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West Devon
Borough
Council

WEST DEVON COUNCIL - TUESDAY, 17TH FEBRUARY, 2015

Agenda, Reports and Minutes for the meeting

Agenda No Item

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

2. **Reports**

Reports to Council

- a) Item 10 - Revenue and Capital Budget Proposals for 2014/15 to 2017/18. (Pages 5 - 34)
- b) Item 11 - Leisure Service Procurement (Pages 35 - 52)
- c) Item 12 - Collaboration Agreement (Pages 53 - 76)
- d) Item 13 - Interim Delegation Scheme (Pages 77 - 98)
- e) Item 14 - Appointment of the Electoral Registration Officer and Returning Officer (Pages 99 - 102)
- f) Item 15 - Appointment of a new Independent Remuneration Panel. (Pages 103 - 106)
- g) Item 16 - Members' Meeting Attendance Statistics (Pages 107 - 112)
- h) Item 17 - Planning Obligations Threshold. (Pages 113 - 124)
- i) Item 18 - Review of car parking charges at the Princetown car park. (Pages 125 - 128)
- j) Item 19 - Pay Policy Statement 2015/16. (Pages 129 - 138)
- k) Item 21 EXEMPT - Future options for the Devon Building Control Partnership (Pages 139 - 216)

3. **Minutes (Pages 217 - 232)**

Agenda Item 1

Please ask for: Tony Rose

Your ref:

Direct Line/Ext: 01822 813664

My ref AAR/Council.17.02.2015

email: arose@westdevon.gov.uk

Date: 9th February 2015

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 17th day of **FEBRUARY 2015** at **4.30 pm**.

Prior to the Meeting, the Reverend Nick 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 Summons, 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 Meetings of the Council: | |
| (i) Regular Meeting held on 9 th December 2014 | 1 |
| (ii) Special Meeting held on 20 th January 2015 | 11 |
| 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** 15
Meeting held on 20th January 2015

Unstarred Minutes to agree

Members are recommended to agree:

**CS 16 Introduction of Experimental Pay & Display Charges
in Long Stay Car Parks in Okehampton and Tavistock**

RESOLVED to **RECOMMEND** that Council approves the introduction of a flat rate Pay & Display day charge of £2.00 in the Council's long-stay car parks in Okehampton and Tavistock for an experimental period of 12 months with monthly reviews to ensure close monitoring of the scheme with an additional charge of 50p for a half-hour stay in the Mill Road car park in Okehampton.

**CS 17 Consideration of objections received in respect of Coach
Parking in Mill Road Car Park, Okehampton**

RESOLVED to **RECOMMEND** that:

- (i) the provision of two coach parking bays in the Mill Road car park be formally approved and exempt from payment of a parking fee; and,
- (ii) the Off-Street Parking Places Order be so amended and advertised as such.

- (iii) **Overview & Scrutiny Committee** 18
Meeting held on 27th January 2015

- (iv) **Planning & Licensing Committee** 25
Meeting held on 13th January 2015

- (v) **Resources Committee** 31
Meeting held on 3rd February 2015

Unstarred Minutes to agree

Members are recommended to agree:

**RC 26 Revenue and Capital Budget Proposals for
2015/16 to 2018/19 (NOTE: this Unstarred Minute will be considered
under agenda item 10 (below))**

RC 28 OUR PLAN – ANNUAL DELIVERY PLAN

RESOLVED that Council be **RECOMMENDED** to:

- (i) adopt the draft Annual Delivery Plan as the Council's corporate plan for 2015/16; and

- (ii) delegate authority to the Community Manager to make minor changes to the document in order to finalise it for publication.

- 10. To receive the report of the Section 151 Officer on the Revenue and Capital Budget Proposals for 2014/15 to 2017/18. **To follow**
- 11. To receive the report of the Natural Environment and Recreation Manager on the Leisure Service Procurement. 35
- 12. To receive the report of the Monitoring Report on the Collaboration Agreement. **To follow**
- 13. To receive the report of the Monitoring Officer on the Interim Delegation Scheme to Officers. **To follow**
- 14. To receive the report of the Executive Director (Strategy & Commissioning) & Head of Paid Service on the appointment of the Electoral Registration Officer and Returning Officer. 52
- 15. To receive the report of the Democratic Services Manager on the appointment of a new Independent Remuneration Panel. 56
- 16. To receive the report of the Democratic Services Manager on Members' Meeting Attendance Statistics. 60
- 17. To receive the report of the Affordable Housing Manager, Natural Environment and Recreation Manager and Development Manager on the Planning Obligations Threshold. 65
- 18. To receive the report of the Street Scene Manager on a review of car parking charges at the Princetown car park. 76
- 19. To receive the report of the senior HR Business Partner COP Lead on the Pay Policy Statement 2015/16. 80
- 20. Under Part 6 of the Constitution (Members' Allowances Scheme), Paragraph 9.1 states that "no payment can be made of any travel and subsistence claim made more than three months after the meeting for which the claim is made without the authority of Council in every case."

One such request for payment has been received:

- (i) Cllr J B Moody – payment for expenses dating back to October 2014

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

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 the exempt information may be disclosed as defined in the paragraph given in brackets below from Part I of Schedule 12(A) to the Act.”

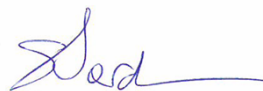
- 21.** To receive the report of the Head of the Devon Building Control Partnership on the future options for the Devon Building Control Partnership (Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)). 89

This item includes an exempt appendix that, due to its size, has not been circulated with the summons, but is available on request. Those Members who wish to receive a copy of this Appendix are therefore asked to contact Member Services (01822) 813662.

PART ONE – OPEN COMMITTEE

- 22.** 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 Monitoring Officer during the period from 2nd December 2014 to 30th January 2015. 95

Dated this **9th** day of **February 2015**



Steve Jorden
Head of Paid Service

WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	Council
DATE	17 February 2015
REPORT TITLE	Revenue and Capital Budget Proposals for 2015/16 to 2018/19
Report of	Finance Community of Practice Lead
WARDS AFFECTED	All

Summary of report: To update Members on the revenue budget position for the year 2015/16 and a forecast for the four years to 2018/2019. 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.

FINANCIAL IMPLICATIONS:

The estimated budget gaps are as follows: (As per Appendix B1)

2015/16	£ 567,710
2016/17	£ (1,134,408)
2017/18	£ 336,505
2018/19	£ 252,289

This gives a cumulative 4 year budget gap of £22,096.

RECOMMENDATIONS:

It is recommended that:

- (i) In order to set a balanced budget for 2015-16:

EITHER

- an increase in Council Tax of 1.9% is agreed (which equates to a Band D council tax of £208.39 for 2015/16, an increase of £3.89 per year or 7 pence per week). This option equates to a Council Tax requirement of £4,054,644 (as shown in Appendix B1)

OR

- A Nil increase in Council Tax is agreed (the Band D Council Tax for West Devon Borough Council will remain at £204.50 for 2015/16) and the Council will accept the Council Tax Freeze Grant being offered by the Government of £42,237. This option equates to a Council Tax requirement of £3,978,957 (as shown in Appendix B2)

- (ii) The financial pressures in Appendix A of £484,400 are accepted
- (iii) The proposed savings of £148,700 set out in Appendix A are adopted
- (iv) The Collection Fund surplus of £60,589 be agreed
- (v) An additional £567,710 (if council tax is increased by 1.9% as per Appendix B1) or £601,160 (if council tax is frozen as per Appendix B2) of New Homes Bonus Grant is used to balance the 2015-16 Budget. (This is in addition to the £657,059 of New Homes Bonus already built into the budget assumptions to be used for 2015-16).
- (vi) The Total Net Expenditure of the Council for 2015/16 is £8,134,325 (Appendix B1 and B2)
- (vii) The 2015/16 Capital Programme projects totalling £451,000 as per 8.1 is approved
- (viii) The 2015/16 Capital Programme of £451,000 is financed by using £212,000 of New Homes Bonus funding and £239,000 of Government grant (as per 8.1).
- (ix) The Council transfers £2,610 of its allocation of New Homes Bonus for 2015/16 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.
- (x) The Council Tax Support Grant of £87,285 be passed onto Town and Parish Councils. (This is a reduction of 15% from 2014/15) as per Appendix E.
- (xi) The minimum level of the Unearmarked Revenue Reserves be maintained at £750,000 as per Section 7.
- (xii) 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

Officer contact:

Lisa Buckle, Finance Community of Practice Lead Lisa.buckle@swdevon.gov.uk 01822 813644

1. BACKGROUND

1.1 The purpose of this report is to offer a way forward to address the 2015/16 budget gap of between **£567,710 and £601,160** (depending on which council tax option is approved) and to build an approach that guarantees West Devon Borough Council's longer term viability.

1.2 On 7 October 2014 the Resources Committee considered a report on the Medium Term Financial Strategy. Minute RC12 from the meeting is below:-

It was then **RESOLVED** that Council be **RECOMMENDED** to consider the following 'minded to' views in order to guide the 2015/16 budget process:

(i) The level of council tax increase should not be above 1.9%;

The use of New Homes Bonus to support the revenue budget be agreed (final amount to be agreed as part of the budget process);

The amount of Council Tax Support Grant to be passed on to Parish and Town Councils should be reduced by the same amount that the Borough Council's Government Grant is reduced by;

and other budget savings and income generation to be looked for and considered;

(ii) The Council's policy should remain as recommending a minimum level of unearmarked revenue reserves of £750,000.

1.3 Since that meeting, a number of events and announcements have taken place which impact upon the financial position of the authority and the budget gap going forward. These are summarised below:

- The Chancellor's Autumn Statement of 3 December 2014 and the Local Government Finance Settlement announced on 18 December 2014.
- The receipt of monitoring information from the "Localisation of Business Rates" initiative introduced by the Government on 1 April 2013. Members will be aware that the yield from business rates now forms an integral part of the new Government Grant system.
- Council approval of the revised business case for the Transformation Programme on 9th December 2014 (T18) – (Minute CM 62)

1.3 Accordingly, the assumptions for financial modelling purposes have been reviewed and the budget gap revised. For 2015/16 the gap is £567,710 (Appendix B1) or £601,160 (Appendix B2).

- 1.4 On 3rd February 2015 the Resources Committee considered a report on the Revenue and Capital budget proposals for 2015/16 to 2018/19. Members voted unanimously to recommend to Council a 1.9% increase in council tax.

2 ASSUMPTIONS FOR FINANCIAL MODELLING PURPOSE

- 2.1 A two year pay award, covering the financial years 2014/15 and 2015/16 has recently been agreed. The main part of what is a complex settlement comes into effect on 1 January 2015. The initial indications are that it will add around 2.2% to our pay bill.
- 2.2 Average inflation will run at 2% over the four year period. A cost pressure of £15,000 has been included for 2015/16 and £60,000 in subsequent years. 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.

	NOW	Mar-15	Jun-15	Sep-15	Dec-15	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18
BANK RATE	0.50	0.50	0.50	0.50	0.75	0.75	1.00	1.00	1.25	1.25	1.50	1.75	1.75	2.00

The interest rate return for our investments will average 0.6 % for 2015/16 rising to 2.25% in 2018/19 as shown below:-

2015/16	-	0.60%
2016/17	-	1.25%
2017/18	-	1.75%
2018/19	-	2.25%

- 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 1.9% to £208.39 (the current Band D council tax for 2014/15 is £204.50). The financial modelling in Appendix B2 assumes that council tax is frozen for 2015/16.

3. GOVERNMENT FUNDING

- 3.1 Our Settlement Funding Assessment in 2014/15 was £3.18 million and this has been reduced to £2.71 million which is a reduction of £470,000 (14.7%). This was in line with what we expected. This is a one year settlement for 2015/16 only and the figures announced are now final. A Council's SFA is equal to the Revenue Support Grant plus the Council's baseline funding level for Business Rates.

- 3.2 West Devon had a reduction in funding of 14.7%. The average for Shire District Councils was 15.3%. The cut announced in this settlement brings the total reduction in core government funding to Councils since 2010 to 40 per cent. Over this period councils will have made £20 billion worth of savings.
- 3.3 The Council provided evidence to a study, commissioned by the Government, into the cost of providing services in rural areas. Our work on this has paid dividends as the Government has increased the rural funding in the finance settlement from £11.5 million to £15.5 million. West Devon's share of this is just under £90,000.

Business Rates

- 3.4 We budget for our share of the Business Rates separately using statistical data. The Council will receive a separate grant to compensate for the measures announced in the 2014 Autumn Statement, namely:
- The Government has capped the increase on business rates to 2% for 2015/16
 - A £1,000 discount for all retail, pubs, cafes (excluding banks and betting offices) with rateable values below £50,000 will be increased to £1,500 for 2015/16. The Council will be refunded this amount by the Government. There are approximately 360 businesses in West Devon receiving retail relief who would be eligible to receive the increased discount.
- 3.5 Alongside the finance settlement, we have received notification that a new Business Rates Pool will be established for 2015/16 of all Devon Authorities, excluding South Hams.

Council Tax Referendum Limit

- 3.6 The Government has announced that council tax increases of 2 per cent or over will be subject to a council tax referendum.

Council Tax Freeze Grant

- 3.7 The 1% Council Tax Freeze Grant offer for 2015/16 was re-affirmed. The indicative Council Tax Freeze Grant for 2015/16 is £42,237. Ministers have agreed that the funding for the 2015-16 freeze grant should be built into the spending review baseline. This gives as much certainty as possible at this stage that the extra funding for freezing council tax will remain available.

New Homes Bonus

- 3.8 We have received notification that our NHB allocation will be £1.5 million for 2015/16, which is over £40,000 more than the estimate of £1.46 million shown in the Budget report presented to the Resources Committee on 2 December 2014. The notification of the actual NHB allocation is following actual data from the Council's council tax system being submitted to DCLG in line with the required timescales. New Homes Bonus is discussed in detail in Section 6.

4. CHANGES FROM THE LAST BUDGET REPORT

- 4.1 The Financial Strategy for 2015/16 to 2018/19 was presented to the Resources Committee on 2nd December 2014. Since that report, there have been several changes affecting the Budget gap for 2015/16 as detailed below.
- 4.2 Detailed modelling has been undertaken on the Council's income from Business Rates under the new Localised scheme. Latest predictions have decreased the income predicted from business rates for 2015/16 by £17,000. By contrast, the Finance Settlement confirmed that the Council will receive an extra £42,600 in Revenue Support Grant than was estimated.
- 4.3 The Taxbase calculation for 2015/16 has been confirmed at 19,457 Band D Equivalent properties. The Taxbase calculates how many Band D equivalent properties council tax can be charged to.
- 4.4 **Recycling of garden and leaf collections** - Officers have negotiated with Devon County colleagues on the risk highlighted in our risk register around the withdrawal from the payment of recycling credits in respect of above materials. The cost pressure has been reduced to £27,200 in 2015/16 and £44,200 in 2016/17.
- 4.5 **New Glass Recycling Banks** – A one off cost pressure of £8,000 has been added to purchase three new glass recycling banks.
- 4.6 **Housing Benefit Administration subsidy grant** – We have received notification from DCLG in December that our Housing Benefit Administration subsidy will reduce from £280,000 in 2014/15 to £246,000 in 2015/16 – a reduction of £34,000.
- 4.7 **Elections** – An estimate of £50,000 has been provided for in the modelling for the cost of Elections in 2015/16. This is a one-off cost and has been built into the modelling as a one off cost pressure in view of the complexity of the elections in May 2015, involving Parliamentary, Borough, and town/parish polls, in tandem with implementing changes to ward boundaries arising from the Boundary Committee's decisions. The Council's funding will be supported by a grant from government for the national elections but the final sum has not yet been confirmed.

- 4.8 **New Governance Arrangements** – A cost pressure of up to £28,000 has been built into the financial modelling to reflect the need for an extensive review to be carried out into the Scheme of Members Allowances. This review will be undertaken by a newly appointed Independent Remuneration Panel and in light of the decision of Council on 9 December to revise the Council’s governance arrangements (Minute CM 65 refers). This amount has been built in as a precautionary estimate, since a revised Scheme may well include provision for additional roles to be able to claim a Special Responsibility Allowance (e.g. those lead Members on the new Hub Committee).
- 4.9 At the Resources Committee meeting of 2nd December 2014, it was **RESOLVED** to request that a report be presented to the Overview and Scrutiny Committee setting out details of the TAP Fund process and how it was monitored. A report will be taken to the March 2015 meeting. Payments are made retrospectively on completion of a claim form with details of how funds have been spent and the production of evidence of spend. Details of grants allocated are published on the website. Interim or upfront payments are only made in exceptional circumstances and on production of evidence requiring payment.
- 4.10 Council approved the revised business case for the Transformation Programme on 9th December 2014 (T18) – (Minute CM 62). The revised business case has increased the savings available in 2016/17 by just under £400,000.

5. **OVERALL POSITION – BUDGET GAP**

- 5.1 Appendices B1 and B2 illustrate the overall financial forecast for the forthcoming four years. Although the Council’s Net Budget is in the region of £8.1 million, the Gross Expenditure of the Council is around £26 million. The Council’s Net Budget has increased by approximately £300,000 from £7.8 million in 2014/15 to £8.1 million in 2015/16. This is due to the fact that the budget pressures are over £300,000 higher than the level of savings as shown in Appendices B1 and B2.
- 5.2 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 1.9% (shown in Appendix B1) and if the Council Tax Freeze Grant is taken and Council Tax is frozen (shown in Appendix B2). A 1% increase in Council Tax generates an extra £39,800 in extra income per annum.

- 5.3 The report sets out an anticipated budget gap for 2015-2016 of **£567,710** if Council Tax is increased by 1.9% as per Appendix B1. The budget gap increases to **£601,160** as per Appendix B2, if the Council Tax freeze grant is taken instead and Council Tax is frozen for 2015/16.

<i>Budget Gap if Council Tax is increased by 1.9% for 15/16</i>	Amount (£)
Net Base Budget for 2015/2016	8,134,325
Total projected income	(7,566,615)
CURRENT BUDGET GAP (Appendix B1)	567,710

<i>Budget Gap if Council Tax is frozen for 15/16</i>	Amount (£)
Net Base Budget for 2015/16	8,134,325
Total projected income	(7,533,165)
CURRENT BUDGET GAP (Appendix B2)	601,160

- 5.4 The savings from T18 in 2015/16 are not available to put towards the budget gap in 2015/16, as the savings are needed to pay for the investment costs in 2015/16.
- 5.5 **The table of New Homes Bonus in 6.2 shows that there is currently £631,013 of New Homes Bonus funding available to fund the Budget Gap for 2015/16. Therefore it is recommended that an additional £567,710 (if council tax is increased by 1.9% as per Appendix B1) or £601,160 (if council tax is frozen as per Appendix B2) of New Homes Bonus Grant is used to balance the 2015-16 Budget. (This is in addition to the £657,059 of New Homes Bonus already built into the budget assumptions to be used for 2015-16).**
- 5.6 Therefore if council tax is increased by 1.9%, the Council will be using £1.225 million of New Homes Bonus to fund the Revenue Budget in 2015-16. This figure is £1.258 million if council tax is frozen in 2015-16. In 2016-17, the savings from the Transformation Programme will mean that the Council will be able to reduce the extent to which NHB is used to fund the Council's Revenue Budget.
- 5.7 **Income Generation** – Over the past few months the Council has explored ways to generate new income for the Council. The Income Generation Working Group has met on a number of occasions to look at ways of generating additional income. A report was presented to Council on 7th October 2014 regarding the creation of a local authority trading company, which provides more detail (Minute CM 47).

COUNCIL TAX

5.8 Council Tax – The Council Tax for the last two years is detailed below.

Precepting Authority	Band D Council Tax 2013/14	Band D Council Tax 2014/15	£ Increase	% Increase
Devon County Council	£1,116.36	£1,138.59	£22.23	1.9913%
West Devon Borough Council	£200.69	£204.50	£3.81	1.9%
Devon & Cornwall Police & Crime Commissioner	£162.92	£166.16	£3.24	1.99%
Devon & Somerset Fire & Rescue	£75.39	£76.89	£1.50	1.99%
Average Parish /Town Council	£55.62	£57.31	£1.69	3.04%
TOTAL	£1,610.98	£1,643.45	£32.47	2.02%

5.9 In Appendix B1, a Council Tax increase of 1.9% for 2015/16 is assumed. This would result in the West Devon element increasing to £208.39 for 2015/16, an increase of £3.89 per year or 7 pence per week. This generates additional council tax income of £76,000.

5.10 In Appendix B2, it is assumed that the Council will freeze Council Tax and the West Devon element of the Council Tax will remain at £204.50 for 2015/16 and the Council will accept the Council Tax Freeze Grant being offered by the Government of £42,237. (Details of the Freeze Grant are given in 3.7 of this report).

6. NEW HOMES BONUS (NHB)

6.1 The table below shows an estimate of New Homes Bonus for the next five years. The Chancellor has confirmed in December that no top-slice will now apply from 2015/16 onwards, following responses to the Government consultation.

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
2011/12	323,920	323,920	323,920	323,920		
2012/13	568,622	568,622	568,622	568,622	568,622	
2013/14	133,255	133,255	133,255	133,255	133,255	133,255
2014/15		222,997	222,997	222,997	222,997	222,997
2015/16			248,975	248,975	248,975	248,975
2016/17 – estimated 200 properties				251,680	251,680	251,680
2017/18 – estimated 200 properties					251,680	251,680
2018/19 – estimated 200 properties						251,680
New Homes Bonus returned (See Note 1 below)	12,203	4,963	4,913			
Forecast NHB	1,038,000	1,253,757	1,502,682	1,749,449	1,677,209	1,360,267

Note 1 – New Homes Bonus (NHB) is top-sliced from Revenue Support Grant in advance. If the actual NHB allocations that Councils receive is less than the amount that has been top-sliced in advance, the Government return the unused element of the top-slice to Councils after the allocations to Councils have been made. The figures shown in this line is West Devon's share of the returned NHB.

6.2 NEW HOMES BONUS (NHB) – PROPOSED USE OF NHB

The table below shows the proposed use of New Homes Bonus:

	2013/2014 £	2014/2015 £	2015/16 £	2016/17 £	2017/18 £	2018/19 £
Amount receivable	1,038,000	1,253,757	1,502,682	1,749,449	1,677,209	1,360,267
Less: T18 allocation (Council 4 th Nov)	(600,000)					
To fund current Revenue Budget *	(353,076)	(657,059)	(657,059)	(657,059)	(657,059)	(657,059)
To fund the Capital Programme (as per 8.1)		(555,000)	(212,000)	(412,000)	(412,000)	(412,000)
Dartmoor National Park contribution – See Note 2 below	(12,912)	(5,776)	(2,610)	(20,362)	(28,146)	(111,227)
Balance remaining (not committed)	72,012 Plus 27,292 from 2012/13	35,922	631,013	660,028	580,004	179,981

***Currently assumes use of NHB to support the revenue budget at the 14/15 level**

Note 1 – The NHB balance uncommitted is £631,013 in 2015/16. If council tax is increased by 1.9%, a further £567,710 of New Homes Bonus would be needed to support the Revenue Budget. This option would leave £63,303 of New Homes Bonus uncommitted (this is £631,013 as above less the amount of £567,710 to support the Revenue Budget).

