seek to reflect the comments of the Member regarding the need to preserve the land around the north east of Tavistock Station to enable the railway line to potentially be able to carry on to Okehampton Station.

In respect of the Unstarred Minute:

CS 42 – South Hams and West Devon Shared Local Plan

Whilst the Executive at South Hams District Council supported joint working and the efficient production of our Local Plans, it wished to see the production of two separate documents. Therefore, an amended recommendation was moved by Cllr R J Oxborough, seconded by Cllr R F D Sampson, and upon being submitted to the Meeting, was declared to be **CARRIED** and "**RESOLVED** that:

1. a Local Plan for West Devon be prepared that would, on adoption, replace the existing adopted Local Development Documents; and

2. the Strategic Planning Member/Officer Working Group explores in more detail how much could be produced in common with South Hams, to make the progress as efficient and cost effective as possible without comprising the local distinctiveness, quality and timeliness of the West Devon Local Plan.”

b. Overview & Scrutiny Committee – 12 March 2013

It was moved by Cllr D W Cloke, seconded by Cllr S C Bailey, and upon being submitted to the Meeting, was declared to be **CARRIED** and **“RESOLVED** that the Minutes of the 12 March 2013 meeting be received and noted, with the exception of Unstarred minute O&S 38”.

As a general point, a Member advised that the minutes did not reflect the fact that he was in attendance at this meeting. In response, it was confirmed that the minutes would be amended prior to being signed off as a true and correct record at the next meeting.

In respect of the Unstarred Minute:

O&S 38 – Review of the Connect Partnership and Related Delivery Arrangements

It was moved by Cllr D W Cloke, seconded by Cllr S C Bailey, and upon being submitted to the Meeting, was declared to be **CARRIED** and **“RESOLVED** that the suggested way forward for the Connect Partnership and related delivery arrangements (as set out in paragraph 4 of the presented agenda report) be adopted.”

A Member reiterated her concerns that Members still did not know who the Lead Members were or their level of responsibility and again asked that this be circulated to all Members.

c. Planning and Licensing Committee – 5 March 2013 and 9 April 2013

It was moved by Cllr C M Marsh, seconded by Cllr D Whitcomb and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the Minutes of the 5 March 2013 meeting and the 9 April 2013 meeting be received and noted”.

In respect of P&L 84 ‘Planning, Listed Building and Enforcement Reports Relating to the Northern Area of the Borough’, Cllr C M Marsh advised that with regard to application number 03275/2012 Land at SX4615 9756, Beaworthy, Devon, she would be proposing the following amendment to the minutes prior to them being signed off as a true and correct record as follows:

'That refusal reason 1 be amended to read: 'it would have a detrimental impact on the amenity of the property known as Moorlands.'

d. Resources Committee – 26 March 2013

It was moved by Cllr R E Baldwin, seconded by Cllr R J Oxborough, and upon being submitted to the Meeting, was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 26 March 2013 meeting be received and noted, with the exception of Unstarred Minute RC 43”.

With regard to minute number RC 45 'Old Mill Site, Okehampton', a Member raised the point that, in the event of this land being sold, an agreement was in place for monies to be paid back to Okehampton Town Council which did not appear to be reflected in the original report. In reply, Cllr R E Baldwin advised that he would ensure that this point was investigated, with feedback provided to Members.

In respect of the Unstarred Minute:

RC 43 – Meeting the Financial Challenge

During the debate, the hope that innovative and creative solutions could be found to ensure that Tourist Information Centres could be kept open was stressed. In addition, to clarify the public perception regarding the filling of vacant posts, some minor amendments were suggested for incorporation into the proposed recommendation.

It was then moved by Cllr R E Baldwin, seconded by Cllr R J Oxborough, and upon being submitted to the Meeting, was declared to be **CARRIED** and “**RESOLVED** that:

- (i) the broad thrust of the presented report be accepted to bridge the 2014/15 gap by a combination of measures including the use of New Homes Bonus; a presumption not to fill vacant posts, unless there is a good reason to, as they arise from 2013/14 and beyond and further efficiency savings;
- (ii) the following potential savings discussed at paragraph 3.4.3 of the presented report should be pursued to enable early notice to be given to affected staff, stakeholders and partners;
 - a) cessation of Borough Council funding to the TICs and officers to pursue alternative means of innovative service delivery
 - b) economy service reduction
 - c) discretionary rate relief

In addition, a further report be brought back to the Resources Committee outlining the overall impact of ending Giro payments, and the above list is not exhaustive and does not preclude additional initiatives for indentifying potential further savings or additional income; and

- (iii) Those elements of earmarked reserves and capital where expenditure trends or commitments indicate it is safe to do so be stripped out, as set in Appendix A to the presented agenda report, to free up New Homes Bonus.”

e. Standards Committee – 19 March 2013

It was moved by Cllr J R McInnes, seconded by Cllr M V L Ewings, and upon being submitted to the Meeting, was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 19 March 2013 meeting be received and noted”.