Alternatively if council tax is frozen, a further £601,160 of New Homes Bonus would be needed to support the Revenue Budget. This option would leave £29,853 of New Homes Bonus uncommitted (this is £631,013 as above less the amount of £601,160 to support the Revenue Budget).

Dartmoor National Park (DNP)

Note 2 - DNP have requested a share of the New Homes Bonus to reflect new homes delivered within the park. DNP would like NHB money to be used to support a local community fund and, for example, joint work through the rural housing enabler. The New Homes Bonus legislation says that Councils are expected to negotiate with National Park Authorities to recognise their role as the sole local planning authority for their area in granting planning permissions and that the Councils should reach an agreement and split the funding from NHB at a locally determined rate.

Members considered this as part of the Budget process for 2014/15 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.

7. EARMARKED AND UNEARMARKED RESERVES

7.1 The Council's policy is to retain Unearmarked Revenue Reserves of £750,000. The Council's Net Budget will increase to £8.1 million in 2015/16. In spite of the budget increase, it is still recommended to retain the same policy of a minimum level of Unearmarked Reserves of £750,000, in view of the level of savings from the Transformation Programme in 2016/17.

The Unearmarked General Fund Revenue Reserve balance at 31st March 2014 was £953,000 and the Earmarked Reserves balance was £1,832,000. This gave total Revenue Reserves of £2,785,000. The predicted earmarked and unearmarked reserves for 2014/15 is shown below:-

	£'000
General Reserves balance as at 31 st March 2014	953
Earmarked Reserves	1,832
Predicted movement in Earmarked Reserves (Appendix C)	(1,329)
Total Predicted Reserves as at 31st March 2015	1,456
(Unearmarked Reserves of £953,000 and Earmarked Reserves of £503,000 as shown in Appendix C)	

7.2 **Specific Earmarked Reserves** - The level and commitments for each reserve are kept under review each year to make sure the uncommitted balance is adequate for its purpose. The Earmarked Reserves were reviewed as part of the year end close down and £13,000 was transferred into the general reserve of the Council. A schedule of predicted Earmarked Reserves for 14/15 is shown in Appendix C. Earmarked Reserves are predicted to be £503,000 at the end of March 2015.

8. CAPITAL PROGRAMME 2015/16 to 2018/19

8.1 The table below shows the proposed Capital Programme for 2015/16 and projected figures to 2018/19:

	2015/2016	2016/17	2017/18	2018/19
Tenants Incentive Scheme (TIS)	15,000	15,000	15,000	15,000
Village Halls and Community Projects	36,000	36,000	36,000	36,000
Affordable Housing (see Note 1)	-	200,000	200,000	200,000
Disabled Facilities Grants (see Note 2)	400,000	400,000	400,000	400,000
TOTAL CAPITAL PROGRAMME	451,000	651,000	651,000	651,000
Suggested method of funding the Capital Programme:				
Government Grant funding towards Disabled Facilities Grants (see Note 2)	(239,000)	(239,000)	(239,000)	(239,000)
Potential funding from New Homes Bonus (Required to fund the Capital Programme)	212,000	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. In the circumstances it is proposed not to allocate additional capital funding to this budget in the next financial year 2015/16.

Note 2 – From 2015/16, the funding for Disabled Facilities Grants will be from the Better Care Fund held by Devon County Council and funding will be passported to District Councils. Provisional allocations for 15/16 show an increase in contributions to £239,000. Following the Informal Council meeting in 2014, a briefing note on the Better Care Fund was circulated to all Members.

8.2 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.

9. LEGAL IMPLICATIONS

9.1 Council is responsible for approving the policy framework and budget within which its Committees operate. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control, which includes these Financial Procedure Rules.

9.2 A recorded vote will be required at the Budget meeting, in accordance with the Council's Standing Orders. This was made mandatory for all Councils by the Government in February 2014.

9.3 Council Procedure Rule 16 states that 'Where a member intends to move a motion or amendment in relation to the Budget, the text of that motion or amendment must be put in writing and submitted to the Head of Paid Service by 9am on the third working day before the meeting, in order that officers may have sufficient time to consider and advise the Council of the financial implications of any such motion or amendment'. This would need to be submitted by 9am on 12th February 2015.

10. RISK MANAGEMENT

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

11. OTHER CONSIDERATIONS

Corporate priorities engaged:	A balanced budget underpins the Council's capacity to delivers its corporate priorities.
Statutory powers:	Local Government Act 1972, Section 151 Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014
Considerations of equality and human rights:	A 360 degree assessment of the equality implications has been carried out and is available on request.
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 February 2014 – Medium Term Financial Strategy 2014/15 to 2017/18 Resources Committee 3 rd February 2015 – Revenue and Capital Budget Proposals for 2015/16 to 2018/19 Resources Committee 2 nd December 2014 – Revenue and Capital Budget Proposals for 2015/16 to 2018/19
Appendices attached:	Appendix A – Modelling of the Financial Strategy Appendix B1 – Budget Pressures and Savings (increase council tax by 1.9%) Appendix B2 – Budget Pressures and Savings (freeze council tax) Appendix C – Schedule of Reserves Appendix D – Revenue Budget Analysis Appendix E - Council Tax Support Grant to Town and Parish Councils for 2015/16.

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	Robustness of medium term financial strategy and service blue-prints	Not achieving financial savings as anticipated	5+	3	15	↔	Corporate engagement in the development of the medium term financial strategy.	S151 Officer
		External change to the national economic environment which may impact on our funding expectations. Implications of changes to the funding of local government through locally collected business rates and revenue support grant. Effect of the localisation of council tax. Achieving anticipated income targets in the current financial climate.					Service commitment to business planning processes.	Executive Director
							Robust horizon scanning to monitor changes in Government policy.	Executive Director
							The Council will carry out regular monitoring during the financial year to ascertain the effect of the new scheme on the Council's finances. (see Risk No. 2 below) Monitoring of corporate income streams and revenue budgets.	S151 Officer
2	Income from Business Rates	The figures for income from Business Rates are best estimates at this date (the NNDR1 return forecasts Business Rates for the forthcoming year). Predictions could vary by £50,000.	5	3	15	↔	The position will be monitored by the S151 Officer. The quarterly Revenue Budget Monitoring reports will monitor Business Rates income against projections. Any variances will be highlighted to Members at an early stage.	S151 Officer

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			
		The figures are subject to volatility both from business rating appeals and the economic climate.					The Council is part of a Devonwide Pooling arrangement for business rates.	
3	Setting a lawful budget	Failure of the Council to set a lawful budget	5	1	5	↔	The Budget is compiled in accordance with best practice guidelines issued by CIPFA and the Government. The final budget report includes an assessment from the Section 151 Officer on the adequacy of the Council's reserves and the robustness of the estimates made. The budget process is laid down in the Council's Constitution. Resources Committee and Council meetings are timetabled to meet the Statutory deadlines for setting the Council Tax.	S151 Officer
4	Corporate Priorities	Failure to target budgets to service priorities	5	3	15	↔	Service priorities will be reviewed. Budget reductions include a section on their impact on council priorities and a risk assessment. Adequate levels of appropriately trained staff. Thorough planning and monthly monitoring of performance to management, quarterly to the Resources Committee.	S151 Officer

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BUDGET PRESSURES AND SAVINGS

APPENDIX A

WEST DEVON BOROUGH COUNCIL

	BASE	Yr1	Yr2	Yr3	Yr4
	2014/15	2015/16	2016/17	2017/18	2018/19
	£	£	£	£	£
BUDGET PRESSURES					
Triennial Pension revaluation	0	20,000	20,000	20,000	20,000
Inflation on the waste collection, recycling and cleansing contract (estimate)	80,000	80,000	80,000	80,000	80,000
Inflation on the street cleaning and public conveniences	20,000	0	0	0	0
Recycling of garden and leaf collections (see 4.4 of the report)	0	27,200	44,200	0	0
New glass recycling banks x 3 (see 4.5 of the report)	0	8,000	(8,000)	0	0
Parish contribution to Public Conveniences	25,000	0	0	0	0
Inflation on the swimming pool contract (profiled fee)	10,000	10,000	10,000	10,000	10,000
Investment Income	5,000	0	0	0	0
Inflation on goods and services	15,000	15,000	60,000	60,000	60,000
Reduction in Housing Benefit administration subsidy (see 4.6 of the report)	40,000	34,000	40,000	40,000	40,000
Civil Parking Enforcement	30,000	0	0	0	0
Increase in salaries - increments and pay and grading	75,000	0	0	0	0
Increase in salaries - pay increase at 1%	50,000	58,800	50,000	50,000	50,000
Elections (see 4.7 of report)	0	50,000	(50,000)	0	0
New Governance Arrangements (see 4.8 of the report)	0	28,000	0	0	0
Tamar Valley Legacy Plan (see 7.7 and Appendix F of October Resources Committee agenda)	0	28,000	3,000	0	0
Rural Development Programme for England (see October Resources Committee agenda item 8)	0	10,400	0	0	0
Tavistock Townscape (Council March 14 CM74)	0	10,000	0	0	0
Reduction in TIC Savings	0	15,000	0	0	0
Workstation rental costs - payment to South Hams - this is offset by savings as shown below (T18 Council Minute CM49 - November 2013)	0	90,000	0	0	0
TOTAL IDENTIFIED BUDGET PRESSURES (excluding T18 investment costs)	350,000	484,400	249,200	260,000	260,000
Transformation Project (T18) - Approved at 9th December 2014 Council (One-off investment costs included for completeness)					
<i>Contribution to Strategic Change Reserve to meet redundancy and pension costs (offset by savings highlighted below)</i>		805,000			
<i>Net contribution to T18 Reserve to meet other non-recurring costs (offset by savings highlighted below)</i>		67,000			
TOTAL IDENTIFIED BUDGET PRESSURES (including T18 investment costs)	350,000	1,356,400	249,200	260,000	260,000

WEST DEVON BOROUGH COUNCIL

SAVINGS AND INCOME GENERATION IDENTIFIED

	BASE 2014/15 £	Yr1 2015/16 £	Yr2 2016/17 £	Yr3 2017/18 £	Yr4 2018/19 £
Reduction on Members Allowances (Council 13 May 2014) * (see note below)	0	4,200	0	0	0
Reduction in the economy service	20,000	0	0	0	0
Grounds Maintenance saving	15,000	0	0	0	0
Savings on TIC	50,000	0	0	0	0
Actuarial revaluation savings	30,000	0	0	0	0
Savings on audit fees	0	12,000	0	0	0
New income generation from Street Name and Numbering	0	7,500	0	0	0
Savings on Ring and Ride Scheme	3,000	0	0	0	0
Reduction in provision for Tamar Valley Mining Heritage Project Legacy Plan	6,000	0	0	0	0
Discretionary Rate Relief	54,910	0	0	0	0
Business Rates pooling gain	0	30,000	10,000	10,000	10,000
Budget Scouring Savings	199,643	0	0	0	0
Bank Charges Reduction	0	5,000	0	0	0
Other savings identified	3,000	0	0	0	0
Reduced running costs at Kilworthy Park and additional leasing income	0	90,000	100,000	15,000	15,000
TOTAL SAVINGS AND INCOME GENERATION (excluding T18 savings)	381,553	148,700	110,000	25,000	25,000

* Note - At Council on 13 May 2014, Members agreed the recommendation from the Independent Panel to apply a minimum size threshold to a Group (at least 8 Members) to enable a Group Leader the ability to claim a Special Responsibility Allowance (SRA).
Members are considering changes to the Council's governance arrangements which may impact on Members' Allowances in the future.

Transformation Project savings - Approved at 9th December 2014 Council report (Appendix C) - (Figures are shown for completeness)

TOTAL SAVINGS AND INCOME GENERATION (including T18 savings)

	872,000	1,467,000	2,000	55,000
TOTAL SAVINGS AND INCOME GENERATION (including T18 savings)	381,553	1,020,700	1,577,000	27,000

Line No.	Example B1 - Council Tax is increased by 1.9% in 2015/16 Modelling for the financial years 2015/16 to 2018/19	Base 2014/15 £	Yr1 2015/16 £	Yr2 2016/17 £	Yr3 2017/18 £	Yr4 2018/19 £
1	Base budget brought forward (line 11)	7,830,178	7,798,625	7,566,615	7,373,222	7,269,716
2	Budget pressures (as per Appendix A)	350,000	1,356,400	249,200	260,000	260,000
3	Savings already identified (as per Appendix A) Further Savings Identified	(381,553)	(1,020,700)	(1,577,000)	(27,000)	(80,000)
4	Projected Net Expenditure:	7,798,625	8,134,325	6,238,815	7,606,222	7,449,716
5	Localised Business Rates	1,517,673	1,579,000	1,590,000	1,635,000	1,687,000
6	Council Tax income - Modelling a 1.9% in council tax each year (Taxbase 15/16 = 19,457)	3,923,435	4,054,644	4,174,164	4,296,658	4,422,368
7	Collection Fund Surplus	0	60,589	60,000	60,000	60,000
8	Revenue Support Grant	1,700,458	1,215,323	892,000	621,000	371,000
9	Funding from New Homes Bonus	657,059	657,059	657,059	657,059	657,059
10	Total Projected Income	7,798,625	7,566,615	7,373,223	7,269,717	7,197,427
	Budget gap per year					
11	(Projected Expenditure line 4 - Projected Income line 10)	0	567,710	-1,134,408	336,505	252,289

Cumulative Budget Gap (if savings are made as predicted in the Transformation Programme)	0	567,710	-566,698	-230,193	22,096
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An assumption of an additional 200 Band D equivalent properties per year has been included in the TaxBase and modelling above for 2016/17 onwards

Memorandum Note - NHB remaining to fund the Revenue Budget, after funding the Capital Programme

This line shows the amount of New Homes Bonus (NHB) available to fund the Revenue Budget, after the funding for the Capital Programme has been deducted.	0	1,290,682	1,337,449	1,265,209	948,267
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FINANCIAL STRATEGY

Line	Base 2014/15 £	Yr1 2015/16 £	Yr2 2016/17 £	Yr3 2017/18 £	Yr4 2018/19 £
Example B2 - Council Tax is frozen in 2015/16 No. Modelling for the financial years 2015/16 to 2018/19					
1 Base budget brought forward (line 11)	7,830,178	7,798,625	7,533,165	7,261,152	7,076,052
2 Budget pressures (as per Appendix A)	350,000	1,356,400	249,200	260,000	260,000
3 Savings already identified (as per Appendix A) Further Savings Identified	(381,553)	(1,020,700)	(1,577,000)	(27,000)	(80,000)
4 Projected Net Expenditure:	7,798,625	8,134,325	6,205,365	7,494,152	7,256,052
5 Localised Business Rates	1,517,673	1,579,000	1,590,000	1,635,000	1,687,000
6 Council Tax income - Assumes Council Tax is frozen in 2015/16 and thereafter (Taxbase 15/16 = 19,457)	3,923,435	3,978,957	4,019,857	4,060,757	4,101,657
7 Council Tax Freeze modelled for 15/16 - (built into the baseline thereafter)		42,237	42,237	42,237	42,237
8 Collection Fund Surplus	0	60,589	60,000	60,000	60,000
9 Revenue Support Grant	1,700,458	1,215,323	892,000	621,000	371,000
10 Funding from New Homes Bonus	657,059	657,059	657,059	657,059	657,059
11 Total Projected Income	7,798,625	7,533,165	7,261,153	7,076,053	6,918,953
Budget gap per year 12 (Projected Expenditure line 4 - Projected Income line 11)	0	601,160	-1,055,788	418,099	337,099

Cumulative Budget Gap (if savings are made as predicted in the Transformation Programme)	0	601,160	-454,628	-36,529	300,570
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An assumption of an additional 200 Band D equivalent properties per year has been included in the TaxBase and modelling above for 16/17 onwards

Memorandum Note - NHB remaining to fund the Revenue Budget, after funding the Capital Programme

This line shows the amount of New Homes Bonus (NHB) available to fund the Revenue Budget, after the funding for the Capital Programme has been deducted.	0	1,290,682	1,337,449	1,265,209	948,267
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RESERVES - PROJECTED BALANCES				
	Opening balance	Predicted spend	Projected balance	
	1 April 2014 £000	to 31.3.2015 £000	31.3.2015 £000	Comments
EARMARKED RESERVES				
Specific Reserves - General Fund				
Car Parking Repairs & Maintenance	(112)		(112)	
Waste Containers	(40)		(40)	
Local Authority Business Growth Incentive (LABGI)	(43)	43	0	
PDG (ICT) Earmarked Reserve	(11)	11	0	
Habitats Earmarked Reserve	(42)	9	(33)	Planned future use over 5 years
Landscape Maintenance	(20)		(20)	
Personal Search Fee S31 Grant	(34)		(34)	Ringfenced for Gov. Legislation
County Election	(24)	24	0	
RIEP - Localism Projects	(10)	10	0	
Fifth Wave Neighbourhood Front Runners	(20)	20	0	
Cannons Meadow	(24)	3	(21)	Written down to revenue annually
Millwood Homes	(15)	2	(13)	Written down to revenue annually
Young Persons Prevention officer	(10)	10	0	
DCLG Business Support Scheme	(20)	7	(13)	
DCC Public Health	(20)	20	0	
Rural Services Grant (RSG)	(82)		(82)	£56,969 RSG and £25,000 unused contingency budget from 13/14 See Appendix C of T18 Council report of 9th December 2014
T18 Investment Reserve	(800)	800	0	
Business Rates Retention Scheme	(321)	321	(0)	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.
New Homes Bonus 12/13 and 13/14 and 14/15	(154)	19	(135)	This is the uncommitted balance for 13/14 and 14/15
Aggregate of other small reserves below £10K	(30)	30	0	
TOTAL EARMARKED RESERVES	(1,832)	1,329	(503)	
TOTAL UNEARMARKED RESERVES	(953)		(953)	As per Final Accounts 2013/14
TOTAL REVENUE RESERVES (EARMARKED AND UNEARMARKED RESERVES)	(2,785)	1,329	(1,456)	

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APPENDIX D

<u>West Devon Borough Council Revenue Budget Analysis</u>	Budget analysis if Council Tax is increased by 1.9%		Budget analysis if the Council Tax Freeze is taken
		<u>Appendix B1</u>	<u>Appendix B2</u>
	2014/15	2015/16	2015/16
Service Expenditure Analysis			
Employee Costs	5,832,170	5,185,550	5,185,550
Premises costs	815,206	757,614	757,614
Transport costs	99,867	74,867	74,867
Supplies and Services	1,381,434	1,396,309	1,396,309
Contract Costs	2,652,871	2,737,871	2,737,871
Revenues and benefits (Housing Benefit and Support Payments)	14,351,367	14,703,367	14,703,367
Transfer Payments	79,235	79,235	79,235
Capital Costs	106,399	106,399	106,399
Gross Expenditure	25,318,549	25,041,212	25,041,212
Revenues and benefits (Housing Benefit Subsidy and Support Grants)	-14,593,449	-14,886,449	-14,886,449
Income	-2,926,475	-2,892,438	-2,892,438
Contribution from reserves (T18) See Appendix A	0	872,000	872,000
Net Budget	7,798,625	8,134,325	8,134,325
Funded By			
Revenue Support Grant	1,700,458	1,215,323	1,215,323
Localised Business Rates	1,517,673	1,579,000	1,579,000
Council Tax	3,923,435	4,054,644	3,978,957
Council Tax Freeze Grant	0	0	42,237
New Homes Bonus	657,059	657,059	657,059
Collection Fund surplus	0	60,589	60,589
	7,798,625	7,566,615	7,533,165
Current Budget Gap (See recommendation (v))	0	-567,710	-601,160

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Town and Parish - Council Tax Support Grant allocation

Parish/Town	<u>Council Tax Support Grant allocation for 2014/15</u>	<u>15.37% Percentage reduction</u>	<u>Council Tax Support Grant allocation for 2015/16</u>
Okehampton Town Council	24,017	3691	20,326
Hatherleigh Town Council	2,262	348	1,914
Bere Ferrers Parish Council	6,400	984	5,417
Lifton Parish Council	1,059	163	897
Dartmoor Forest Parish Council	1,657	255	1,402
Inwardleigh Parish Council	260	40	220
Tavistock Town Council	46,479	7144	39,335
Bridestowe Parish Council	519	80	439
North Tawton Town Council	6,207	954	5,253
South Tawton Parish Council	937	144	793
Horrabridge Parish Council	2,204	339	1,865
Sampford Courtenay Parish Council	436	67	369
Mary Tavy Parish Council	1,084	167	917
Sourton Parish Council	329	51	278
Lamerton Parish Council	364	56	308
Drewsteignton Parish Council	933	143	790
Northlew Parish Council	528	81	447
Kelly Parish Meeting	30	5	26
Spreyton Parish Council	117	18	99
Chagford Parish Council	2,032	312	1,719
Gulworthy Parish Council	231	35	195
Sticklepath Parish Council	198	30	167
Broadwoodkelly Parish Council	136	21	115
Milton Abbot Parish Council	218	33	184
Beaworthy Parish Council	62	10	53
Exbourne & Jacobstowe Grouped Parish Council	256	39	216
Meeth Parish Council	63	10	53
Highampton Parish Council	167	26	142
Bratton Clovelly Parish Council	216	33	183
Iddesleigh Parish Council	79	12	66
Sydenham Damerel Parish Council	21	3	18
Burrator Parish Council	186	29	158
Plasterdown Grouped Parish Council	111	17	94
Stowford Parish Council	80	12	68
Bondleigh Parish Council	9	1	8
Okehampton Hamlets Parish Council	385	59	326
Buckland Monachorum Parish Council	1,667	256	1,411
Monkeokehampton Parish Council	67	10	57
Lydford Parish Council	241	37	204
Throwleigh Parish Council	117	18	99
Peter Tavy Parish Council	249	38	210
Belstone Parish Council	58	9	49
Lewdown Grouped Parish Council	137	21	116
Germansweek Parish Council	46	7	39
Brentor Parish Council	284	44	240
Gidleigh Parish Council	0	0	0
	103,137	15,852	87,285

An illustrative example was sent to all Parish Clerks in December with the updated taxbase for 2015-16. This enabled Town and Parish Councils to model the effect of the grant reduction on their Precept calculation.

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NAME OF COMMITTEE	COUNCIL
DATE	17 FEBRUARY 2015
REPORT TITLE	LEISURE SERVICE PROCUREMENT
REPORT OF	NATURAL ENVIRONMENT AND RECREATION MANAGER FINANCE COMMUNITY OF PRACTICE LEAD
WARDS AFFECTED	ALL

Summary of report:

The report summarises the strategic issues the Council will need to consider as part of assessing future leisure provision, including the use of the leisure assets, following the end of the current contract in 2016. The report summarises work to date on assessing future options and recommends embarking upon a joint procurement and contract exercise with South Hams District Council. This would be prepared during spring 2015 and be launched to the market in summer 2015. The outcome of the exercise would be brought back to Council for consideration of final recommendations for securing future leisure provision.

Financial implications:

A budget of £30,000 for professional support fees was established by the Council under Minute CM 38 f(i) – 2012/2013. This has been used to fund the appointment of a Leisure Consultant to work with the Strategic Leisure Member Working Group on bringing forward this work. It is anticipated that the preparatory contract work and tender exercise highlighted in this item can be covered from this allocation. The outcome of the contract tender exercise later in the year, and the route pursued, may impact on the need for additional funding requirements (for example specialist legal support) to move to contract conclusion. Any requests for additional funds will be brought to Council.

SHDC is also undertaking a tandem leisure service review and has allocated a comparable sum to procure external advice on issues.

The outcome of the proposed joint procurement and tender exercise identified in this item will have potentially significant capital and revenue impacts and these will be reported back to Council for consideration on completion of the tender exercise.

RECOMMENDATIONS: That Council

- 1. Agree the objectives for future leisure services delivery as set out in paragraph 1.5**
- 2. Offer leisure services as a joint contract for up to 25 years with South Hams District Council to include facilities (and options) as set out in paragraph 6.6. This to include consideration of options for prudential borrowing and to retain an option for separate contracts if required.**
- 3. Agree a joint leisure services procurement exercise with South Hams District Council through the competitive dialogue process**
- 4. Agree that Repair and Maintenance obligations lie with the operator(s)**
- 5. Agree that the procurement exercise include an option to assess local operation of the Parklands Leisure Centre at Okehampton. That in addition local input to service delivery shall be secured through local participation in Annual Service Development Plans.**
- 6. Establish a joint Leisure Services Board with South Hams District Council based upon an agreed Joint Procurement Protocol. Membership to consist of nominated WDBC members and comparable SHDC representation. Detailed arrangements to be delegated to the Natural Environment and Recreation Manager in consultation with the Leader of the Council and Chair of Community Services Committee. The Board to be supported by an officer working group.**
- 7. Agree procurement preparation and evaluation to be timetabled as set out in para 11.1 and Appendix 1**
- 8. Instruct Officers to appoint specialist leisure expertise (or other expertise as required) to support the procurement and evaluation of leisure services in accordance with procurement procedures and Financial Regulations**
- 9. Instruct Officers to conclude liaison with stakeholders and interested parties in order to refine third party details for inclusion in procurement**
- 10. Delegate detailed arrangements for procurement and evaluation to the Natural Environment and Recreation Manager in consultation with the Leader of the Council, Chair of Community Services Committee, Board Members and relevant Ward Members (where there are location specific issues).**
- 11. Require a further report to Council on the outcome of the procurement exercise and tender evaluation setting out recommendations for future service arrangements.**

Officer contact:

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Email: ross.kennerley@swdevon.gov.uk

Lisa Buckle, Finance Community of Practice Lead

Tel: 01803 861413

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1. BACKGROUND

- 1.1. The Council has operated leisure and recreation services for many years. These have fluctuated in scope but are now delivered through the operation of two leisure centres and a range of associated outreach community and sports development activities.
- 1.2. The current contract for delivery with Leisure in The Community ends in November 2016 and the Council needs to agree its long term approach in the light of major external changes and future financial pressures. The challenge is to try to anticipate what public sector leisure provision should look like in the period up to, and indeed beyond, 2026.
- 1.3. In order to shape consideration of future delivery reports were submitted to Community Services Committee in June 2012 and Resources Committee in July 2012. These set out background issues and whilst relevant issues are re-iterated in this item members are referred back to the original reports for full information. A key step was the establishment of the Strategic Leisure Member Working Group. This group has met regularly to steer the review process and has supported the following.
 - Scoping and review of existing facilities and contract
 - Establishing parameters for future delivery
 - Consultants (RPT Consulting) appointed
 - Stakeholder liaison and soft market test
 - Recent joint meetings with SHDC members to shape options
 - Options analysis to support Council consideration
- 1.4. The process has been assisted by the retained consultants and the issues set out in this item are explored in detail in a “Leisure Options Review” report submitted by the consultants. This review document is available to Members on request from Member Services. Because it includes sensitive commercial information relating to the current contract, stakeholder liaison and soft market test it is confidential. Disclosure of the contents outside the Council could jeopardise the outcome of the procurement exercise.

- 1.5. A key issue at the heart of consideration is whether leisure provision in its current form is going to be a future core business for the Council, as it is a discretionary service, and what will be an affordable level of service provision in the longer term. This decision will be a difficult judgement as there is a lack of certainty about the level of funding available for discretionary services in the medium/long term, particularly in view of anticipated changes to the way local government is funded. Nevertheless the working group considered that leisure services was an important public service with tangible community and health outcomes and as such there is public benefit in seeking a cost effective manner of continuing the service. Leisure activities align with Connect Strategy priorities around healthy communities and are a cornerstone of emerging *Our Plan* priorities around the delivery of Health and Wellbeing. Through discussion, and feedback, the working group recommend that a procurement exercise for leisure services is undertaken to test the market based on the following objectives:-
- Deliver a sustainable service with controlled costs and clear community benefit outcomes
 - Allow for local participation in future delivery
 - Achieve reductions and minimised revenue costs
 - Draw in capital investment
 - Look for long term arrangements with responsibility for centres passing to the operator
 - Pursue joint procurement and contract with South Hams District Council
 - Seek opportunities for future efficiencies, flexibility and service Improvements

In particular the following objectives are proposed for the two centres

Okehampton.

Seek an affordable solution to allow Parklands to thrive and build on current success. Future operation is open to a local bid and local input into establishing the future specification will be welcomed

Tavistock.

Seek an affordable solution to secure future operation of the leisure pool. The Council will look for innovative solutions to secure the necessary funding. Anticipate a national operator but welcome local input into establishing the future specification

- 1.6. Further details on the background to these objectives, and the recommendations, are covered in this item and supporting consultants report. It does need to be noted at the outset that delivery of leisure services is a complex activity. The two West Devon centres operate in competition with the private sector and alongside community and college facilities. Existing landowning, operational and partnership arrangements are complicated and Meadowlands, in particular, is aging and in need of investment. The Council also awaits with interest the outcome of the proposal for an Olympic Pool at Mount Kelly College.

- 1.7. Delivering a sustained service will require political and operational will. The proposed procurement exercise recommended in this item will set a clear direction from the Council – and allow the objectives proposed in 1.5 above to be tested.
- 1.8. A final decision on the future contract arrangements will be brought back to members for consideration once the procurement exercise and evaluation has been completed.
- 1.9. The work to date has been undertaken across both West Devon and South Hams with a view to minimising preparatory costs and maximising long term savings.

2. CURRENT FACILITIES

- 2.1 The Council operates two leisure centres. A summary of the facilities is given along with key land, grant and operational matters.

Parklands, Okehampton

- 4 Court Sports hall, changing rooms, dance studio and gym built 2003
- 4 lane 25m indoor pool with movable floor
- Cafe
- Sport England Grant restrictions until 2024
- Dual use arrangement for use of centre with Devon County Council / Community College
- Land leased from Devon County Council and Okehampton Town Council

Meadowlands, Tavistock

- Leisure Pool with 4 lanes 25m. Toddler pool, flume and water features built 1990
- Cafe
- Land leased from Tavistock Town Council

- 2.2 The summary demonstrates the wide range of facilities provided by the council. The need for refurbishment and rejuvenation of Meadowlands to make it fit for purpose is a recognised challenge. Detailed and updated Condition Surveys for the centres will be undertaken during the spring to identify likely refurbishment costs and requirements for capital investment. As part of the procurement exercise, bidders will be asked to provide contract prices for the contractor undertaking the capital investment required and to also provide prices for the Council financing the investment cost required through prudential borrowing. On receipt of the completed tenders, an options appraisal will be carried out as to which option would provide the best value for money solution for the Council.

3. CURRENT SERVICE DELIVERY

- 3.1. In December 2004 the council commenced a 10 year contract with Leisure in The Community limited for the operation of the two centres. This contract runs through to November 2016 following an agreed extension in April 2013. It is the need to anticipate future arrangements, and the lead in preparation, that led to the establishment of the Member group in 2012 and the presentation of this item at this point in time. The 2014/15 net service expenditure for Leisure Centres, as set out in the budget book, is £548,125 as below.

Cost Centre	£
Employees	15,124
Premises Related Expenses	52,885
Supplies and Services	1,550
Transport Related costs	266
Management Fee	336,000
Other Fees	1,500
Capital Charges (depreciation)	140,800
Total	548,125

- 3.2. The analysis undertaken, and feedback from the soft market test, is that whilst these costs benchmark reasonably well in some respects there are clear opportunities to drive out savings in relation to both the Management Fee and the capital costs inherent in reinvestment in the centres.
- 3.3. The day to day management of the leisure centres undertaken by LiTc (operating as 1Life) is subject to ongoing review through the regular reports to the Community Services Committee. Overall the reports demonstrate a service that is delivering well against financial and service outcomes. Further background can be found in the Committee reports.

4. STAKEHOLDER LIAISON

- 4.1. The operation of the leisure centres involves, and impacts upon, a number of interested parties. A core requirement identified by the Member Working Group was that these stakeholders be closely involved in the review and that their views be sought and where, appropriate, incorporated. Liaison has taken place with the following organisations and their views sought. Further details were reported to Community Services Committee on 11th March 2014 (Minute CS 34).

Third Party	Nature of Interest
Leisure In The Community	Operator
Tavistock Town Council	Landlord
Tavistock Community College	Partner on Facility Provision
Meadowlands User Group	Partner
Tavistock Swim Club	Partner
Okehampton Town Council	Landlord

Okehampton Community College	Dual Use Agreement
OCRA – Okehampton Community Recreation Association	Partner
Parklands User Group	Partner
Kelly College	Swim Provider

- 4.2. The feedback has been supportive of the Council moving ahead with a procurement that seeks to secure future delivery of the service in a cost effective manner. Specific responses will be taken into account in shaping the procurement exercise. A key issue raised by a number of stakeholders is the need to ensure the new service responds well to local circumstances and partners. This is expressed in two ways. The first is that local partners be given the opportunity to bid in as a potential operator and this is an issue that has come forward in Okehampton. The second is that across all communities there is an appetite for closer involvement in shaping and monitoring the delivery of the leisure service to ensure responsiveness to local needs. These comments are welcomed and taken into account in the proposed approach to the procurement exercise.

5. SOFT MARKET TEST

- 5.1. At the update report to Community Services Committee in March 2014 a soft market test exercise was highlighted. Undertaken by the retained consultants this involved a national advert, direct approaches to providers and follow up with stakeholders. Further details are included in the background review but the headline outcomes were
- 14 expressions of interest
 - Significant interest from national market (leisure management and developers)
 - Includes interest from local partners for Okehampton (and Totnes & Dartmouth)
 - That the financial revenue position could be improved
 - That re-investment in facilities could be forthcoming if long term arrangements are put in place (at least 10 years but preferably 20 years plus)
 - A preference for joint contract across West Devon and South Hams
 - An opportunity for an innovative approach at Meadowlands to provide additional facilities to support the swim provision
- 5.2. The overall outcome gives confidence that procurement for a new contract could achieve the objectives set out in paragraph 1.5 of this report. In order to progress the procurement Member consideration of the following issues is sought. The following paragraphs give a brief summary of these issues and Members are referred to background consultants report for further information.
- Scope of Contract and Securing Investment
 - Procurement process
 - Lease and Repair Options
 - Local Arrangements
 - Governance
 - Timescale

6. SCOPE OF CONTRACT AND SECURING INVESTMENT

- 6.1. When members first considered the leisure services review the following delivery options were identified.
- Outsource leisure services to the private sector;
 - Outsource the service to a trust or related organisational arrangement (for example, Industrial Provident Society or Community Interest Company) to take advantage of business rate relief and VAT reductions to achieve savings.
 - Commission both leisure services and comprehensive asset redevelopment and/or ongoing estate management;
 - Provide leisure services in-house;
 - Transfer leisure services to another Local Authority e.g. a Town Council
 - Explore other forms of community based delivery in the context of the Localism agenda and current and emerging local investment plans in leisure facilities;
 - Stop the service in its current form and develop new partnerships to achieve alternative provision and new leisure uses for existing or redeveloped buildings, or on alternative sites;
- 6.2. These options have been extensively analysed and tested through the stakeholder liaison, soft market test and associated work. The aspiration brought forward from Members and the communities of West Devon is to maintain the leisure service based around the current centres. The arrangement that has developed through management by 1 Life as an external operator is well respected and seen as a model for future operation (noting that Okehampton groups see opportunity for local delivery to be allowed to be tested through the procurement process). Options for bringing the service back in house or transferred to other local authorities are not favoured.
- 6.3. Given this feedback any future contract needs to attempt to secure a range of challenging outcomes – maintained public service, reductions in revenue costs and investment in capital. The soft market test indicated that these are achievable – but that the contract needs to provide favourable conditions including.
- Arrangements of 20 years or more
 - Maximum number of centres within the contract. Inclusion of all 6 , including South Hams, is favoured as likely to deliver best value by focussing potential operators on achieving value from a larger operation
 - Flexibility over local delivery of service against baseline requirement

- 6.4. The recommendation follows this approach and proposes a joint contract with South Hams District Council. The consultants report investigates this option and concludes that there are “significant financial advantages” to a joint contract. The contractor would provide a breakdown of their management fee between the six centres and WDBC will clearly see the separate accounts for the two WDBC centres. Therefore this allows a clear audit trail of individual authorities’ costs, whilst benefiting from joint economies of scale. It is noted that both Councils can at a later stage in the procurement decide to enter into separate contracts with different providers, however this means that the economies of a joint contract won’t be achieved. To achieve this the procurement would include the ability for the Councils to split the contracts if required. Entering into a joint contract is likely to bring financial benefits through appointing one provider and through the ability to have one support team and contract manager, meaning that there is not a need to duplicate head office and support costs. On a recent exercise with another joint contract the benefits to the overall contract were savings of circa £50,000 per annum as opposed to two separate contracts. The approach would also seek demonstration of how, and when, any operator would bring investment into the centres. Members will need to recognise that seeking external capital investment may decrease potential savings on any proposed management fee.
- 6.5. Through a favourable contract there will still be a need for investment to fund works (in particular at Meadowlands). There may be a case for the council undertaking prudential borrowing (based on a robust business case) as part of new contract arrangements in order to bring forward improvements. It is likely that the Council could undertake borrowing at favourable rates and the option for such arrangements will need to be fully explored through the procurement and competitive dialogue.
- 6.6. This approach to offering the contract and considering investment in the facilities as part of long term arrangements is considered by the consultants to have the “potential to significantly reduce the management fee”. On this basis it is proposed that the contract includes the elements below:-

Town	Tender Requirements	Options
Okehampton	<ul style="list-style-type: none"> • Operation of Parklands • Limited investment (refresh) 	<ul style="list-style-type: none"> • OCRA facilities included
Tavistock	<ul style="list-style-type: none"> • Operation of Meadowlands • Limited investment (refresh) 	<ul style="list-style-type: none"> • Refurbishment • Reviewed facility mix
Ivybridge	<ul style="list-style-type: none"> • Operation of Ivybridge LC • Investment in New Build • Commercial development of part of site 	<ul style="list-style-type: none"> • Refurbishment • Reviewed Facility Mix
Kingsbridge	<ul style="list-style-type: none"> • Operation of Leisure Centre • Limited investment (refresh) 	<ul style="list-style-type: none"> • Watersports centre
Dartmouth	<ul style="list-style-type: none"> • Operation of Leisure Centre • Operation of Pool (if developed) 	<ul style="list-style-type: none"> • Operation of Leisure Centre only without pool
Totnes	<ul style="list-style-type: none"> • Operation of the combined pool and Leisure Centre • Limited investment (refresh) 	<ul style="list-style-type: none"> • Operation of Leisure Centre only without pool • Inclusion of King Edward VI college

7. PROCUREMENT PROCESS

7.1. There are clearly a range of procurement approaches that the Council could undertake. These could include the following that members have previously considered.

- Traditional bid against a tender;
- Competitive dialogue where broad objectives are initially identified and subsequently refined in conversation with a limited range of interested leisure service providers/developers, to secure best value and take advantage of the potential providers expertise;
- Create a broader leisure offer to increase market interest and reduce service delivery costs by packaging the 2 West Devon Centres alongside other Council's. The re-negotiation of the West Devon contract to align contract completion dates for the Okehampton and Tavistock Centres alongside the end of the South Hams contract allows for such joint marketing.

7.2. A range of approaches have been reviewed and the recommended approach is to initiate a tender process that allows for interested parties to bid and progress through a competitive dialogue route. This is considered to have the widest opportunity to bring interested parties forward and achieve the best outcome against objectives. A joint procurement with SHDC will maximise interest and a key strand to the procurement will be to require potential operators to make proposals for how they will achieve the optimum service delivery and best financial position for the councils. The suggested approach to the range of bids within the procurement is set out below. Bidders can bid for one or all of bids 1-5, which enables local bidders to only bid for one facility, but also allows all bidders to bid for all of the facilities. The listing anticipates that a joint contract approach is agreed. If Members require a separate contract approach at the outset a more complex arrangement of separate bids for each council would be established to take through the procurement. The precise details of the presentation of bids will be confirmed as discussions with third parties are concluded ahead of the summer tender exercise.

- Bid 1. All facilities
- Bid 2. Tavistock, Ivybridge, Kingsbridge
- Bid 3. Totnes Pavilion (combined and separate operation)
- Bid 4 Dartmouth (combined and separate operation)
- Bid 5 Okehampton.
- Other. Any optional bids can be submitted by bidders to improve the commercial position

7.3 Given the potential complexities within the service the more flexible competitive dialogue route is proposed. This should allow for securing an operator partner who will deliver the objectives identified at para 1.5. The key principles which form the basis of the procurement should include:

- The partner should be able to deliver required financial savings and capital investment as well as the objectives
- The contract should be for a minimum of 20 years to enable the capital investment
- Documentation will be developed which translates the objectives in to a specification and key requirements the operator must deliver, in partnership with the key local partners
- An appropriate payment mechanism is developed which enables the Council to make deductions from the management fee for non performance
- Evaluation criteria which ensure there is a robust evaluation of both the financial and service outcome delivery
- The affordability position of the Council should be the existing cost of the service, with key revenue savings identified. The affordability level will allow for the prudential borrowing, if agreed by members
- Establishment of Local Liaison Groups to assist in the monitoring, review and service delivery.
- Proposals from operators detailing how activities based at the centres will reach out and promote healthy lifestyles in the hinterlands.

8. LEASE AND REPAIR OPTIONS

- 8.1. Current arrangements (for both West Devon and South Hams) include a split of repairs and maintenance responsibility. This makes use of in house expertise – but also creates complexities in management and leaves a recurring liability with the council. Current market practice accepts the greater simplicity of passing all repairs and maintenance to the operator and this is the recommended route. Clearly this may have an upward pressure on the required management fee – but this will need to be set against in house savings.

9. LOCAL ARRANGEMENTS

- 9.1. The stakeholder liaison and the soft market test have confirmed the high level of local interest in the successful operation of the centres (a theme also reflected in South Hams). As reported to Community Services Committee in March 2014 there is interest from Okehampton organisations in there being options for local operation of Parklands. It is recommended that this be allowed for in the procurement exercise – but on the basis that the individual costs of removing Parklands from an overall contract are itemised in order that the full financial cost of local operation can be ascertained and understood.
- 9.2. In South Hams there are also likely to be financial benefits from the Totnes and proposed Dartmouth Pools being run as combined facilities with the adjacent leisure centres as part of a large scale contract. It is therefore recommended that this option also be included in the procurement – but again with a requirement that any additional costs of such an approach are itemised separately within any bids to that any additional costs attributable to these third party pool facilities can be identified and understood across both Councils.

- 9.3. Irrespective of specific contract arrangements in Okehampton, Dartmouth and Totnes there is clear merit in local communities having a role in monitoring and delivery of leisure services. It is proposed that the procurement exercise will include a requirement for providers to provide Annual Service Development Plans as part of local liaison arrangements.

10. GOVERNANCE

- 10.1. To date the detailed work on assessing background and emerging options has been led by the Member Working Groups at both West Devon and South Hams. The last two meetings of the groups have been undertaken jointly and involved detailed review with Robin Thompson (the retained consultant) to refine the options that underpin this item,
- 10.2. On the assumption that at very least a joint procurement is agreed then there is clear merit in combining the work of the groups into a joint Board and consolidating Member representation, officer support and consultant advice. It is proposed that details be agreed between the Council Leaders and that the Board operate to an agreed "Joint Procurement Protocol" established between the Councils. The Board will take forward the work but will not have decision making powers. Any amendments to the process will take place under the delegation set out at Recommendation 10 or, if substantive, through reference back to Council.

11. TIMESCALE

- 11.1. To meet the November 2016 contract end a proposed procurement project plan is given at **Appendix 1**. Members are asked to consider this and note that matters will need referring back to members for agreement later in the year.

12. LEGAL IMPLICATIONS

- 12.1 The provision of leisure services is a discretionary activity. It is therefore up to the Council what level of service it provides. Members should however note that in the current economic climate there has been Judicial Reviews of council decisions to cut funding to local services. Many of the successful cases have focused on the preparatory work undertaken before a decision to curtail a service is made; in particular highlighting that consultation should be carried out when proposals are at a formative stage.
- 12.2 Other legal challenges have been mounted on the basis of the Public Sector Equality Duty, e.g. a lack of prior consideration by the Council of the impact of the proposed cuts on particular groups within society. The recommendations in this report propose continuing the service (at or about current levels) and testing this with the market. At this stage no reduction or loss of service is anticipated.

13. FINANCIAL IMPLICATIONS OF PROVIDING LEISURE SERVICES

- 13.1 The contract fee payment for 2014/15 is budgeted at £336,000.
- 13.2 The future approach will not be helped by the lack of certainty about the level of funding available for discretionary services in the medium/long term, particularly in view of possible changes to the way local government is funded. Nevertheless leisure services are assessed as being a service the Council wishes to maintain and the proposed procurement process set out in this item seeks to establish the degree to which revenue savings and capital investment can be secured in a cost effective and affordable manner for the Council.
- 13.3 The need for investment in the centres, particularly Meadowlands, may be capable of being supported through prudential borrowing. This could only be contemplated if there was a rigorous and robust business plan underpinning the proposed borrowing. This option will be tested out during the procurement and results reported back to members for consideration.