CM 89

REVIEW OF THE PROCESS AND DECISIONS THAT LED TO THE JUDICIAL REVIEW JUDGEMENT RELATING TO THE FORMER FOCUS DIY STORE, TAVISTOCK RETAIL PARK, PLYMOUTH ROAD, TAVISTOCK

A report was considered which responded to the resolution from the Council meeting held on 12 February 2013 to the effect that ‘when the full Judgement is available, the Chief Executive shall advise the Council as to the appropriate means for carrying out an investigation’ (Minute CM 74 refers).

Members expressed their support for the review and assurances were given that the proposed scope (as outlined in the agenda report) was not an exhaustive list.

It was then moved by Cllr A Clish-Green and seconded by Cllr R F D Sampson and upon the motion being submitted to the meeting was declared to be **CARRIED** and “**RESOLVED** that a review of the process and decisions that led to the unfavourable High Court Judgement be undertaken along the lines as outlined in the presented agenda report”.

CM 90

PAY POLICY STATEMENT 2013/14

The Council considered a report which set out the Council’s statutory obligation to adopt a pay policy statement in accordance with the provisions of the Localism Act.

It was confirmed that the 31 March deadline to determine this matter had been missed, however there were no consequences arising from this oversight.

It was then moved by Cllr R E Baldwin and seconded by Cllr R J Oxborough and upon the motion being submitted to the meeting was declared to be **CARRIED** and “**RESOLVED** that the attached pay policy statement for 2013/14 be adopted”.

CM 91 MEETING SCHEDULE 2013/14

The Council considered the proposed meeting schedule for 2013/14. In so doing, Members recognised the potential need for an extraordinary meeting of Council to discuss the Boundary Review.

It was then moved by Cllr R F D Sampson and seconded by Cllr R E Baldwin and upon the motion being submitted to the meeting was declared to be **CARRIED** and “**RESOLVED** that the Meeting Schedule for 2013/14 be adopted”.

CM 92 ESTABLISHMENT OF A POLITICAL STRUCTURES WORKING GROUP

The Chief Executive introduced a report which sought to establish a Political Structures Working Group until the end of the 2013/14 Municipal Year.

In response to some Member concerns regarding the proposed broadened scope of the Working Group, it was agreed that the Terms of Reference should be amended to ensure that its remit related to the Boundary Review and any related matters which may affect the democratic process.

It was then moved by Cllr R E Baldwin and seconded by Cllr T G Pearce and upon the motion being submitted to the meeting was declared to be **CARRIED** and “**RESOLVED** that:

1. with immediate effect, a Political Structures Working Group be established until the end of the 2013/14 Municipal Year; and
2. the draft Terms of Reference (as outlined at Appendix A of the presented agenda report) be agreed, subject to the scope of the Working Group being amended to ensure that it only relates to the Boundary Review and any related matters which may affect the democratic process.”

CM 93 COMMON SEAL

A copy of the documents signed by the Mayor during the period from 30 January 2013 to 27 March 2013 was circulated to Members and noted by the Meeting.

A Member expressed her repeated concerns that once again there were Section 106 Agreements included on the record for which the local ward Member(s) had not been consulted.

It was then moved by Cllr E H Sherrell, seconded by Cllr R F D Sampson, and upon the motion being submitted to the Meeting, was declared to be **CARRIED** and “**RESOLVED** that the Mayor and the Chief Executive (or deputies appointed by them) be authorised to witness the fixing of the seal on any documents for the forthcoming year”.

FUTURE LEISURE PROVISION POST 2014 – EXTENSION OF CURRENT CONTRACT AND UPDATE ON EMERGING OPPORTUNITIES

It was moved by Cllr R F D Sampson, seconded by Councillor Cllr M V L Ewings and upon the motion being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting for the debate that took place on this item of business on the grounds that exempt information may be disclosed under Paragraph 3 – Information relating to the financial or business affairs of any particular person including the authority holding that information – from Part I of Schedule 12(A) to the Act.”

In introducing the report, a Member advised of his intention to propose that recommendations four and five be deleted.

Following a detailed debate, during which the work of the officer project team was commended by a number of Members, it was then moved by Cllr R J Oxborough and seconded by Cllr R F Sampson and upon the motion being submitted to the meeting was declared to be **CARRIED** and “**RESOLVED** that:

1. the extension of the leisure contract on the terms outlined in paragraph 2.2 of the presented agenda report be agreed;
2. the restructuring of the relationship between the Council, Leisure in the Community and Leisure Connection (as outlined in paragraph 2.6 of the presented agenda report and Appendix 3) be approved;
3. authority be delegated to the Corporate Director (AR) to agree the final details of the contractual changes, in consultation with the Chairman of the Resources Committee and the Chairman of the Community Services Committee to facilitate the above”.

(The Meeting terminated at 5.55 pm)

Mayor

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