14. CONCLUSION

- 14.1 In deciding the way forward, Members will wish to carefully balance a range of issues:
- Leisure is a discretionary but front line service. Leisure Centres have capacity to further develop at the heart of healthy local communities.
 - Local communities cherish local leisure facilities and wish to see continued council support
 - Two Centres require significant investment moving forward (Meadowlands and Ivybridge in South Hams)
 - The other Centres require refresh and general upkeep including condition survey work
 - There is local interest in partnering with the Council in a number of areas, in particular Okehampton, Totnes and Dartmouth.
 - The opportunity to combine wet and dry facilities at Totnes and Dartmouth (with the new indoor pool) can potentially bring savings to the contract, due to the critical mass and the provision of staffing already in place. This will be tested.
 - There is significant interest from the market in a future contract (preferably a joint contract)
 - A joint contract approach to the market would be best value for the Councils, however at the minimum the Councils should enter a joint procurement
 - Any facility developments should be delivered through a Design, Build and Operate approach, with the potential for a 25 year contract
- 14.2 The response from the soft market test has been encouraging and opens the opportunity for further delivery that provides an improved revenue position, capital investment and continued community focussed service. Embarking on procurement through the competitive dialogue route will allow the objectives to be tested and outcomes reported back to members for consideration.

15. RISK MANAGEMENT

15.1 The risk management implications are appended to this report as **Appendix 2**.

16. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	S19 Local Government (Miscellaneous Provisions) Act 1976 - Leisure is a discretionary service Localism Act 2011
Considerations of equality and human rights:	The Council currently operates two main leisure facilities. While there are alternative leisure facilities available in surrounding areas, those with limited access to private transport will find travelling longer distances difficult.
Biodiversity considerations:	None
Sustainability considerations:	Access to local facilities may reduce travel
Crime and disorder implications:	Access to local affordable facilities may reduce elements of anti social behaviour
Background papers:	Leisure Options Report: Confidential
Appendices attached:	1. Project Plan 2. Strategic Risk Assessment

Appendix 1 – West Devon BC and South Hams DC Leisure Procurement - Draft Project Timetable

Activities	2015											2016				
	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Nov	Dec	Jan	Feb	Mar	Apr	May - Nov
Preparation																
Project Board Meetings																
Council Sign Off																
Stakeholder Consultation																
Ivybridge Master Plan																
Procurement Documentation																
Procurement																
PQQ/IM Preparation																
Issue OJEU Notice																
OJEU Period																
Bidders Open Day																
PQQ Submission																
PQQ Evaluation																
Prepare ISDS docs																
Issue ISDS																
Dialogue/Clarification																
ISDS Submission																
ISDS Evaluation																
Shortlist Bidders (3)																
Dialogue																
Issue Final Tender																
Clarification																
FT Submission																
Select Preferred Bidder																
Award Contract																
Finalise Contract																
Contract Start																Nov

Key: PQQ = Pre Qualification Questionnaire, IM = Information Memorandum, ISDS = Invitation to Submit Detailed Solutions, FT= Final Tender

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STRATEGIC RISKS

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	Future leisure service delivery costs greater than currently anticipated	Recent asset condition survey coupled with proposed stakeholder engagement will improve understanding of future cost pressures. Soft Market test indicates opportunities for improved position	4	3	12	↔	Joint Member board established with South Hams. Joint Procurement Protocol and Evaluation criteria established. Effective stakeholder consultation arrangements	NE & RM
2	Balancing future service provision and financial challenges	Conflicting Member ambitions to either improve the future leisure service or manage long term costs may create tension across the Council	4	3	12	↔	Need to formally test and establish revenue and capital costs against affordability	NE & RM
3	Internal capacity and expertise	Both WDBC and SHDC have externalised leisure provision and over time a range of internal corporate expertise is inevitably lost	4	4	16	↔	Continue to allocate support budget to bring in external leisure and legal expertise	NE & RM
4	Managing the level of expectation of key existing stakeholders and potential future partners	Formulating an affordable leisure offer that is fit for purpose in the medium to longer term	4	4	16	↔	Continue to handle discussions sensitively, maintaining positive relationship with stakeholders and investing time developing relationship with potential providers to promote opportunities rather than have the future financial challenges perceived negatively.	Member/Officer Working Group
5	Council reputation	Changes to future service delivery will need to be agreed within the context of a clear strategy for future use of current assets, and potential access to	5	4	20	↔	Careful consideration of the strategic options with significant decisions linked to a communication strategy.	Member/Officer Working Group

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			
		alternative facilities						
6	Legal challenge	Legal challenge could come from:(a) a potential provider who feels “unfairly” excluded from a bidding opportunity;(b) as a community right to challenge bid under the Localism Act to enforce a procurement exercise; (c) a third party	(a) 4 (b) 3 (c) 4	1 1 2	4 3 8	↔	(a) Mitigation arises through being aware of all the options, not excluding any too early, and having clear reasons for all steps taken. (b) A Localism Act “challenge” is now possible and should be taken into account in the assessment of options and attendant risks in due course. (c) Before any decision is made to reduce the future service, an appropriate consultation exercise is undertaken, as well as an assessment on the impact of the service reduction on particular groups within society. Positively allowing for local bids (where interest has been identified)	Member/Officer Working Group

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

Direction of travel symbols = ↓ ↑ ↔

AGENDA
ITEM
12

WEST DEVON BOROUGH COUNCIL

AGENDA
ITEM
12

NAME OF COMMITTEE	Council
DATE	17 February 2015
REPORT TITLE	Collaboration Agreement
Report of	Executive Director of Service Delivery & Commercial Development
WARDS AFFECTED	All

Summary of report:

To consider a Collaboration Agreement between South Hams District Council and West Devon Borough Council to record the basis upon which the Councils will continue to collaborate together.

Financial implications:

There are no direct financial implications to this report. The Collaboration Agreement states the basis on which the Councils will continue to collaborate together and sets out the Councils' respective rights and obligations to each other.

RECOMMENDATION:

That Council RESOLVES to:

1. Agree the Collaboration Agreement attached at Appendix A
2. Delegate to the Executive Director of Service Delivery & Commercial Development in Consultation with the Leader any minor amendments required to reflect the new structure under T18

Officer contact:

Sophie Hosking, Executive Director of Service Delivery & Commercial Development (email: Sophie.Hosking@swdevon.gov.uk)

Lead Member contact:

Cllr Philip Sanders, Leader of Council (email: Cllr.Philip.Sanders@westdevon.gov.uk).

1. BACKGROUND AND ISSUES FOR CONSIDERATION

1.1 The Collaboration Agreement is a means to formally record the basis upon which South Hams District Council and West Devon Borough Council will continue to collaborate together and to document and regulate their respective rights and obligations to each other.

1.2 The overarching vision of the Agreement is collaboration to reduce costs to enhance the lives of the residents and communities within the Councils' areas.

1.3 Council is asked to approve the Collaboration Agreement attached at Appendix A.

2. LEGAL IMPLICATIONS

2.1 The Councils are subject to a duty under s3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which their functions are exercised having regard to the a combination of economy, efficiency and effectiveness.

2.2 The Agreement needs to be approved by the Council as one of its key documents to ensure the integrity of its governance arrangements.

3. FINANCIAL IMPLICATIONS

3.1 There are no direct financial implications to this report. The Collaboration Agreement states the basis on which the Councils will continue to collaborate together and sets out the Councils' respective rights and obligations to each other.

4. RISK MANAGEMENT

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

5. OTHER CONSIDERATIONS

Corporate priorities engaged:	All
Considerations of equality and human rights:	Not applicable
Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable
Crime and disorder implications:	Not applicable
Attachments	Appendix A: Collaboration Agreement

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	Collaboration Agreement between the Councils	Failure to agree the terms of collaboration between the Councils and their respective rights and obligations to each other and to ensure that there are mechanisms to cover the eventuality that one of the Councils wishes to withdraw from the collaborative arrangements.	4	4	16	↔	Recommendation to the Council to formalise the Collaboration Agreement with immediate effect	Executive Director of Service Delivery & Commercial Development

Page 55

Direction of travel symbols ↓ ↑ ↔

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DATED

2015

COLLABORATION AGREEMENT

between

SOUTH HAMS DISTRICT COUNCIL

and

WEST DEVON BOROUGH COUNCIL

CONTENTS

CLAUSE

1.	Definitions and Interpretation	2
2.	Term.....	3
3.	Governing Principles	4
4.	SLT	5
5.	Staffing	5
6.	Accommodation	7
7.	Governance	7
8.	Admission of new councils	7
9.	Costs and savings	7
10.	Liabilities under this agreement.....	7
11.	Contracts and Public procurement.....	8
12.	Variations of agreement.....	9
13.	Termination and withdrawal	9
14.	Dispute resolution	10
15.	Notices.....	11
16.	Information and confidentiality	11
17.	Data protection	11
18.	Intellectual property	12
19.	Freedom of information.....	12
20.	Equal opportunities.....	12
21.	Severability	12
22.	Relationship of Councils	13
23.	Third party rights	13
24.	Governing law and jurisdiction.....	13
SCHEDULE 1 AGREED CONTRIBUTIONS		15

PARTIES

- (1) SOUTH HAMS DISTRICT COUNCIL of Follaton House, Plymouth Road, Totnes, Devon TQ9 5NE (**South Hams**).
- (2) WEST DEVON BOROUGH COUNCIL of Kilworthy Park, Drake Road, Tavistock, PL19 0BZ (**West Devon**).

BACKGROUND

WHEREAS

- (A) South Hams and West Devon have been working together co-operatively and sharing resources, a Chief Executive, senior management team and other staff since 2007.
- (B) The Councils' purpose in sharing services is to secure the most effective, efficient and economic discharge of their respective functions in order to enhance the lives of the residents and communities across South Hams and West Devon.
- (C) The Councils are local authorities within the meaning of the Local Government Act 1972. Consequently the Councils are subject to the duty under Section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which their functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (D) The Councils have decided to enter into this Agreement to formally record the basis upon which they will continue to collaborate together and to document and regulate their respective rights and obligations to each other.
- (E) The Councils have entered into this Agreement in reliance on the exclusive rights given to local authorities to undertake administrative arrangements of this nature in sections 112 and 113 of the Local Government Act 1972 together with the general power of competence within section 1 of the Localism Act 2011 and the supporting provisions within section 111 of the Local Government Act 1972.
- (F) The Councils operate and will continue to operate (unless they both resolve otherwise) different governance arrangements. South Hams operates executive arrangements involving the Leader and an Executive Committee. West Devon operates alternative arrangements involving the Council and committees. The Councils will keep their separate corporate identities and as required by law will maintain separate financial systems and budgets and

retain separate ownership of real and moveable property unless agreed otherwise under the terms of this Agreement.

OPERATIVE PROVISIONS

IT IS HEREBY AGREED AS FOLLOWS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions have the following meanings unless inconsistent in the context:

“Agreement” this agreement including its schedules as amended or varied from time to time;

“Commencement Date” the date of this Agreement;

“Council” means any one of the Councils;

“Councils” South Hams and West Devon and any other council which, after the date of this Agreement may, with the unanimous consent of the Councils, be admitted to this Agreement and agrees to be bound by this Agreement by signing a Deed of Adherence;

“Deed of Adherence” means a deed substantially in the form set out in Schedule 2.

“DPA” Data Protection Act 1998;

“Employees” the employees of the Councils;

“Exempt Information” any information or class of information relating to this Agreement which may fall within an exemption to disclosure under FOI Legislation;

“FOI Legislation” the Freedom of Information Act 2002 and subordinate legislation made under it and the Environmental Information Regulations 2004;

“Head of Paid Service” the officer jointly designated by the Councils as their Head of Paid Service in

accordance with section 4 of the Local Government and Housing Act 1989;

“Information Request” a request for information under FOI Legislation;

“Personal Data” as defined in the DPA;

“Section 151 Officer” the officer designated by the Councils as the person responsible for the proper administration of their respective financial affairs, as required by section 151 of the Local Government Act 1972;

“Shared Officer” an Employee of one Council whose services are placed at the disposal of the non-employing Council(s);

“SLT” the joint senior leadership team appointed by the Councils.

1.2 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.4 The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules.

1.5 Words in the singular shall include the plural and vice versa. A reference to one gender shall include a reference to the other genders.

1.6 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.

1.7 As from the Commencement Date this Agreement supersedes and extinguishes all previous agreement and understandings between the parties, whether written or oral, relating to their collaboration (with the exception of the Building Control Partnership which is subject to a separate agreement).

2. TERM

This Agreement shall come into force on the Commencement Date and shall continue in force until terminated in accordance with the provisions of this Agreement.

3. GOVERNING PRINCIPLES

3.1 The Councils agree that the following principles shall govern their approach to this Agreement. In particular:

3.1.1 Each of the Councils shall at all times act in good faith, with transparency, honesty and openness, towards the other and use all reasonable endeavours to ensure the observance of this Agreement;

3.1.2 Each Council shall do all things necessary or desirable to give effect to this Agreement provided always that any disagreement between the Councils shall be resolved in accordance with the Dispute Resolution provisions at clause 14;

3.1.3 Each Council has an equal standing within this Agreement, regardless of size or financial contribution;

3.1.4 No Council shall seek to make a surplus or reduce a loss at the expense of the other Council(s); and

3.1.5 Where one of the Councils fails to meet its responsibilities and liabilities under this Agreement at any time the cost of any resulting penalties, losses and liabilities shall only fall on the Council which has responsibility for such failure.

3.2 Each of the Councils agrees that they will:

3.2.1 Commit to provide agreed resources within agreed timescales;

3.2.2 Before considering making a significant business change they will consider its possible impact on the other Council(s);

3.2.3 Involve and inform the other Council(s) of developments they are pursuing elsewhere and will share the learning and benefits.

3.3 The overarching vision of this Agreement is collaboration to reduce costs to enhance the lives of the residents and communities within the Councils' areas. The key principles that underpin this Agreement are:

3.3.1 Sovereignty/independence: The Councils will retain their democratic independence as separate sovereign local authorities with separately elected members;

- 3.3.2 Service Priorities: Each Council retains the right to set its own priorities, service levels and outcomes;
- 3.3.3 Separate service decision making: Each Council will take decisions on the level of services and outcomes;
- 3.3.4 Local accountability: The arrangements must support local accountability;
- 3.3.5 Achieving financial savings, including the generation of income, where it is within the power of the Councils to do so.

4. SLT

- 4.1 The Councils have established a SLT. The members of SLT may be employed by any Council and having been so employed shall be placed at the disposal of the Council(s) who are not their employer.
- 4.2 For superannuation purposes service rendered by a member of SLT employed by one of the Councils whose services are placed at the disposal of the other, is service rendered by the Council by whom he is employed but any such member of SLT shall be treated for the purposes of any enactment relating to the discharge of functions as an employee of the other Council and may act and shall have powers to act under the constitutions of both Councils.
- 4.2 The members of SLT shall divide their time fairly and reasonably between the Councils and shall not show bias towards one Council.
- 4.3 Recharge and apportionment of SLT costs arising from these provisions will be agreed between the Section 151 Officer and SLT and recharged on the basis set out in Schedule 1.

5. STAFFING

- 5.1 Each member of SLT may place the services of any Employee employed by one Council within their area of responsibility at the disposal of the other Council(s) who are not their employer.
- 5.2 Employees of the Councils are empowered to act in accordance with the schemes of delegation of the Councils for the purposes of discharging their functions and when providing services on behalf of the Councils.
- 5.3 Recharge and apportionment of costs arising from these provisions will be agreed between the Section 151 Officer and SLT and will be apportioned on the basis set out in Schedule 1.

- 5.4 Schedule 1 sets out the methodology by which a Shared Officer's time is calculated to be spent on the functions of each Council. This schedule will determine the proportion split of employing costs for a Shared Officer that each Council will pay.
- 5.5 The financial contribution that the Councils will pay or reimburse to the employing Council for the Shared Officer's services includes:-
- 5.5.1 A contribution calculated by reference to the costs of employing the Shared Officer, and
 - 5.5.2 Any payment to be made in the event of the Shared Officer's redundancy where their employment is terminated.
 - 5.5.3 In events where the redundancy outlined in 5.5.2 also attracts a pension strain cost to fall due to the Pension Fund, a recharge from the employing Council to the non-employing Council for the associated pension strain cost will only fall due in the financial year in which the employing Council actually pays out the cost to the Pension Fund. This occurs in three annual instalments following the financial year of redundancy. The liability which the non-employing Council has for a contribution towards the pension strain cost, will only fall due in the financial year in which the employing authority pays the pension strain cost to the Pension Fund. This ensures that the liability of the non-employing Council for pension strain costs is matched to the same timeline as the cashflow for pension strains paid out by the employing Council.
- The contribution from each Council for both 5.5.1, 5.5.2 and 5.5.3 will follow the same proportion split as for employing costs, which is set out by using the methodology in Schedule 1.
- 5.6 Shared Officers working for a Council other than their employer:-
- 5.6.1 Will be required to abide by the working practices, codes and local rules (for example health and safety at work, customer care, financial procedures, and administrative procedures including standing orders) of a Council upon whose premises or functions they are working at the time, and
 - 5.6.2 Will be regarded and treated for the purposes of any enactment relating to the discharge of local authorities' functions (including employment of staff) as an employee of the Council where they are working at the time.

5.7 It is anticipated that the Councils will set up a joint host organisation and that, subject to consultation, new terms and conditions will be issued to Employees who work within this host. All Employees will remain employed by their employing Council, unless otherwise agreed. The Councils anticipate that a separate legal employing entity will be set up in the foreseeable future.

6. ACCOMMODATION

The Councils agree that they will pursue a programme of agile working and that the Employees, including SLT, will be based at or work in such locations as agreed between the Councils.

7. GOVERNANCE

Each Council shall ensure that it makes such changes to its own constitution as is necessary to facilitate the operation of this Agreement.

8. ADMISSION OF NEW COUNCILS

Additional Councils may be added to this Agreement with the unanimous agreement of the Councils and subject to the signature of a Deed of Adherence.

9. COSTS AND SAVINGS

9.1 Except as otherwise provided, the parties shall bear their own costs and expenses incurred in complying with their obligations under this Agreement.

9.2 The parties agree to share the other costs and expenses and any savings arising in respect of the collaboration between them in accordance with the Contribution Sheet set out in Schedule 1 or as otherwise reasonably determined by the Section 151 Officer, in consultation with the Senior Leadership Team.

10. LIABILITIES UNDER THIS AGREEMENT

10.1 Each Council shall save and hold harmless the other Council(s) from all losses, claims, damages, costs, charges, demands or proceedings incurred or brought to the extent that they result from its own unlawful acts and/or breaches of its obligations under this Agreement.

10.2. The non-employed Council shall also save and hold harmless the employing Council from all losses, claims, damages, costs, charges, demands or proceedings incurred or brought against the employing Council as a result of the activities or any negligent or unlawful act of a Shared Officer which takes place at a time when the Shared Officer was undertaking work for the non-employed Council unless the work was being done for both Councils, in

which case the claim will be split equitably or as their respective insurers require.

- 10.3 In respect of uninsured losses, judicial review, complaints, grievances or conduct issues arising from the collaboration and joint working, the relevant Councils will agree the way in which those matters will be dealt with on a case by case basis.

11. CONTRACTS AND PUBLIC PROCUREMENT

- 11.1 The Councils agree that before commencing a procurement exercise for any contracts of services, supplies or works, they shall consult the other Council(s) and agree whether to run a joint procurement exercise.

- 11.2 If a joint procurement exercise is undertaken, the Councils will agree one Council to act as the lead authority ("Lead Council") in the procurement and further agree whether the Councils will enter into separate contracts, a joint contract or a single contract in the name of the Lead Council on behalf of itself and the non-lead Council(s), with the appointed contractor(s).

- 11.3 The joint procurement exercise shall be run in accordance with the Lead Council's contract procedure rules and the Lead Council agrees to comply with these rules and all applicable laws in undertaking the joint procurement exercise.

- 11.4 The Lead Council will have principal responsibility for undertaking the procurement exercise but must act in compliance with the Governing Principles of this Agreement at all times, and consult with the non-lead Council(s) in advance to obtain their input and to ensure that the contract will meet their requirements. A separate agreement setting out each Council's role within the joint procurement exercise may be entered into where appropriate.

- 11.5 If the Councils enter into a joint contract with the appointed contractor(s), the charges and any jointly incurred liabilities, costs, claims, demands, expenses, fines or other penalties arising under that contract will be apportioned between the Councils on an equal basis unless the relevant member of SLT with responsibility for the contract and the Section 151 Officer have reasonably agreed different proportions based on the relative benefits that each Council will receive under the contract. Non-jointly incurred costs and other liabilities will be apportioned between each Council to the extent that they are attributable to that Council.

- 11.6 If the Lead Council enters into the contract on behalf of itself and the non-lead Council(s), then the Councils shall enter into a separate agreement to regulate the terms and conditions on which the non-lead Council(s) are to

purchase the service, supply or works directly from the Lead Council and agree their respective contributions when dealing with any liability or any other issues such as cost overruns.

12. VARIATIONS OF AGREEMENT

- 12.1 Any Council may request a variation to this Agreement by making such a request in writing to SLT. This does not include variations to Schedule 1 which are agreed on an annual basis by SLT and the Section 151 Officer.
- 12.2 SLT shall circulate the request to each of the Councils for consideration and approval.
- 12.3 If all of the Councils approve the variation then SLT shall arrange for the preparation of an appropriate Deed of Variation to this Agreement to be prepared for execution by the Councils and such change shall only take effect upon completion of that Deed.
- 12.4 If one Council does not approve the variation then the variation to this Agreement shall not occur.

13. TERMINATION AND WITHDRAWAL

- 13.1 The Councils agree that this Agreement or any part of it may be terminated at any time upon terms agreed by all Councils.
- 13.2 One Council may also unilaterally withdraw from this Agreement in accordance with the following procedure:
 - 13.2.1 The Council which wishes to withdraw from this Agreement shall give not less than twelve months written notice to the other Council(s) and to SLT of its intention to do so. SLT shall consult the Council(s) upon which such notice has been served and agree the date of withdrawal and an exit strategy.
- 13.3 Where one Council serves notice of withdrawal in accordance with clause 13.2, the Council serving notice shall be liable:
 - 13.3.1 for all the reasonable costs and liabilities associated with the serving of notice unless the Councils otherwise agree; and
 - 13.3.2 to honour its share of any contractual obligations entered into as part of the collaboration under this Agreement prior to the end of the notice period; and
 - 13.3.3 for all other contributions due from it to the other Council(s) in respect of the collaboration during the notice period.

- 13.4 Any payment in respect of a Council's obligations under clause 13.3 shall be liable for payment within three months of the Councils agreeing the amount or amounts due, or within such other period as may be agreed between the Councils.
- 13.5 Notwithstanding termination of this Agreement or withdrawal by one or more Council(s) the Councils agree to:
- 13.5.1 co-operate in terminating, modifying, restructuring, assigning or novating contractual arrangements entered into to mutual advantage and to execute any documents necessary;
- 13.5.2 use best endeavours to secure an amicable financial settlement;
- 13.5.3 immediately transfer or return any property including data belonging to the other Council(s);
- 13.5.4 ensure that each Council is allocated a fair and reasonable proportion of Employees and the members of SLT.

14. DISPUTE RESOLUTION

- 14.1 The Councils undertake and agree to pursue a positive approach towards dispute resolution which seeks (in the context of this joint working arrangement) to identify a solution at the lowest operational level that is appropriate to the subject of the dispute and which avoids legal proceedings and maintains a strong working relationship between the Councils.
- 14.2 In the event of any dispute or disagreement arising out of or in connection with this Agreement or any breach thereof ("a Dispute") a Council may serve notice upon the other(s) setting out brief details of the Dispute that has arisen ("Notice of Dispute") and the Notice of Dispute shall in the first instance be considered by SLT, which shall, acting in good faith, attempt to resolve such dispute.
- 14.3 Where SLT is unable to resolve such Dispute, or where in the opinion of SLT such Dispute would be more effectively resolved in another forum, SLT may refer such dispute to the following bodies/forums (listed in order of referral) until such Dispute is resolved:
- 14.3.1 A meeting of the Joint Head of Paid Service and leaders of each of the Councils;
- 14.3.2 A mediator appointed by the Councils.
- 14.4 The Councils shall bear their own costs incurred in relation to the mediation.

- 14.5 If the dispute is not resolved within 40 days of referral of the Dispute to mediation either Council may (by service of a written notice on the other Council) refer the dispute to an arbitrator to be agreed between the Councils. In the absence of agreement the arbitrator shall be nominated by the President for the time being of the Chartered Institute of Arbitrators.
- 14.6 The arbitrator's decision shall be final and binding on the Councils. The costs of the arbitration shall be paid as directed by the arbitrator.

15. NOTICES

Any demand, notice or other communication given in connection with or required by this Agreement shall be made in writing and shall be delivered to, or sent by pre-paid first class post to, the recipient at the address stated at the beginning of this Agreement or as stated in any Deed of Adherence (or such other address as may be notified in writing from time to time).

16. INFORMATION AND CONFIDENTIALITY

- 16.1 Subject to clause 19, the Councils each undertake to the other Council(s) that they shall not, save in the proper performance of their respective obligations under this Agreement, or in accordance with their legal obligations, without the prior consent of the other Council(s), disclose to any person any confidential information.
- 16.2 The obligation in clause 16.1 above shall not apply to any information which is in or enters into the public domain otherwise in breach of any undertaking of confidentiality or which the Council is obliged to disclose for the purpose of discharging their functions or pursuant to any legal obligation.

17. DATA PROTECTION

- 17.1 The Councils shall at all times comply with the DPA, including maintaining a valid and up to date registration or notification under the DPA covering any data processing to be performed in connection with this Agreement and their responsibilities as data processors and or data/controllers.
- 17.2 The Councils shall only undertake processing of Personal Data reasonably required in connection with the operation of this Agreement.
- 17.3 The Councils shall not disclose any Personal Data to any third parties other than:
- 17.3.1 in response to a data subject access request;
 - 17.3.2 to Employees and contractors to whom such disclosure is necessary in order to comply with their obligations under this Agreement; or

17.3.3 to the extent required to comply with a legal obligation.

18. INTELLECTUAL PROPERTY

All intellectual property in any material created under this Agreement for both Councils shall be owned jointly by the Councils and shall be available equally to each Council.

19. FREEDOM OF INFORMATION

19.1 The Councils acknowledge that they are both subject to the provisions of FOI Legislation and each shall where reasonable assist and co-operate with the other (at their own expense) to enable the other to comply with these information disclosure requirements.

19.2 If one of the Councils receives an Information Request under FOI Legislation it shall be for that Council to decide if such information shall be disclosed and having acted reasonably and decided it is a matter of law obliged to disclose, the Council shall be entitled to disclose the information. The Council shall use its reasonable endeavours to consult the other Council if they are affected.

20. EQUAL OPPORTUNITIES

Each Council is subject to public law duties under equalities legislation and agrees to operate this Agreement in such a way as to promote equality of opportunity, good race relations and to prevent unlawful discrimination on the grounds of race, disability, gender, age, religion or belief and sexual orientation.

21. SEVERABILITY

21.1 If at any time any clause or part of a clause or schedule or part of a schedule is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable in any respect:

21.1.1 that shall not affect or impair the legality, validity or enforceability of any other provision of this Agreement;

21.1.2 the Councils shall in good faith amend this Agreement to reflect as nearly as possible the spirit and intention behind that illegal, invalid or unenforceable provision to the extent that such spirit and intention is consistent with the laws of that jurisdiction and so that the amended Agreement complies with the laws of that jurisdiction.

22. RELATIONSHIP OF COUNCILS

Each of the Councils is an independent local authority and nothing contained in this Agreement shall be construed to imply that there is any relationship between the Councils of partnership of principal/agent or of employer/employee. Neither Council shall have any right or authority to act on behalf of the other Council not to bind the other Council by contract or otherwise except to the extent expressly permitted by the terms of this Agreement.

23. THIRD PARTY RIGHTS

The Councils agree that they do not intend that any third party which may benefit from this Agreement shall have any rights of enforcement under the terms of the Contracts (Rights of Third Parties) Act 1999.

24. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with English law and each Council agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

This Agreement has been executed as a Deed and is delivered on the date stated at the beginning of it

The Common Seal of **SOUTH HAMS**)
DISTRICT COUNCIL was hereunto affixed)
in the presence of:)

Authorised Signatory

Authorised Signatory

The Common Seal of **WEST DEVON**)
BOROUGH COUNCIL was hereunto affixed)
in the presence of:)

Authorised Signatory

Authorised Signatory

Draft

Schedule 1 Agreed Contributions

Schedule 1

This Schedule sets out the methodology by which a Shared Officer's time is calculated to be spent on the functions of each Council. This Schedule will determine the proportion split of employing costs for a Shared Officer that each Council will pay. It will also determine the proportion split of any payment to be made in the event of a Shared Officer's redundancy where their employment is terminated as detailed in Section 5.5 of the agreement.

The methodology will be annually reviewed and agreed on an annual basis by the S151 Officer and the Senior Leadership Team

Detailed below are the 'cost drivers' which are used as a basis of calculating a shared officer's split of costs between each individual Council. These are audited by the Councils' external auditors on an annual basis when each Councils' Final Accounts are audited.

Senior Leadership Team

The SLT are to be recharged on a 50% SHDC 50% WDBC basis due to the strategic nature of the work carried out by SLT.

On an annual basis, SLT will review their individual time allocation spent on each Council's functions to conclude whether 50%/50% is reflective of actual delivery of service and strategic projects for each Council. If an adjustment is felt necessary to reflect where an individual member of SLT spent their time, the adjustment to vary from the 50%/50% split is to be agreed by the S151 Officer and the remainder of the SLT.

PA Support – follows the split of the SLT.

Customer First

Planning Community of Practice – based on time allocation data and other indicators such as planning applications and planning appeals

Environmental Health Community of Practice – based on time allocation data and caseload

Housing, Benefits and Revenues Community of Practice – mixture of splits to be used ranging from benefit caseload in each Council, number of households, number of businesses, number of appeals/tribunals and housing advice caseload etc.

Assets Community of Practice – based on time allocation data and other indicators such as the asset base held by each Council and the capital programme and asset strategy of each Council.

Customer Services – based on the number of telephone calls answered for each Council and time allocation.

Economy & Community Delivery – Based on time allocation

Commercial Services

On Street Car parking – Based on number of PCN's issued in each Council.

Operational Management – Environment - Based on time allocation for shared staff and other indicators determined from time to time by SLT

Operational Management – Waste - Based on time allocation for shared staff and other indicators determined from time to time by SLT

Strategy & Commissioning

Member Support and Development – Based on time allocation

Communications & Media – Based on time allocation

Elections – This is separate within each Council and no recharge is in place

Governance – Based on time allocation

Performance - Based on time allocation

Strategic Planning - Based on time allocation

Environment Specialist - Based on time allocation and other indicators determined by SLT

Support Services

Finance Community of Practice – based on time allocation data.

IT Community of Practice – based on time allocation data and other indicators such as the number of PC's being supported in each Council.

Legal Community of Practice - Based on time allocation data including information from the legal management system.

HR Community of Practice – based on various formulae including head count.

Service Processing – based on time allocation data and other indicators such as the number of debtors invoices raised, number of supplier payments made, number of payslips, number of bank transactions etc.

Customer Support (IT Helpdesk) – based on time allocation data and calls to the helpdesk and the number of PC's being supported in each Council

Design Team – recharged through job costing

Internal Audit – chargeable hours as per each Council's internal audit plan and time allocation

Schedule 2 Deed of Adherence

THIS DEED is made on [] 20[]

BY [] of [] (the "**Covenantor**") of the **Covenantor Address** in favour of the persons whose names are set out in the schedule to this deed and is SUPPLEMENTAL to the Collaboration Agreement dated [] made by (1) South Hams District Council, (2) West Devon Borough Council (the "**Collaboration Agreement**")

THIS DEED WITNESSES as follows:

1. The Covenantor confirms that it has been given and read a copy of the Collaboration Agreement and covenants with each person named in the schedule to this deed to perform and be bound by all the terms of the Collaboration Agreement, as if the Covenantor were a party to the Collaboration Agreement.

2. This deed is governed by the laws of England and Wales.

IN WITNESS WHEREOF this deed has been executed by the Covenantor and is intended to be and is hereby delivered on the date first above written to the parties to the Collaboration Agreement including those who have executed earlier deeds of adherence.

THE COMMON SEAL of
The Covenantor
was affixed to this deed
in the presence of:

.....
[Authorised signatory]

.....
[Authorised signatory]

Draft

NAME OF COMMITTEE	Council
DATE	17 February 2015
REPORT TITLE	Interim Delegation Scheme to Officers
REPORT OF	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To adopt an Interim Delegation Scheme to Officers during the transitional and implementation period to the new T18 officer structure.

Financial implications:

There are no financial implications arising from this report.

RECOMMENDATION:

That the Council:

- 1. adopts the Interim Delegation Scheme attached at Appendix 1**
- 2. delegates to the Executive Director of Strategy & Commissioning (Head of Paid Service) and the Monitoring Officer authority to amend the Delegation Scheme to ensure continuity during the implementation of the T18 structure.**

Officer contacts:

Catherine Bowen, Monitoring Officer (Catherine.Bowen@swdevon.gov.uk).

1. INTERIM DELEGATION SCHEME

- 1.1 At its Annual Meeting each year the Council formally adopts its Constitution for the forthcoming municipal year. The review and update of the Constitution is currently ongoing and the whole document (including changes to Governance arrangements) will be considered by the Audit Committee before adoption by the Council at the Annual Meeting in May.

- 1.2 In the meantime, there are significant staff changes taking place as part of the T18 implementation and transition, and it is necessary to adopt an interim delegation scheme to officers in order to ensure continuity of lawful decision-making.
- 1.3 The interim Delegation Scheme to Officers (attached at Appendix 1) is set out in two parts:
 - Amendments to the existing Delegation Scheme to delegate the current Heads of Service functions to Middle Managers or other appropriate officers, pending appointments to the new T18 posts
 - A new Delegation Scheme to Senior Officers appointed under the new structure
- 1.4 As the new officer structure develops, further changes are likely to be needed and authority is requested to delegate to the Executive Director of Strategy & Commissioning (Head of Paid Service) and the Monitoring Officer to make the necessary amendments to the Delegation Scheme to ensure that the Council is acting lawfully.

2. LEGAL IMPLICATIONS

- 2.1 The Local Government Act 2000 requires the Council to have (and to maintain) a Constitution, which includes a Delegation Scheme.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no direct financial implications to this report

4. RISK MANAGEMENT

- 4.1 The risk management implications are shown at the end of this report in the Strategic Risk Template:

5. OTHER CONSIDERATIONS

Corporate priorities engaged:	All
Considerations of equality and human rights:	None directly arising from this report
Biodiversity considerations:	None directly arising from this report
Sustainability considerations:	None directly arising from this report
Crime and disorder implications:	None directly arising from this report
Background papers:	The Constitution
Attachments	Appendix 1 – Interim Delegation Scheme

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	Fit for purpose Constitution	Failure to update the Delegation Scheme could lead to unlawful decisions being taken.	4	2	8	↔	The Council adopts an interim delegation scheme pending the adoption of the amended Constitution at the Annual Meeting.	Monitoring Officer

Direction of travel symbols ↓ ↑ ↔

Principles of Delegation

1. Section 101 of the Local Government Act 1972 provides that:
 - A Council may delegate its powers (except those incapable of delegation) to a committee or an officer
 - A Committee may delegate its powers to a sub-committee
 - A Committee may delegate its powers to an officer
 - Powers which have been delegated may be exercised by the delegating body.
- Under the Localism Act 2011 the Council has been given a general power of competence, enabling it to do anything that an individual might do. This is subject to certain qualifications.
2. Any delegation to a Committee or a Senior Officer shall be exercised in compliance with the Council's Constitution, any other policies or conditions imposed by the Council and with the law.
3. In making any decision regard shall be had to the Council's Priorities and principles of decision-making as set out in Article 6 of the Constitution.
4. A Senior Officer may nominate another named Officer to carry out any powers and duties which have been delegated to that Senior Officer.
5. If any officer to whom a function has been delegated is for any reason unable to act, or if the post of any such officer is vacant, the Head of Paid Service, or in his absence, the Executive Director (Service Delivery and Commercial Development) or Monitoring Officer may exercise the delegated power or nominate another named officer to carry out those duties.
6. In an emergency the Head of Paid Service is empowered to carry out any function of the Council.
7. Where officers are contemplating any action under delegated powers which is likely to have a significant impact in a particular area, they should also consult the Members for the appropriate Wards.
8. A delegated officer must ensure that s/he obtains appropriate advice from the Council's legal, financial and other specialist staff before action is taken.
9. The Monitoring Officer may make consequential amendments to the Delegation Scheme to reflect the re-designation of posts in any Service which affects the terms of the scheme.
10. The Monitoring Officer shall settle any points requiring interpretation or clarification in the practical application of this Delegation Scheme.

Delegation to Senior Officers

Matters reserved for Council or Committee

1. Subject to **urgent items** (see paragraph 2 below), the following matters shall be referred to the relevant Committee or Council, where appropriate.

Any matter which:

- (a) is strategic in nature (as determined by Senior Management Team); or
- (b) requires a new policy; or
- (c) requires an alteration to an existing policy (other than a minor amendment); or
- (d) would be contrary to the Policy Framework; or
- (e) involves expenditure, or a reduction in income, for which there is no sufficient budgetary provision; or
- (f) is an issue of principle as determined by Senior Management Team; or
- (g) in the opinion of the Head of Paid Service or Monitoring Officer, cannot in law or in accordance with the Constitution be decided by an Officer; or
- (h) upon which a Committee has requested a report; or
- (i) a Member has requested an item to be put on an agenda under Procedure Rules 12 and 13; or
- (j) in the opinion of the officer concerned, should be determined by a Committee; or
- (k) is reserved to the Planning & Licensing Committee.

Urgent Items

2. Matters of urgency, as determined by the Head of Paid Service (or in his absence another Senior Officer) shall be delegated to the relevant officer in consultation with the Chairman and Vice-Chairman of the appropriate Committee subject to a report being made to the next meeting of the appropriate Committee.

Authority for Officers to Act

3. **'Senior Officers'** includes for the time being: Executive Directors, Heads of Service, Group Managers (Level 2), Corporate Planning & Strategic Finance Lead (Level 2 / s151 Officer), Community of Practice Specialist Leads (Level 3) and Managers (Level 3) and Monitoring Officer.
4. All Senior Officers are appointed across both West Devon Borough Council and South Hams District Council, and in respect of West Devon Borough Council they shall have the following delegated authority. Please also cross-refer to the remit of the appropriate committee.
5. Throughout the Constitution references to:
 - Executive Directors shall include Executive Director of Strategy & Commissioning (HoPS) and Executive Director of Service Delivery & Commercial Development
 - Section 151 Officer and Chief Finance Officer shall include the Corporate Planning & Strategic Finance Lead and Community of Practice Specialist Lead (Finance) or their nominated Deputy
 - Heads of Services shall include Group Managers, Corporate Planning & Strategic Finance Lead, Community of Practice Specialist Leads and Level 3 Managers
 - Middle Managers shall include Community of Practice Specialist Leads and Level 3 Managers
4. Subject to those matters which are reserved for Committee (see paragraph 1 above) **all Senior Officers** shall be responsible and shall have **delegated authority** for the **day-to-day operation and management** of his/her Group/ service area and of the services and land for which s/he is responsible.
4. Any matter not reserved for Committee (i.e. any matter falling outside the criteria contained in paragraph 1 above) shall be regarded as falling within the day-to-day operation and management of the relevant department and shall be delegated to the appropriate Senior Officer and shall be exercised in accordance with the principles of delegation.
5. **All Senior Officers** are appointed across both West Devon Borough Council and South Hams District Council and shall have authority to:
 - issue written authorisation to individual officers to act as the Council's authorised officers in the performance of their statutory or other duties (provided that any written authority to enter upon the land or premises shall be in pursuance of a statutory power of entry or inspection)**
 - to nominate officers to deputise in their absence
 - call for and accept quotes and tenders within the Contract Procedure Rules

- to act as Proper Officer for their service

** to be recorded in a separate record held by the relevant Head of Service

- 5(a) In the absence of the Monitoring Officer or Head of Finance & Audit, any officer duly appointed by them to act as their deputy may exercise any of the powers or duties delegated to the Monitoring Officer or Head of Finance & Audit
6. Delegations to Senior Officers in respect of **financial matters** are set out in the Financial Procedure Rules (Part 4 (6) of the Constitution).
7. Delegations to Senior Officers in relation to the letting of **contracts** are set out in the Contract Procedure Rules (Part 4 (6) of the Constitution).
8. Delegations to Senior Officers in respect of **land and premises** are set out in the Financial Procedure Rules.
9. The **Council's Monitoring Officer / Community of Practice Specialist Lead (Legal)** shall be responsible for signing all the Council's Official Notices and other documents and for sealing Council documents (unless otherwise specifically delegated). In her absence, any other Solicitor employed by the Council (or South Hams District Council) may carry out these functions, or in their absence a Senior Officer.
10. All Heads of Service are responsible for considering and issuing a formal caution in respect of any matter for which the Head of Service is responsible. All Senior Officers are responsible for authorising, signing and issuing Notices and other documentation (save for legal proceedings) for those matters for which they have responsibility.
11. The Head of Paid Service shall be the Proper Officer for any function of the Council in the absence of any other appointment as specified within this Delegation Scheme.
12. Where the Council is required to institute or defend legal proceedings, authority must be first obtained from the Monitoring Officer.

Delegation to the Executive Director of Strategy & Commissioning (Head of Paid Service)

The **Executive Director of Strategy & Commissioning (Head of Paid Service)** shall have delegated authority for the following:

- Head of Paid Service functions
- Strategy & Commissioning, including overarching responsibility for the services, functions and roles of the following Community of Practice Leads and Managers (Level 3):
 - Community of Practice Lead Specialist – Communications and Media
 - Community of Practice Lead Specialist – Corporate Services

- Performance
- Governance
- Corporate planning
- Strategic finance
- Democratic support
- Elections
- External partnerships
- Transformation programme
- Safeguarding Children & Vulnerable Adults Officer
- Electoral Registration Officer and Returning Officer

Delegation to the Executive Director of Service Delivery & Commercial Development

The **Executive Director of Service Delivery & Commercial Development** shall have delegated authority for the following:

- all of the powers of the Head of Paid Service to act in his absence
- Service Delivery & Commercial Development, including overarching responsibility for:
 - Commercial Services
 - Customer Services
 - Support Services
- Transformation Programme
- Data Protection and Senior Information Risk Officer
- Deputy Electoral Registration Officer

Delegation to the Monitoring Officer

The Monitoring Officer shall have delegated authority for the following:

- Monitoring Officer issues (including those matters set out in Article 9)
- Standards
- Conduct of legal proceedings on behalf of the Council as its solicitor

Part 1: Delegation to the Heads of Service

The Council is undergoing a staff restructure during 2015 and during this process there may be an overlap of delegated responsibilities between:

- the posts currently designated in the 2014 Constitution as Heads of Service / Middle Managers and
- the new Group Managers (Level 2), Community of Practice Specialist Leads (Level 3) and Managers (Level 3).

until the Heads of Service and Middle Managers have left the Authority or taken up their new roles as set out in Part 2 below.

Delegation to the Head of Assets (Corporate Property Officer)

The **Head of Assets** (and following her departure the following **Middle Managers and Postholders**) shall have delegated authority for the following services and functions until such time as the new Group Managers (Level 2), Community of Practice Specialist Leads (Level 3) and Managers (Level 3) have been appointed and taken up the roles, services and functions set out in Part 2 of this Delegation Scheme.

- Building Control and Services: (Commercial Services Group Manager)
- Engineering (including drainage): (Engineering Manager)
- Facilities Management: (Estates Manager)
- Leisure & Recreation (to include leisure centres, outdoor sports, community parks and open spaces): (Natural Environment & Recreation Manager)
- Land and Property: (Estates Manager)
- Lower Ferry Dartmouth: (SHDC only) (Commercial Services Group Manager)
- Environmental initiatives, AONB and Countryside Recreation & Management: (Natural Environment & Recreation Manager)
- Cemeteries & burials : (Natural Environment & Recreation Manager)
- Tree and Hedge Legislation: (Development Manager and Natural Environment & Recreation Manager)
- Salcombe Harbour (SHDC only) (Commercial Services Group Manager)

Delegation to Head of Corporate Services

The following services functions of the **Head of Corporate Services** are delegated to the following officers until such time as the new Group Managers (Level 2), Community of Practice Specialist Leads (Level 3) and Managers (Level 3) have been appointed and taken up the roles, services and functions set out in Part 2 of this Delegation Scheme:

- Committee / Member Services: (Democratic Services Manager)
- Communications and Media: (Communications Manager)
- Elections: (Democratic Services Manager)
- Freedom of Information: (Democratic Services Manager)
- Ombudsman: (Customer Services Manager)
- Print Services & WD Post Room: (Democratic Services Manager)

Delegation to the Interim Support Services Group Manager

The **Interim Support Services Group Manager** shall have delegated authority for the following:

- Human Resources
- Legal
- Payroll
- Standards
- Finance
- Audit
- Customer Support
- Case Management
- Information and Communications Technology and Design

Delegation to Head of Environment Services

The **Head of Environment Services / Commercial Services Group Manager** shall have delegated authority for the following until such time as the new Group Managers (Level 2), Community of Practice Specialist Leads (Level 3) and Managers (Level 3) have been appointed and taken up the roles, services and functions set out in Part 2 of this Delegation Scheme:

- Car Parking and Civil Enforcement
- Dog fouling and stray dogs
- Grounds and Graveyard Maintenance
- Public Conveniences
- Recycling and Waste Collection
- Refuse & Vehicle Disposal
- Street Scene and enforcement (including litter and waste)

Delegation to Head of Environmental Health & Housing

The **Head of Environmental Health & Housing** (and following his departure the following **Middle Managers** and **Postholders**) shall have delegated authority for the following services and functions until such time as the new Group Managers (Level 2), Community of Practice Specialist Leads (Level 3) and Managers (Level 3) have been appointed and taken up the roles, services and functions set out in Part 2 of this Delegation Scheme.

- **Housing:** (Divisional Environmental Health Officer (Environmental Control (IL))
 - Strategy
 - Private Sector

- Enabling
- Grants / loans
- Home energy conservation
- **Community Safety and Antisocial behaviour:** (Divisional Environmental Health Officer (Environmental Control (IL))
- **Emergency Planning:** Divisional Environmental Health Officer (Environmental Control (IL))
- **Environmental Protection:** (those matters set out under the Community Services Committee remit): (Divisional Environmental Health Officer (Environmental Control (IL))
- **Food Safety:** (Divisional Environmental Health Officer (Environmental Control (IL))
- **Health & Safety:** (Divisional Environmental Health Officer (Environmental Control (IL))
- **Licensing:** (Licensing Officer)
- **Public Health:** (Divisional Environmental Health Officer (Environmental Control (IL))

The **Head of Environmental Health & Housing / Divisional Environmental Health Officer (Environmental Control)** to act as the **Proper Officer** in respect of the signing of all appointments and authorisations of authorised officers or Inspectors appointed under legislation relevant to environmental health, food safety, health and safety, housing and licensing and also the signing of authorisations of other persons to accompany authorised officers or Inspectors (including Consultants) and to be given discretion to specify which powers under the relevant legislation are to be exercised by particular authorised officers or Inspectors.

Delegation to Head of Finance & Audit

The **Head of Finance & Audit (Chief Finance Officer and s151 Officer) / Community of Practice Lead Specialist (Finance)** shall have delegated authority for the following:

- **Finance**
- **Audit**
- **Matters set out in the Financial Procedure Rules**
- to act as the **Proper Officer** relating to financial matters in the Local Government Act and Finance Acts.

Delegation to Head of ICT & Customer Services

The following services functions of the **Head of ICT & Customer Services** are delegated to the following officers until such time as the new Group Managers (Level 2), Community of Practice Specialist Leads (Level 3) and Managers (Level 3) have

been appointed and taken up the roles, services and functions set out in Part 2 of this Delegation Scheme:

- **Customer Services:** (Customer Services Manager)
- **Performance and Improvement:** (Customer Services Manager)
 - Performance
 - Projects
 - Corporate Priorities
 - Policy
- **Revenues and Benefits:** (Customer Services Manager)
 - Council Tax and Non-domestic Rates
 - Housing and Council Tax Benefit
- **Housing (homelessness, advice):** Housing Manager
- **Post Room (SH only):** (Customer Services Manager)

Delegation to the Head of Planning, Economy and Community

The following services functions of the **Head of Planning, Economy and Community** are delegated to the following officers until such time as the new Group Managers (Level 2), Community of Practice Specialist Leads (Level 3) and Managers (Level 3) have been appointed and taken up the roles, services and functions set out in Part 2 of this Delegation Scheme:

- **Children & Youth:** (Community Manager)
- **Arts, Community Grants & Transport:** (Community Manager)
- **Community Delivery** (Community Planning & Development, Connect Partnership (formerly LSP)): (Community Manager)
- **Assets of Community Value:** (Community Manager)
- **Conservation & Historic Buildings:** (Development Manager)
- **Corporate Planning:** (Community Manager)
- **Development Management and Enforcement & Prosecution** (as set out in the remit of the Planning & Licensing Committee):
- **Trees & Hedges legislation:** (Development Manager and Natural Environment & Recreation Manager)
- **Economic Prosperity** (regeneration, development and tourism): (Economy Manager)
- **Land Charges:** (Development Manager)
- **Strategic Planning** (Local Development Framework, Neighbourhood Planning, Planning & Development Policies): (Strategic Planning Manager)
- **Street Naming & Numbering:** (Development Manager)

Delegation to the Devon Building Control Partnership

To exercise on behalf of the Council such statutory duties or powers conferred on the Council by the following enactments and any enactments amending or replacing them and also any regulations, orders, bylaws and other subsidiary legislation made under the following enactments.

For the avoidance of doubt the functions conferred by this scheme of delegation shall include:

- (i) Appointment and/or authorisation of officers to exercise statutory functions.
- (ii) Undertaking of inspections, investigations, interviews, service of notices, notifications, consultation responses, and legal proceedings under the legislation applicable thereto set out below, and to exercise all other relevant powers, including powers of entry provided under such legislation.
- (iii) Determination of applications, service of notice, exercise of powers in default and recovery of expenses.
- (iv) The institution of legal proceedings including the issuing of formal cautions.
- (v) Exercise of powers of entry.
- (vi) The production and operation of a Scale of Building Regulation Charges that will comply with the Building (Local Authority Charges) Regulations 1998.
- (vii) Setting of fees and charges which it has discretion to levy.

List of Enactments

- The Building Act 1984 and regulations made under that Act, including the Building Regulations 1991 (as amended), the Building Regulations 2000 together with the Fire Precautions Act 1971
- Local Government (Miscellaneous Provisions) Act 1982
- Town Improvement Clauses Act 1847 and the Public Health Act 1925
- Town and Country Planning Act 1990
- The Fires Safety and Places of Sport Act 1987
- Licensing Act 1964
- Party Wall etc Act 1996
- The Building (Local Authority Charges) Regulations 1998
- The Building (Approved Inspectors etc) Regulations 1985 and The Building (Approved Inspectors etc) Regulations 2000

Note: the above list of enactments is also to include any subsequent amendments to the acts listed that are introduced.

Part 2

Delegation to Group Managers

Further details are set out under the Community of Practice Specialist Leads and Manager roles set out below. Please see attached structure plan.

Delegation to the Corporate Planning & Strategic Finance (s151) Lead

The **Corporate Planning and Strategic Finance Lead (s151 Officer)** shall have delegated authority for the following services and functions:

- Overarching responsibility for the services, functions and roles of the following Community of Practice Leads, Managers (Level 3) and service areas:
 - Community of Practice Lead Specialist – Environment Services
 - Community of Practice Lead Specialist – Recycling & Waste Resources
 - Corporate Planning & Policy
 - Community Delivery
 - Governance
 - Strategic finance
 - Strategic IT
 - Strategic Asset Management
 - Performance
 - Data analysis
 - Strategic contract management
 - Corporate Performance
- To act as the Council's s151 / Chief Finance Officer as the Proper Officer relating to financial matters in the Local Government Acts and Finance Acts
- Matters set out in the Council's Financial Procedure Rules for Head of Finance & Audit / s 151 / Chief Finance Officer

Delegation to the Commercial Services Group Manager

The **Commercial Services Group Manager** shall have delegated authority for the following services and functions:

- Responsibility and Management of the Commercial Services Group
- Overarching responsibility for the services, functions and roles of the following Managers and service areas (Level 3) (see below):
 - Operational Manager (Environment)
 - Operational Manager (Waste)
 - Building Control and Services
 - Areas of Outstanding Natural Beauty
 - Dartmouth Ferries

Delegation to the Customer First Group Manager

The **Customer First Group Manager** shall have delegated authority for the following services and functions:

- Responsibility and management of the Customer First Group
- Overarching responsibility for the services, functions and roles of the following Community of Practice and Managers (Level 3):
 - Community of Practice Lead Specialist – Planning
 - Community of Practice Lead Specialist – Environmental Health
 - Community of Practice Lead Specialist – Housing Benefits & Revenues
 - Community of Practice Lead Specialist – Assets

Delegation to the Support Services Group Manager

The **Support Services Group Manager** shall have delegated authority for the following services and functions:

- Responsibility and management of the Support Services Group
- Overarching responsibility for the services, functions and roles of the following Community of Practice Leads and Managers (Level 3):
 - Community of Practice Lead Specialist – Legal
 - Community of Practice Lead Specialist – Human Resources
 - Community of Practice Lead Specialist – Finance
 - Community of Practice Lead Specialist – Information Technology
 - Audit
 - Customer Support
 - Case Management and payroll
 - FOI
 - Ombudsman

Delegation to Community of Practice Specialist Leads and Level 3 Managers

Strategy and Commissioning Group

Community of Practice Lead Specialist – Communications and Media

The **Community of Practice Specialist Lead for Communications and Media** shall have delegated authority for the following:

- Communications (Internal and External)
- Communications Strategy
- Media and website management

Community of Practice Lead Specialist – Corporate Services

The **Community of Practice Specialist Lead for Corporate Services** shall have delegated authority for the following:

- Democratic Support Services

- Member Development
- Elections

Community of Practice Lead Specialist- Environment Services

The **Community of Practice Specialist Lead for Environment Services** shall have delegated authority for the following:

- Strategic responsibility for Environment Services including:
 - Building maintenance
 - Facilities management
 - Grounds maintenance
 - Cleansing services
 - Car Parking
 - Enforcement
 - Markets
 - Events management
 - Street Naming & Numbering
 - Land Charges

Community of Practice Lead Specialist - Recycling & Waste Resources

The **Community of Practice Specialist Lead for Recycling & Waste Resources** shall have delegated authority for the following:

- Strategic responsibly for recycling and waste services including:
 - Recycling
 - Waste collection
 - Commercial waste services
 - Transport and waste / recycling haulage
 - Health & Safety

Commercial Group Services

Operational Manager – Waste

The **Operational Manager (Waste)** shall have delegated authority for the following operational services and functions:

- Recycling
- Waste collection commercial waste services
- Marketing and service design
- Transport and waste / recycling haulage
- Health & safety

Operational Manager – Environment

The **Operational Manager (Environment)** shall have delegated authority for the following operational services and functions:

- Car parking
- Building maintenance
- Grounds maintenance
- Cleansing services
- Abandoned vehicles
- Environmental enforcement
- Areas of Outstanding Natural Beauty
- Markets
- Events management
- Ferry operation
- Stores
- Salcombe Harbour

Customer First Group

Community of Practice Lead Specialist – Assets

The **Community of Practice Specialist Lead for Assets** shall have delegated authority for the following:

- To be the Council's **Corporate Property Officer**
- **Estates** - to include:
 - In-house management of operational assets (facilities management)
 - Estates management
 - Valuations
 - Strategic Asset Management
- Matters set out in relation to Assets in the Council's Financial Procedure Rules (currently listed as assigned to the Head of Assets)
- **Engineering** - to include:
 - Engineering services – commercial
 - Civil engineering (drainage, flood, coastal and fluvial)
 - Asset Capital Programme Management
 - Development management consultancy
 - Coastal protection statutory functions
 - Flood Protection statutory functions
- **Natural Environment, Countryside and Leisure** – to include:
 - Policy and management of parks, green space, play area and outdoor sport
 - Grounds maintenance (client)
 - Tree and Hedge protection
 - Protected landscapes and landscape character
 - Biodiversity conservation and enhancement
 - Green infrastructure, 106 and community projects
 - Natural environment and Healthy Communities Partnerships

- Leisure Services
- Countryside services

Community of Practice Lead Specialist – Planning

The **Community of Practice Specialist Lead for Planning** shall have delegated authority for the following:

- **Strategic Planning:**
 - Local Plan and Local Development Framework
 - Infrastructure planning and delivery
 - Supporting neighbourhood planning
- **Development Management** (as set out in the Planning Committee remit):
 - Development management
 - Pre-application advice
 - Enforcement and Prosecution
 - Conservation and historic buildings
- **Economic Development:**
 - Regeneration
 - Development
 - Tourism
 - Business engagement
- **Housing enabling:**
 - Affordable housing
 - Specialist housing needs

Community of Practice Lead Specialist- Environmental Health

The **Community of Practice Specialist Lead for Environmental Health** shall have delegated authority for the following:

- **Environmental Protection and Licensing:**
 - Emergency planning
 - Contaminated land
 - Nuisance
 - Private water supplies
 - Licensing (licences, enforcement, advice)
 - Community Safety
 - Antisocial behaviour
- **Environmental Health – business:**
 - Food safety and enforcement
 - Inspections
 - Approved premises
 - Infectious disease control
 - Health and safety (regulatory)
 - Fatalities /accidents
 - Health and safety (internal functions /corporate liability)
 - Inspections / enforcement
- **Housing and Health**

- Private sector housing and enforcement
- Houses in multiple occupation
- Disabled facilities grants
- Private sector renewal – loans / grants
- Caravan sites
- Public Health / Health and well-being
- Fuel poverty
- Home energy conservation
- Empty homes
- Management of **out of hours service** (including homelessness and emergency planning)

The **Community of Practice Specialist Lead for Environmental Health** shall act as the **Proper Officer** in respect of the signing of all appointments and authorisations of authorised officers or Inspectors appointed under legislation relevant to environmental health, food safety, health and safety, housing and licensing and also the signing of authorisations of other persons to accompany authorised officers or Inspectors (including Consultants) and to be given discretion to specify which powers under the relevant legislation are to be exercised by particular authorised officers or Inspectors.

Community of Practice Lead Specialist - Housing, Benefits and Revenue

The **Community of Practice Specialist Lead for Housing, Benefits and Revenue** shall have delegated authority for the following:

- **Vulnerable customers:**
 - Identification and protection
- **Business rates:**
 - Collection and enforcement
 - Billing
 - Government submissions
 - Pool membership
 - Policy
- **Housing Benefit:**
 - Assessment of claims
 - Collection and recovery
 - Subsidy maximisation
 - Discretionary housing payments
- **Housing, Options & advice**
 - Prevention and homelessness
 - Choice based letting
 - LDWSF
 - Direct lets
- **Council tax and non domestic rates :**
 - Collection and enforcement
 - Billing
 - Government submissions

- Council tax reduction
- Exceptional hardship fund
- **Fraud:**
 - Maximising income
 - Recovery

Support Services group

Community of Practice Lead Specialist - Legal

The **Community of Practice Specialist Lead for Legal** shall have delegated authority for the following:

- Legal Services
- Monitoring Officer (see above)

Community of Practice Lead Specialist – Human Resources

The **Community of Practice Specialist Lead for Human Resources** shall have delegated authority for the following:

- Human Resources services
- Recruitment and resourcing
- Employee relations
- Employee Learning and Development
- Employment law

Community of Practice Lead Specialist - Finance

The **Community of Practice Specialist Lead for Finance** shall have delegated Authority for the following:

- Finance
- Budget setting (capital and revenue)
- Income and expenditure
- Financial Statements
- Investments, taxation and insurance
- Deputy section 151 officer functions
- In his/her absence, to act as the Council's s151 / Chief Finance Officer as the Proper Officer relating to financial matters in the Local Government Acts and Finance Acts
- Matters set out in the Council's Financial Procedure Rules for Head of Finance / 151 officer

Community of Practice Lead Specialist - ICT

The **Community of Practice Specialist Lead for ICT** shall have delegated authority for the following:

- ICT Services
- Infrastructure design and delivery
- Business systems design and delivery
- Information security management and delivery

WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	COUNCIL
DATE	17 FEBRUARY 2015
REPORT TITLE	APPOINTMENT OF ELECTORAL REGISTRATION OFFICER AND RETURNING OFFICER
REPORT OF	EXECUTIVE DIRECTOR (STRATEGY AND COMMISSIONING) AND HEAD OF PAID SERVICE
WARDS AFFECTED	ALL

Summary of report:

To seek the approval of the Council for the appointment of the Executive Director – Strategy and Commissioning as the Electoral Registration Officer and Returning Officer, in accordance with the Representation of the People Act 1983.

Financial implications:

There are no financial pressures arising from this report.

RECOMMENDATION

That the Council agree that, with immediate effect:-

1. The Executive Director – Strategy and Commissioning (Steve Jordan) be appointed as the Electoral Registration Officer and Returning Officer for West Devon Borough Council; and,
2. The Executive Director – Service Delivery and Commercial Development (Sophie Hosking) be appointed as the Deputy Electoral Registration Officer for West Devon Borough Council.

Officer contact:

Steve Jordan, Executive Director (Strategy & Commissioning) & Head of Paid Service; email: steve.jorden@swdevon.gov.uk

Lead Member contact:

Cllr Philip Sanders (Leader of Council) email: Cllr.Philip.Sanders@westdevon.gov.uk

1. BACKGROUND

- 1.1 Following recruitment of the new senior management team, in particular the arrival of new post holders for the two Executive Director roles, there is a need to appoint an Electoral Registration Officer and Returning Officer. It is both a

statutory and constitutional requirement for these positions, and the position of Deputy Electoral Registration Officer, to be appointed by full Council.

- 1.2 The main duties of the Electoral Registration Officer include the creation and maintenance of the registers of Electors. The statutory involvement of the post includes the provision of registers and absent voter lists for each polling station, as well as to candidates at the election and to the Returning Officer.
- 1.3 It is the duty of the Returning Officer to organise and conduct elections. As the roles are closely linked, for consistency, it is usual for the Electoral Registration Officer and the Returning Officer roles to be held by the same person, particularly as for UK Parliamentary Elections, the Electoral Registration Officer appointed for the Council automatically becomes the Acting Returning Officer.

2. ISSUES FOR CONSIDERATION

- 2.1 As part of shared services, recent practice has been to appoint one of the senior management team to undertake the role for both authorities.
- 2.2 Given the scale of the forthcoming elections (which involve Parliamentary, Borough wide and town/parish polls, in tandem with changes to the national electoral registration system, as well as ward boundary changes as a result of the review undertaken by the Local Government Boundary Commission for England), it is proposed that for 2015 to appoint one of the Executive Directors to the role in West Devon, with the other Executive Director similarly appointed in South Hams.

3. LEGAL IMPLICATIONS

- 3.1 A Returning Officer is required for a number of different types of elections; principally those held under the Representation of the People Act 1983. The intention is that this appointment would cover all elections and referendums managed by the Council following restructuring of the senior management team.
- 3.2 There is a separate statutory role of Electoral Registration Officer. The responsibilities of the role are set out in the Electoral Administration Act 2006. Unlike the Returning Officer, who can appoint deputies at election time, it is a requirement that the Council appoints a Deputy Electoral Registration Officer.

4. FINANCIAL IMPLICATIONS

- 4.1 The Returning Officer fees for external elections and referendums are set by regulations and are funded externally.

5. RISK MANAGEMENT

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

6. OTHER CONSIDERATIONS

Corporate priorities engaged:	None, directly relevant to this report
Statutory Powers:	Local Government Act 2000 Representation of the People Act 1983
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; Previous reports appointing the Electoral Registration Officer and Returning Officer (e.g. Council meeting in February 2014)
Appendices attached:	None

The risk management implications are:

STRATEGIC RISKS

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	Workload for a newly appointed 'shared' Electoral Registration Officer and Returning Officer. A shared appointment would follow current practice to reflect the wider joint arrangements.	There is a great deal of work required as there are three polls in May 2015. In addition there are significant changes in relation to national requirements for electoral registration, as well as changes to the boundaries of wards following the recent Local Government Boundary Commission for England's review.	5	2	10	↔	For 2015 revert to separate roles for each Council.	Head of Paid Service
2	Separate appointments will enable the new appointees to be 'on the ground' in both Councils.	Significant risks can arise leading up to and during a complex election as the ones scheduled for May 2015. A shared Returning Officer may be in the wrong place at the wrong time.	5	2	10	↔	For 2015 revert to separate roles for each Council.	Head of Paid Service

Page 102

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

Direction of travel symbols = ↓ ↑ ↔

NAME OF COMMITTEE	Council
DATE	17 February 2015
REPORT TITLE	APPOINTMENT OF A NEW INDEPENDENT REMUNERATION PANEL
Report of	The Democratic Services Manager
WARDS AFFECTED	All

Summary of report:

To consider a report that seeks Council approval to appoint a new Independent Remuneration Panel and that endorses the next Review being undertaken before the May 2015 local elections.

Financial implications:

None directly arising from this report.

RECOMMENDATION:

That Council **RESOLVES** that:

1. with immediate effect, the proposed appointments (as outlined at paragraph 2.3 of the presented agenda report) be made to the Independent Remuneration Panel; and,
2. the next review of the Scheme of Members' Allowances be completed before the new Council is elected in May 2015.

Officer contact:

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

Lead Member contact:

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

1. BACKGROUND

- 1.1 The Council is required by legislation to appoint an Independent Remuneration Panel to make recommendations in relation to its Scheme of Members' Allowances.

- 1.2 Members will recall that, when the Council agreed at its special meeting on 24 June 2014 a revised Scheme of Members Allowances (Minute CM 24 refers), it also noted that the existing Panel Members had each given notice that they were not willing to serve beyond the end of 2014, except in a consultative capacity.

2. ISSUES FOR CONSIDERATION

Panel Membership

- 2.1 Once the Panel had served notice of its intention to stand down, informal soundings were taken from the Group Leaders with regard to the future composition of the Panel. In so doing, there was broad support for a Panel to be established comprising of four representatives.
- 2.2 To ensure a broad cross-section of skills and knowledge, there was also a general consensus that the Panel should have some expertise in the following areas: Members' allowances, local government, the business and commercial sector and the community and voluntary sector.
- 2.3 Using this guidance, potential Panel representatives have been approached and the following individuals have confirmed their willingness to serve on the Panel:-
- Independent Representative: Don Latham – advisor specialising in the field of Members' allowances and the proposed Chairman of the Panel;
 - Town and Parish Council Representative: Marshall Davis – serving Buckland Monachorum Parish Councillor;
 - Commercial and Business Sector Representative: Simon Earland – Chairman of the West Devon Branch of the Federation of Small Businesses; and
 - Community and Voluntary Sector Representative: Karen Nolan – Chief Executive of West Devon Community and Voluntary Services (CVS).
- 2.4 Council approval is therefore sought for the confirmation of these appointments.
- ### **Next Review**
- 2.5 Since the revised governance arrangements were agreed by Council at its last meeting on 9 December 2014 (Minute CM 65 refers), the present Scheme of Members Allowances will not be fit for purpose following the May 2015 elections.
- 2.6 Group Leaders have therefore been contacted for an informal steer on whether they would prefer the next review to be undertaken before the May 2015 elections or during the late summer of 2015 (with any revisions then being backdated), thereby enabling the new decision-making structure a couple of months to settle down before any recommendations were made.
- 2.7 On balance, the majority view is that this review should be undertaken before May 2015, thus becoming effective in time for the newly elected Council. As a result, and since this is the last scheduled meeting of Council before May 2015, it will be necessary to convene a Special Council meeting either during late March or April to consider the recommendations of the new Panel.

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:	The Local Authorities (Members' Allowances)(England) Regulations 2003.
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:	The Council Constitution
Appendices attached:	None.

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	Time constraints in appointing a new Panel.	In the event of these recommendations not being supported, it will be almost impossible to have a new Panel established and able to conduct a review in time for a revised Scheme of Members' Allowances to be in place for the May 2015 local elections.	3	1	3	↔	The Council approving these recommendations will enable officers to progress this piece of work promptly.	Democratic Services Manager

Page 106

Direction of travel symbols ↓ ↑ ↔

NAME OF COMMITTEE	Council
DATE	17 February 2015
REPORT TITLE	MEMBERS' MEETING ATTENDANCE STATISTICS
Report of	The Democratic Services Manager
WARDS AFFECTED	All

Summary of report:

To consider a report that presents the recommendations of the Member Group that was tasked with reviewing the subject of Members' attendance at public meetings of the Council and its Committees.

Financial implications:

There could be potential (but unquantifiable) savings arising from any Member voluntarily returning a proportion of their Basic Allowance.

RECOMMENDATION:

That Council **RESOLVES** that:

1. with immediate effect, the principle of publishing Members' meeting attendance statistics on the Council website on a quarterly and annual basis be agreed;
2. the meetings as outlined at paragraph 2.1 below be included on the published record, with an attendance threshold being set at 75% of those meetings to which a Member had been appointed;
3. the process for sanctions (as outlined at paragraph 2.6 below) be adopted to come into effect during the 2015/16 Municipal Year; and
4. the importance of Members appointed to Outside Bodies providing regular feedback to the Council be reinforced.

Officer contact:

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

Lead Member contact:

Cllr Robin Musgrave, Chairman of the Member Working Group (email: cllr.rob.musgrave@westdevon.gov.uk).

1. BACKGROUND

- 1.1 At the Council meeting on 9 December 2014, the following motion was proposed by Cllr Musgrave and seconded by Cllr Pearce:-

'That this Council agrees to publish Members' annual attendance of all public meetings of the Council on the Council's website and where a Member fails to attend at least 65% of all meetings of the bodies to which they have been appointed, then the matter will be considered by the Monitoring Officer who will consult with the relevant Chairman of the Standards Committee. Where there are no justified reasons for the absences, the Monitoring Officer will write to the Member and request that they return a clearly defined proportion of their basic allowance.'

- 1.2 Upon the conclusion of a detailed discussion, the following amended motion was put to the vote and was declared carried (Minute CM 60 refers):-

"That the Council agrees in principle to publish Members' annual attendance of all public meetings of the Council and its Committees on the Council's website. With regard to setting potential meeting attendance thresholds and any consequent sanctions, this issue should be deferred to the four Group Leaders (or their nominees) for further detailed discussion, with their recommendations then being presented back to the Council meeting on 17 February 2015."

- 1.3 Subsequent to this decision, Cllrs Baldwin, Musgrave, Sampson and Whitcomb were nominated to serve on the Working Group and a meeting was convened on 20 January 2015. The Monitoring Officer and Democratic Services Manager also attended this meeting in an advisory capacity. The agenda for this meeting was as follows:-

- Appointment of Group Chairman;
- Definition of meetings to be considered for inclusion;
- How and who monitors attendance (keeping admin to a minimum);
- Frequency and presentation of attendance summary;
- What constitutes an acceptable level of attendance; and
- Sanctions (if any).

2. ISSUES FOR CONSIDERATION

Definition of Meetings to be considered for inclusion

- 2.1 The Working Group felt that attendance at the following meetings should be included on the published record:-

- Council;
- Resources Committee;
- Community Services Committee;
- Overview and Scrutiny Committee.
- Planning and Licensing Committee.
- Audit Committee;
- Standards Committee; and

It was recognised that this list would need to be amended accordingly to reflect the revised Governance arrangements post May 2015 and that attendance at these meetings in a substitute capacity should also be reflected in the statistics.

- 2.2 The Group proceeded to question the merits of whether or not attendance at meetings of Outside Bodies should be included. In conclusion, the Group felt that these should not be included, but it did wish to formally reinforce the importance of Members providing feedback arising from Outside Bodies meetings (to which they had been appointed) to the wider membership via the Members' Bulletin.

How and Who Monitors Attendance (keeping admin to a minimum)

- 2.3 Officers confirmed that this piece of work could be absorbed by the Member Services team and the consequent resource implications would be manageable.

Frequency and Presentation of Attendance Summary

- 2.4 The Group felt it reasonable for the statistics to be published on the website quarterly (on a rolling basis), with the annual record then published in conjunction with the annual requirement to publish the total allowances which had been claimed by each individual Member.

What Constitutes an Acceptable Level of Attendance?

- 2.5 The Group considered the merits of a number of potential attendance target levels and concluded that the threshold of an 'acceptable level of attendance' should be set at 75% of those meetings (defined at paragraph 2.1 above) to which they had been appointed.

Sanctions (if any)

- 2.6 The Group wished to recommend the following process for potential sanctions:-

'If a Member fails to comply with the performance target whereby they should attend at least 75% of all public meetings of the Council and its Committees to which they have been appointed, then the matter will be considered by the Monitoring Officer, who will consult with the Chairman of the Standards Committee. Where there are no justified reasons for the performance target being missed, the Monitoring Officer will then write to the Member and request that they return a clearly defined proportion of their Basic Allowance.'

- 2.7 In relation to timing, the Group felt that, whilst the statistics for 2014/15 should be published on the website, the process for imposing sanctions should not be in place until the 2015/16 Municipal Year.
- 2.8 Once implemented, the Group was also of the view that the published record should include the names of any Members who have been invited to voluntarily return a proportion of their allowance and whether (or not) any monies had been subsequently returned.

2.9 In recommending these sanctions, the Group did recognise that, in accordance with legislation, the Council could only voluntarily request that a Member return a proportion of their Allowance. However, the Group did feel that the sanctions it was proposing would act as a sufficient deterrent to encourage any Member to comply with such a request.

Concluding Comments

2.10 Whilst the Group recognises that these statistics are a limited barometer of Member performance (e.g. they do not take account of Member casework within their wards or that some Members may be in full-time employment or have carer responsibilities), it is nonetheless acknowledged that there is an increased drive and emphasis upon elected Member performance, transparency and openness.

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:	None
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:	The Council Constitution
Appendices attached:	None.

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	Reputation of the Council and its Members	Poor attendance at public meetings of the Council and its Committees may impact upon the reputation of individual Members and the Council as a whole.	2	1	2 ↓	By introducing the practice of publishing attendance statistics on the Council website will result in an element of the performance of an elected Member being accessible to interested members of the public.	Democratic Services Manager

Page 111

Direction of travel symbols ↓ ↑ ⇄

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NAME OF COMMITTEE	Council
DATE	17 February 2015
REPORT TITLE	Planning Obligation Thresholds
Report of	Affordable Housing Manager and Natural Environment and Recreation Manager and Development Manager
WARDS AFFECTED	All

Summary of report:

This report responds to a change in government policy on the use of S.106 obligations introduced through a Ministerial Statement published on the 28th of November 2014. The policy states that affordable housing and tariff-style contributions should not be sought on developments of 10 houses or less. A lower threshold of five units or less may be adopted by certain Local Planning authorities; however, only off site commuted sum financial contributions may be sought on schemes of 6-10 units. Exception sites are not affected by the change.

In response to this new policy, it is proposed that the Council adopts an interim planning contributions threshold consistent with the Ministerial statement and updated National Planning Practice Guidance (NPPG). This interim threshold will be reviewed prior to the submission of the new Local Plan (Our Plan).

RECOMMENDATIONS:

The Council resolves that;

- I. The following thresholds for affordable housing are adopted in respect of new applications for planning permission;
 - a) In Tavistock and Okehampton (the towns), the Council will seek 'on site' provision of affordable housing on developments of 11 units or more unless the site lies within an Area of Outstanding Natural Beauty (AONB).
 - b) In the rural areas of West Devon and Areas of Outstanding Natural Beauty (AONB) (excluding Dartmoor National Park) , the Council will seek a financial contribution from developments of between 6 – 10 units and

'on site' provision of affordable housing on developments off 11 units or more.

- II. The following thresholds for tariff - style infrastructure are adopted in respect of new applications for planning permission;
 - a) In Tavistock and Okehampton (the towns), the Council will seek contributions on developments of 11 units or more unless the site lies within an Area of Outstanding Natural Beauty (AONB).
 - b) In the rural areas of West Devon and Areas of Outstanding Natural Beauty (AONB) (excluding Dartmoor National Park) , the Council will seek a financial contribution from developments of between 6 – 10 units and above.
- III. The interim threshold will be reviewed prior to the submission of the new Local Plan.

Officer contact:

Liam Reading – Affordable Housing Manager. Liam.reading@southhams.gov.uk
Tel: (01803) 861306

Malcolm Elliott – Development Manager – Malcolm.elliott@swdevon.gov.uk
Tel: (01803) 861442

Ross Kennerley – Natural Environment and Recreation Manager.
ross.kennerley@swdevon.gov.uk (01803) 861379

1. Introduction

- 1.1 The purpose of this report is to seek approval for new thresholds for Affordable Housing and other s.106 “tariff style” contributions consistent with updated National Planning Practice Guidance (NPPG). The other s.106 contributions that are considered to be “tariff style” may include certain contributions aimed at securing infrastructure improvements Borough wide.

2. BACKGROUND

Current Affordable Housing Policy

- 2.1 The Council adopted the LDF Core Strategy in 2011. The document established the Council’s planning policy for affordable housing including targets and thresholds above which affordable housing would be sought. The relevant policies are SP9 set out below.

Strategic Policy 9 - Meeting Housing Needs

Throughout the area of West Devon covered by this Core Strategy all housing development will be expected to contribute to meeting the targets for affordable housing set out below, subject to viability.

- *On sites of 1-4 dwellings, excluding wholly flatted developments, a 15% off site financial*
- *contribution per dwelling will be required;*
- *On sites of 5-9 dwellings, excluding wholly flatted developments, 25% of the dwellings on site should be affordable;*
- *On sites of 10 or more dwellings 40% of the dwellings on site should be affordable.*

When the affordable housing policy results in part of a dwelling, the part dwelling shall be provided as a financial contribution where this would not compromise the overall viability of the development.

Planning permissions will be subject to conditions or a planning obligation to ensure that the affordable housing remains affordable in perpetuity.

- 2.2 Since the introduction of the Core Strategy the Council has sought both 'on site' and 'off site' affordable housing provision consistent with the policy.

Current Community Services and Facilities Policy

- 2.3 The Council's adopted policy position on requiring Community Services and Facilities is established in the Core Strategy (2011) Strategic Policy 13. Since the introduction of the Core Strategy the Council has sought both 'on site' provision and 'off site' contributions consistent with the policy.

Strategic Policy 13 - Community Services and Facilities

Proposals to increase and enhance open space, recreation, leisure, cultural, health and education facilities will be supported where they will contribute to the wellbeing of a community and improve accessibility to services. Any new facilities or open space provision should be as well related as possible to the settlement, ensuring that they are designed so as to be fully accessible, taking into account a range of diverse needs and circumstances.

Existing services and community facilities should be retained where there is a continuing need.

The Council's Supplementary Planning Document 'Infrastructure & Community Facilities to Support New Development' (June 2007) applies a threshold of five dwellings below which contributions will not be sought (noting the different thresholds that apply to affordable housing).

The New National Threshold

2.4 On the 28th November 2014, the Government announced the introduction of a new national 10-unit threshold for affordable housing and other s.106 contributions. This policy was first mooted in the 2013 Autumn Statement and subsequently consulted upon in March 2014.

2.5 The policy was introduced through a Ministerial Statement and amendments to the National Planning Practice Guidance (NPPG), which supplements the National Planning Policy Framework (NPPF). The updated section of the NPPG entitled “Planning Obligations”. States that;

There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development.

- *contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm*
- *in designated rural areas, local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments. In addition, in a rural area where the lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development. This applies to rural areas described under section 157(1) of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty*
- *affordable housing and tariff-style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing home*

2.6 The guidance states that contributions should not be sought from developments of 10 units or less. It does however allow for a lower threshold to be introduced in certain circumstances, including in areas designated as rural under s.157 of the Housing Act 1985. West Devon falls within the rural areas designation and may therefore choose to adopt a lower threshold of 5 units in the rural areas. The designation does not however apply to the towns of Tavistock and Okehampton.

3. ISSUES FOR CONSIDERATION

Affordable Housing Contributions

3.1 This announcement is likely to have a range of implications for the delivery of housing. Over the past 3 years the Affordable Housing Team has secured approximately £420,000 in financial contributions from developments that under the new national thresholds would not be required to provide affordable housing. If the pattern of development remains the same in future years, the new national

thresholds could see the Council lose the opportunity to secure approximately £140,000 p.a. in contributions to support the provision of affordable housing.

Other Financial Contributions

- 3.2 Alongside Affordable Housing, officers have sought to secure financial contributions for Community Services and Facilities. Over the last three financial years this has secured approximately £50,000 for play, sport and community facilities projects, however this has been generated from schemes which are, in any case, over the 10 house proposed threshold for the towns. The only difference the new proposed thresholds will make will be to curtail the ability to take financial contributions for Community Services and Facilities from schemes of between 6 and 10 units in the towns.
- 3.3 Planning obligations and contributions can still be sought in order to make development acceptable. The statutory tests set out in the Community Infrastructure Levy Regulations 2010 for these obligations have not been changed and Councils will have to continue to demonstrate that the obligation is necessary, fair and reasonable and directly related to the development. The Council would wish to continue to secure this provision even where the contribution is used to fund infrastructure off site but within the Parish as it remains directly related to the development.
- 3.4 The NPPG describes tariff style obligations as those obligations which seek to secure a contribution to pooled funding 'pots' intended to provide common types of infrastructure for the wider area. The revised Guidance states that *"For sites where the threshold applies, planning obligations should not be sought to contribute to pooled funding 'pots' intended to fund the provision of general infrastructure in the wider area"* There is some uncertainty as to the circumstances in which the contributions normally secured by the Council for example in respect of community facilities, sport and recreation would be caught by this description and the Council is seeking further legal advice.

Issues / Implications

- 3.5 Careful consideration is necessary in order to establish how the Council should respond to this change and how planning applications to which this guidance relates should be determined. The issues arising include:-

a) Extant unimplemented permissions

Landowners with extant consents may seek to renegotiate the affordable housing and other financial obligations of completed s106 Agreements. In such cases there may be pressure to reconsider these obligations taking account of the new NPPG on thresholds, particularly if the Council amends the thresholds in accordance with the guidance. Enquiries are already being made but officers cannot indicate how many applications may be made.

The ability to renegotiate affordable housing obligations was introduced through Section 106BA of the 1990 Act (inserted by the Growth and

Infrastructure Act 2013). This amendment allows applications to be made to modify the affordable housing requirements of any Section 106 agreement regardless of when it was signed. This review must be based on economic viability and cannot take into account other aspects of the planning consent. It addresses affordable housing requirements only. This legislation has not been amended and nor has the NPPG with regard to this point. The change in Guidance relating to thresholds is not retrospective and therefore this renegotiation procedure remains the same.

However, in order to circumvent this, Landowners with an extant permission for a development which includes affordable housing and other financial obligations, either 'on site' or through a financial contribution, could submit a new application to effectively remove the obligation. This may lead to a number of additional applications coming forward.

Members therefore need to consider whether they wish to support a practice of allowing a variation of affordable housing obligations taking account of the revised NPPG on thresholds. Alternatively the Council may continue to require each application to modify a s.106 affordable housing obligation to be considered on its individual merits in accordance with Section 106BA, regardless of the revised NPPG on thresholds.

Officers view is that bearing in mind the legislation has not been amended and the value of contributions which are currently the subject of planning obligations is significant, the Council should not generally accept a change to the obligations unless the change is demonstrated to be necessary because the development would otherwise be economically unviable. The Council may however wish to adopt a pragmatic approach in relation to single dwelling applications and allow a variation of the affordable housing requirements. The justification for such an approach is to avoid the resubmission of a substantial number of planning applications for single dwelling developments.

b) Previously implemented permissions

There is the potential for applications to be made to cancel/remove contributions or obligations. Given that the government's aim is to bring forward development which was being held back by onerous planning obligations, it is considered that the new threshold policy should not be applied to schemes already built.

c) Thresholds

At the consultation stage the proposal was for a blanket 10 unit threshold. The opportunity to seek affordable housing from developments of 6-10 units in the rural areas therefore provides a welcome concession. However, when considered against the Council's adopted threshold of 1 dwelling, the reduced threshold falls well short of the existing position. Furthermore, the fact that sites of 6-10 units can only be required to provide a financial contribution does not guarantee the delivery of affordable housing where there is an identified

need. Provision 'on site' remains the most effective and efficient delivery mechanism.

The upper threshold applies to developments of 10 units or less, and which have a maximum combined gross floor space of no more than 1,000 square metres; it should be noted that there is no equivalent floor space threshold applicable to the five unit threshold proposed by CLG. On this basis, excessively large houses on schemes of five units or less may not be captured by the adoption of the lower threshold. Instead it is assumed that authorities will have to apply their own reasonable controls in terms of what is appropriate in respect of design and an effective and efficient use of land. Officers will seek further legal advice to establish whether a 500 square meter threshold may be applied to the 5 unit threshold.

d) Timing

The fact that financial contributions for schemes of 6-10 dwellings are not payable until after completion weakens the Council's ability to secure the contribution. Currently the Council requires payment of contributions up front but typically allows payment prior to occupation in recognition of viability issues associated with cash flow. The payment of contributions prior to occupation of the market dwellings avoids the risk of developer insolvency or the developer 'leaving site' without making payment as required. The Guidance suggests an approach as to how the contributions will be secured and officers will need to negotiate an appropriate s.106 mechanism which will mitigate the risk.

e) Loopholes

The use of arbitrary numerical thresholds can lead to loopholes which are open to exploitation in order to avoid payment of contributions. In the rural areas the most obvious risk will be a developer who splits a site into more than one planning application in order to avoid an affordable housing contribution. In the towns the risk is that developers will submit applications for schemes of 10 units where a site can reasonably provide more. A further loophole may be where a larger site in the same ownership comes forward in two phases with an under-threshold number of dwellings on each phase.

The Council should continue to take a robust approach on the assessment of sites and the most efficient use of land; there should be a clear position that proposals which are not an efficient use of land (i.e. lower density or split sites), should not be supported on the basis that they fail to deliver sustainable development. The Council will therefore continue to assess applications consistent with the approach set out in paras. 7.2 and 7.3 of the AH-DPD in order to prevent circumvention of site size thresholds.

Planning Policy Considerations

- 3.6 Department for Communities and Local Governmental (DCLG) officials have stated that the Written Ministerial Statement has the status of national planning

policy and ranks with the National Planning Policy Framework. This stance is one that is being debated nationally. It is the opinion of many within the legal profession that Guidance does not have the same weight as either Statute or indeed the NPPF. It has already been noted in this Report that there has been no amendment to Section 106 of the Town and Country Planning Act 1990 and the ability to enter into agreements remains unchanged. However, the Council cannot disregard the change in Guidance and would have to demonstrate in every case where it did not follow the Guidance that it was able to justify its position. In such circumstances It is not unreasonable to anticipate the Council being put to additional expense in the event of an appeal.

- 3.7 The Development Plan has primacy and Section 34 of the Planning & Compulsory Purchase Act 2004 requires decisions to be based upon development plan policies unless material planning considerations indicate otherwise. Despite the recent change in national policy, the Council is bound to continue to determine applications in line with its development plan, unless material planning considerations indicate otherwise.
- 3.8 Given the new national policy, the Council must consider how it will determine applications where the Development Plan would require the provision of affordable housing. A decision is required as to whether applications would be considered on a case by case basis, refused because affordable housing can no longer be required, or approved as market housing.
- 3.9 The Council may choose to continue to apply its existing adopted policies for the time being or adopt the new thresholds during the interim period prior to adopting a new Local Plan.

Current Legal Challenges

- 3.10 In considering the Council's position, Members should be aware of a legal challenge by two Berkshire Councils. Reading Borough Council and West Berkshire Council have jointly applied for a judicial review of the new policy. The Councils have served the claim including grounds of challenge on DCLG and as at 1st February are awaiting a response.
- 3.11 In addition to the above legal challenge, a Private Members Bill has been proposed and sponsored by Tim Fallon MP. The Bill is designed to give local planning authorities the power to determine the requirements for affordable housing contributions from sites of fewer than 10 units as part of planning obligation agreements under Section 106 of the Town and Country Planning Act 1990; and for connected purposes. This Bill was presented to Parliament on 9 September 2014 and is expected to have its second reading debate on 6 March 2015.

Options / Proposed Thresholds

- 3.12 The Ministerial Statement and revised guidance in the NPPG are material planning considerations and the Council must have regard to them in respect of planning applications where affordable housing or other contributions are sought. The intention of the Guidance is to enable development and to ensure that local authorities are not placing an undue burden on applicants, particularly in terms of viability. Were the Council to continue with its existing position it would need to demonstrate, with evidence in respect of every application, that local circumstances justified a different approach.
- 3.13 Given the suggested weight of the new guidance and the risks associated with an appeal, it is recommended that the Council adopt the new national threshold guidance.
- 3.14 It is unclear when the outcome of the legal challenge by Reading Borough Council and West Berkshire Council will be known. It seems sensible therefore to adopt the new thresholds on an interim basis. This approach provides the opportunity to review the position prior to adopting the new thresholds within the new local plan.

4. LEGAL IMPLICATIONS

- 4.1 The legal implications have been discussed in the report.

5. FINANCIAL

- 5.1 Implications include the potential loss of financial contributions from previously approved planning applications together with a loss of contributions from future planning applications which fall below the proposed new thresholds. The potential future loss arising from the new thresholds amounts to an estimated £140,000 p.a in respect of affordable housing. For other tariff style contributions there will no longer be an ability to require contributions for schemes in Tavistock and Okehampton between 6 and 10 units.

6. RISK MANAGEMENT

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

7. OTHER CONSIDERATIONS

Corporate priorities engaged:	Homes, Economy, Health and wellbeing.
Statutory powers:	
Considerations of equality and human rights:	None. This matter is assessed as part of each specific project.
Biodiversity considerations:	This matter is assessed as part of each specific project.
Sustainability considerations:	This matter is assessed as part of each specific project.
Crime and disorder implications:	None. This matter is assessed as part of each specific project.
Background papers:	Capital Programme Report, Executive 6 th December 2012.
Appendices attached:	None

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	Retaining existing thresholds	Should the Council decide to retain its existing threshold of 1 dwelling, there is a significant risk of appeal which may have financial implications.	4	3	12	↔	Any planning application which is determined in accordance with existing thresholds would need to demonstrate that it was able to justify its position.	Affordable Housing Manager Development Manager, Environment and Recreation Manager
2	Adopting new thresholds	The adoption of the new thresholds provides the opportunity to secure contributions from schemes of 6 – 10 units in the rural areas.	2	2	4	↔	Appropriate assessment of sites will be required to ensure new applications deliver an efficient use of land and are not phased or under developed in order to avoid the provision of financial contributions.	Affordable Housing Manager Development Manager, Environment and Recreation Manager

Page 123

Direction of travel symbols ↓ ↑ ↔

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WEST DEVON BOROUGH COUNCIL

NAME OF COMMITTEE	Council
DATE	17th February 2015
REPORT TITLE	Review of Parking Charges in Princetown Car Park
Report of	Street Scene Manager
WARDS AFFECTED	Lydford

Summary of report:

This report makes a recommendation in respect of the Pay & Display tariffs in Princetown car park.

This report comes before Council purely in order to ensure that correct procedure is followed in respect of the Councils Parking Orders. There are no service considerations for the borough.

Financial implications:

Costs of implementing an amendment to the Off-Street Parking Places Order will be met by Dartmoor National Park Authority.

There is likely to be a small increase in income received by the Borough Council but this is not quantifiable.

RECOMMENDATIONS:

It is recommended this Council resolve to implement the revised parking charges in Princetown car park, as detailed at paragraph 2.1.

Officer contact:

Cathy Aubertin, Street Scene Manager
Cathy.Aubertin@swdevon.gov.uk

1. BACKGROUND

- 1.1 Members will be aware that Princetown car park, although managed by Dartmoor National Park Authority, is included in West Devon Borough Council's Off-Street Parking Order.

- 1.2 This allows for Borough Council officers to undertake enforcement in the car park on behalf of the Park Authority, under a Service Level Agreement between the two authorities.
- 1.3 In addition, under the same Service Level Agreement, the Borough Council also manages:
 - the cash collection from the Pay & Display machines and banking of cash
 - the monitoring the Pay & Display machines
 - refilling the machines with Pay & Display tickets
 - the provision of statistical information to the Park Authority in respect of use of the car park.
- 1.4 The Borough Council benefits from this arrangement as, in return, it receives 20% of Pay & Display income, plus all Penalty Charge Notice income generated.

2. REVIEW OF PAY & DISPLAY TARIFFS

2.1 Dartmoor National Park Authority has undertaken a review of the Pay & Display charges and, as a result, wishes to amend them as follows:

Current charges

Class of vehicle	
Cars and motorcycles	£1.00 per day
Coaches or PSV's displaying a valid community disc etc	£1.00 per day
All other coaches and PSV's	£4.00 per day
Disabled persons vehicle displaying a valid Blue Badge	Free

Revised charges

Class of vehicle	Up to 3 hours	Over 3 hours
Cars and motorcycles	£1.00	£2.00
Coaches or PSV's displaying a valid community disc etc	£1.00	£2.00
All other coaches and PSV's	£4.00	£4.00
Disabled persons vehicle displaying a valid Blue Badge	Free	Free

2.2 As this is a Dartmoor National Park Authority car park, it is not necessary for West Devon Borough Council to consider the proposed tariffs. However, it is necessary for the issue to be resolved by the Council to allow the amendment to be made to the Parking Order.

3. LEGAL IMPLICATIONS

- 3.1 The Council has power to provide off-street parking under the Road Traffic Regulation Act 1984 (as amended).
- 3.2 The Council has the power to deal with the provision, management and control of car parks.

4. FINANCIAL IMPLICATIONS

- 4.1 Costs of implementing an amendment to the Off-Street Parking Places Order will be met by Dartmoor National Park Authority.
- 4.2 Due to the increase in parking tariffs, there is likely to be a small increase in income received by the Borough Council (20% of income in accordance with the Service Level Agreement) but this is not quantifiable.

5. RISK MANAGEMENT

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

Corporate priorities engaged:	Community well-being; Access to services; Towards excellence; Customer first
Statutory powers:	As stated in paragraph 3
Considerations of equality and human rights:	Not necessary
Biodiversity considerations:	None
Sustainability considerations:	None
Crime and disorder implications:	None
Background papers:	Report of the Head of Recreation, Access and Estates to the Dartmoor National Park Authority of 9 th January 2015
Appendices attached:	None

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	Loss of income	The increase in parking charges may result in motorists seeking to park elsewhere	3	1	3	↓	<p>On-street restrictions will limit this. DNPA to be kept informed, via statistical information, of the impact of the implementation of the new tariffs.</p> <p>New tariffs to be consulted on as part of the amendment to the Off-Street Parking Places Order</p>	C Aubertin

Direction of travel symbols ↓ ↑

NAME OF COMMITTEE	Council
DATE	17 February 2015
REPORT TITLE	Pay Policy Statement 2015/16
Report of	Lead Human Resources Business Partner
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:

That the Council adopts the attached pay policy statement for 2015/16

Officer contact:

Andy Wilson

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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 tackling 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:
 - Executive Directors (including Head of Paid Service)
 - Group Managers
 - Finance Community of Practice Lead Specialist (s151 Officer)
 - Legal Community of Practice Lead Specialist (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.

Executive Director and Group Manager Model

11. With effect from 1 January 2014, South Hams District Council and West Devon Borough Council agreed to adopt interim arrangements for an Executive Director model following the retirement of the Shared Chief Executive on 31 March 2014.
12. Following an internal selection process, appointments were made to two posts of Interim Executive Director. Following an external recruitment process, two permanent Executive Directors were appointed.
13. The Executive Director (Service Delivery and Commercial Development) was appointed with effect from 1 January 2015 and the Executive Director (Strategy and Commissioning) was appointed with effect from 2 February 2015.
14. The salary was agreed by the Council on the recommendation of the Leader after taking advice on comparable salary levels in other organisations. In addition, the Executive Director (Strategy and Commissioning) was appointed as Shared Head of Paid Service and receives an additional responsibility allowance.
15. As part of the Councils' Transformation Programme, a new senior leadership structure was approved by Full Council and following an external recruitment exercise three Group Managers were appointed. The Support Services Group Manager and Customer First Group Manager were appointed with effect from 2 March 2015 and following an internal appointment, the Commercial Services Group Manager appointment was effective from 1 January 2015.

16. Council have also agreed to the appointment of a Strategic Finance Group Manager. This post will take on the s151 responsibilities and will be a Level 2 role with a proposed maximum salary of £65,480pa. An appointment is expected to be made within the first quarter of the 2015/2016 financial year.

Remuneration for Chief Officers

17. 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.

18. 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.

19. 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.

20. 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), the Joint Negotiating Committee for Chief Officers (the JNC) or other relevant national negotiating body for each chief officer.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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 2015/16, all of

the Chief Officers are designated as casual car users and will not receive an essential car user lump sum allowance.

26. 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

27. 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

28. 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 Head of Paid Service and the median earnings of all employees
- Other specific aspects of relevant chief officer remuneration

29. Each year the published data will be reviewed by the Leader of the Council and if the multiplier between the highest 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.

30. 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.

31. 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

32. 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 Assessment methods.
33. 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 has developed its own job assessment technique that enables the direct comparison of jobs across the council in a fair, transparent and consistent way. For some jobs, the Council continues to use the Greater London Provincial Council Job Evaluation Scheme as a transitional measure until the jobs fall within scope of the new T18 operating model during 2015/2016 when the job assessment technique will be used.
34. 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. There was a 2.2% increase agreed with effect from January 2015.
35. The terms and conditions of employment for Executive Directors are in accordance with the Joint Negotiating Committee (JNC) for Chief Officers of Local Authorities. In 2014, there was a 2% pay award agreed by the JNC with effect from 1 January 2015.
36. 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.
37. 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.

38. 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.
39. 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.
40. 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.

Appendix A

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

Post	Salary (£)	Comments
Executive Director (Strategy and Commissioning) and Head of Paid Service	96,840	Appointed 2 February 2015 and including 2% increase from 1 January 2015
Executive Director (Service Delivery and Commercial Development)*	93,840	Appointed 1 January 2015 and including 2% increase from 1 January 2015
Support Services Group Manager*	65,480	Appointed 2 March 2015 and including 2.2% increase from 1 January 2015
Commercial Services Group Manager	63,998	Appointed 1 January 2015 and including 2.2% increase from 1 January 2015
Customer First Group Manager*	62,342	Appointed 2 March 2015 and including 2.2% increase from 1 January 2015
Monitoring Officer	49,774	The Officer in post is currently on a protected salary. The maximum salary for the Legal Community of Practice Lead Specialist is £45,136pa

Section 151 Officer	62,620	The Officer in post is currently on a protected salary. The maximum salary for the Finance Community of Practice Lead Specialist is £45,136pa
* employed by South Hams District Council		

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.

The total annual salary cost of the new shared Senior Leadership Team (SLT) at 1 April 2015 is £382,500. The SLT consists of the 2 Executive Directors and the 3 Group Managers but excludes the s151 and Monitoring Officer. This cost will rise to £447,908 on the appointment of the Strategic Finance Group Manager.

The total salary cost of the previous shared management structure across the two councils in 2010/11 was £1,277,812 pa. This was reduced following major organisational change in April 2011 and the adoption of the interim Executive Director model in January 2014 to, £612,340pa. This salary cost includes the Executive Directors and Heads of Service (including s151 Officer) but excludes the Monitoring Officer.

2. The full-time equivalent annual salary of the lowest paid employee is an Cleaner/Caretaker, paid in accordance with spinal column point 8 of the National Joint Council for Local Government Services pay spine, currently £13,871.
3. The annual median salary of all employees is £26,293.
4. The Head of Paid Service's salary is a pay multiple of 3.68 times the median earnings.
5. The Head of Paid Service's is a pay multiple of 6.98 times the lowest paid employee.

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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 **17th** day of **FEBRUARY 2015** at **4.30 PM** pursuant to Notice given and Summons duly served.

Present Cllr C M Marsh – The Mayor (In the Chair)

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

Head of Paid Service
Executive Director (Service Delivery & Commercial
Development)
Monitoring Officer
Democratic Services Manager
Section 151 Officer
Head of Devon Building Control Partnership

CM 72 APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs C Hall, L B Rose and D M Wilde.

CM 73 DECLARATIONS OF INTEREST

The Mayor invited Members to declare any interests in the items of business to be considered during the course of the meeting. These were recorded as follows:-

Cllrs S C Bailey, M V L Ewings, A F Leech, C M Marsh and E H Sherrell each declared a personal interest in Item 11: 'Leisure Service Procurement' (CM 79 refers). Cllrs Bailey, Ewings and Sherrell each declared their interest by virtue of being Tavistock Town Councillors. Cllr Leech declared his interest by virtue of being an Okehampton Town Councillor and Cllr Marsh declared her interest by virtue of being a member of the Okehampton Community Recreation Association (OCRA). Each of these Members remained in the meeting during consideration of this item and took part in the debate and vote thereon.

Cllr T G Pearce declared a personal interest in Item 21: 'Future Options for the Devon Building Control Partnership' (CM 89 refers) by virtue of being a Member of the Partnership and remained in the meeting and took part in the debate and vote thereon.

Cllrs K Ball, L J G Hockridge, J R McInnes, D E Moyse and R P Sanders each declared a personal interest in Item 18: 'Review of Parking Charges in Princetown Car Park' (CM 86 refers) by virtue of their representation on the Dartmoor National Park Authority and remained in the meeting and took part in the discussion and vote thereon.

CM 74 CONFIRMATION OF MINUTES

It was moved by Cllr P R Sanders, seconded by Cllr R E Baldwin 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 held on 9 December 2014 and the special meeting held on 20 January 2015 as a true record.”

For the purpose of the record, Cllr D K A Sellis asked for it to be recorded that she had submitted her apologies for the special meeting held on 20 January 2015 due to the meeting conflicting with other Borough Council business.

CM 75 COMMUNICATIONS FROM THE MAYOR

The Mayor wished to bring forward the following communications:-

- On behalf of the Council, the Mayor introduced and welcomed both the Head of Paid Service and the Executive Director – Service Delivery and Commercial Development to their first Council meetings since joining the Council;
- In respect of the inaugural Council Tax Resolution Panel meeting on Tuesday, 24 February 2015, the Council was informed that this meeting had been lawfully established to set the Council Tax for 2015/16. For clarity, the Mayor proceeded to inform that the Panel consisted of the four Group Leaders only, but any other Member of Council could attend and take part at this meeting if they so wished.
- With regard to her upcoming Civic Dinner, the Mayor reminded those Members who had yet to confirm their attendance at this event to do so as soon as was practically possible;
- The Mayor also made reference to an upcoming event at Ashbury Golf Club on Saturday, 7 March 2015. The Council was informed that the Tamar Valley Male Voice Choir was performing a charity concert at this event and tickets were still available.

CM 76 MOTIONS

The Mayor confirmed that no motions had been submitted for consideration at this meeting.

a. **Community Services Committee – 20 January 2015**

It was moved by Cllr R F D Sampson, seconded by Cllr K Ball and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 20 January 2015 meeting be received and noted, with the exception of the following Unstarred Minutes:”

In respect of the Unstarred Minutes:

i. **CS 16 – Introduction of Experimental Pay & Display Charges in Long Stay Car Parks in Okehampton and Tavistock**

The following recommendation, which differed from the recommendation which was agreed at the Community Services Committee meeting, was moved by Cllr R F D Sampson and seconded by Cllr K Ball:

‘It is recommended that the experimental Pay & Display charges in all long-stay car parks in Okehampton and Tavistock be implemented for a period of 12 months, with monthly reviews, which will ensure the close monitoring of the scheme. The recommended charge is one tariff of £2 for all-day parking in long-stay car parks, with an additional charge of 50p for half an hour in Mill Road car park.

It is further recommended that, for the duration of the experimental order, the Wharf car park be designated as a short-stay car park with a maximum stay of three hours. Short stay parking charges to remain consistent with current tariffs, i.e.

*½ hour - £0.50;
1 hour - £1.00;
2 hours - £1.80; and
3 hours - £2.20.’*

In discussion on the altered recommendation, a number of Members stated their concern at the original proposal which had been recommended by the Community Services Committee. However, the revised wording (which had been moved and seconded) had overcome each of their concerns in this regard and these Members were happy to put on record their support for this proposal. When put to the vote, this proposal was declared **CARRIED**.

ii. CS 17 – Consideration of objections received in respect of Coach Parking in Mill Road Car Park, Okehampton

It was moved by Cllr R F D Sampson, seconded by Cllr K Ball and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that:-

- 1) the provision of two coach parking bays in the Mill Road car park be formally approved and exempt from payment of a parking fee; and
- 2) the Off-Street Parking Places Order be so amended and advertised as such.”

b. Overview & Scrutiny Committee – 27 January 2015

It was moved by Cllr M V L Ewings, seconded by Cllr D E Moyse and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 27 January 2015 meeting be received and noted.”

c. Planning & Licensing Committee – 13 January 2015

It was moved by Cllr C M Marsh, seconded by Cllr M J R Benson and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 13 January 2015 meeting be received and noted.”

d. Resources Committee - 3 February 2015

It was moved by Cllr P R Sanders, seconded by Cllr R E Baldwin and upon being submitted to the Meeting was declared to be **CARRIED** and “**RESOLVED** that the Minutes of the 3 February 2015 meeting be received and noted, with the exception of the following Unstarred Minutes:”

In respect of the Unstarred Minutes:

i. RC 26 Revenue and Capital Budget Proposals for 2015/16 to 2018/19

The Council noted that this item would be considered later on in the agenda (Minute CM 78 below refers).

ii. RC 28 Our Plan – Annual Delivery Plan

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

1. the draft Annual Delivery Plan, as the Council’s Corporate Plan for 2015/16, be adopted; and
2. authority be delegated to the Community Manager to make minor grammatical and typographical changes to be document in order to finalise it for publication.”

CM 78 REVENUE AND CAPITAL BUDGET PROPOSALS FOR 2014/15 TO 2017/18

A report was considered that updated Members on the revenue budget position for the year 2015/16. In introducing the report, the Leader informed that it would be his intention to propose that the Council should increase Council Tax by 1.9%. To enable the debate, the recommendations were then moved by Cllr P R Sanders and seconded by Cllr R E Baldwin.

In the subsequent discussion, reference was made to:-

- (a) the proposal to increase Council Tax by 1.9%. Whilst a Member expressed his concern at the negative public perception associated with any increase in Council Tax, other Members countered that it was essential to build additional monies into the Council’s base budget;
- (b) the amount of New Homes Bonus (NHB) monies being used to bridge the Budget gap. Some Members highlighted the statement in the presented agenda report whereby, in the future, the savings generated by the Transformation Programme would result in the Council being able to reduce the extent to which NHB monies were used to fund the Council’s Revenue Budget. In hoping that this statement would be realised, these Members felt that the current trend of being so reliant upon NHB monies would be unsustainable in the future;
- (c) the work of the finance officers. A number of Members wished to put on record their gratitude for the hard work undertaken by the finance officers during the Budget setting process.

In accordance with statutory legislation, two recorded votes were then called for. The first recorded vote was called for on part 1 only of the recommendation, with the second recorded vote being called for on parts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the recommendation.

The voting on part 1 of the recommendation (i.e. that Council Tax should be increased by 1.9%) was recorded as follows:-

For the motion (27): Cllrs Bailey, Baldwin, Ball, Benson, Cann, Clish-Green, Cloke, Ewings, Hill, Hockridge, Horn, Leech, Marsh, McInnes, Moody, Morgan, Morse, Moyse, Musgrave, Oxborough, Pearce, Ridgers, Sampson, Sanders, Sellis, Sheldon and Whitcomb

Against the motion (1): Cllr Sherrell

Abstentions (0):

Absent (3): Cllrs Hall, Rose and Wilde

and the vote was therefore declared **CARRIED**.

The voting on parts 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the recommendation was recorded as follows:-

For the motion (27): Cllrs Bailey, Baldwin, Ball, Benson, Cann, Clish-Green, Cloke, Ewings, Hill, Hockridge, Horn, Leech, Marsh, McInnes, Moody, Morgan, Morse, Moyse, Musgrave, Oxborough, Pearce, Ridgers, Sampson, Sanders, Sellis, Sheldon and Whitcomb

Against the motion (1): Cllr Sherrell

Abstentions (0):

Absent (3): Cllrs Hall, Rose and Wilde

and the vote was therefore declared **CARRIED**.

It was then **“RESOLVED** that:

1. an increase in Council Tax of 1.9% be agreed (which equates to a Band D council tax of £208.39 for 2015/16, an increase of £3.89 per year or 7 pence per week). This option equates to a Council Tax requirement of £4,054,644 (Appendix B1 of the presented agenda report refers);

2. the financial pressures as outlined in Appendix A of the presented agenda report (equating to £484,400) be accepted;
3. the proposed savings of £148,700 as outlined in Appendix A of the presented agenda report be adopted;
4. the Collection Fund surplus of £60,589 be agreed;
5. an additional £567,710 of New Homes Bonus Grant be used to balance the 2015-16 Budget. (NOTE: this is in addition to the £657,059 of New Homes Bonus already built into the budget assumptions to be used for 2015-16);
6. the Total Net Expenditure of the Council for 2015/16 be £8,134,325 (Appendix B1 and B2 of the presented agenda report refers);
7. the 2015/16 Capital Programme projects totalling £451,000 (as per section 8.1 of the presented agenda report) be approved;
8. the 2015/16 Capital Programme of £451,000 be financed by using £212,000 of New Homes Bonus funding and £239,000 of Government Grant (as per section 8.1 of the presented agenda report);
9. the Council transfers £2,610 of its allocation of New Homes Bonus for 2015/16 to an Earmarked Reserve called 'Community Investment Fund – Dartmoor National Park', to be applied for and drawn down by Dartmoor National Park as required. (NOTE. 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);
10. the Council Tax Support Grant of £87,285 be passed on to Town and Parish Councils (this is a reduction of 15% from 2014/15) as per Appendix E of the presented agenda report;
11. the minimum level of the Unearmarked Revenue Reserves be maintained at £750,000 as per Section 7 of the presented agenda report; and
12. the level of reserves (as set out within the presented agenda report) and the assessment of their adequacy and the robustness of budget estimates be noted. (Note: this is a requirement of Part 2 of the Local Government Act 2003)."

CM 79

LEISURE SERVICE PROCUREMENT

A report was presented that summarised the strategic issues that the Council would need to consider as part of assessing future leisure provision, including the use of the leisure assets, following the end of the current contract in 2016.

In discussion, the following points were raised:-

- (a) Members recognised the importance of the proposed joint Leisure Services Board having its first meeting before the May 2015 local elections;
- (b) It was confirmed that the soft market testing would include reference to provision for a swimming pool at the Tavistock centre;
- (c) In expressing their support for these proposals, a number of Members wished for the immense work undertaken by officers to be recognised. Moreover, the view was expressed that these proposals were the best possible solution which was available to the Council at this time.

It was then proposed by Cllr R F D Sampson, seconded by Cllr K Ball and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that:

1. the objectives for future leisure services delivery (as set out in paragraph 1.5 of the presented agenda report) be agreed;
2. leisure services be offered as a joint contract for up to 25 years with South Hams District Council to include facilities (and options) as set out in paragraph 6.6 of the presented agenda report. This to include consideration of options for prudential borrowing and to retain an option for separate contracts if required;
3. a joint leisure services procurement exercise be agreed with South Hams District Council through the competitive dialogue process;
4. it be agreed that Repair and Maintenance obligations lie with the operator(s);
5. it be agreed that the procurement exercise include an option to assess local operation of the Parklands Leisure Centre at Okehampton. In addition, that local input to service delivery shall be secured through local participation in Annual Service Development Plans;
6. a joint Leisure Services Board be established with South Hams District Council based upon an agreed Joint Procurement Protocol. Membership to consist of nominated WDBC Members and comparable SHDC representation. In this respect, that detailed arrangements be delegated to the Natural Environment and Recreation Manager, in consultation with the Leader of the Council and the Chairman of the Community Services Committee. In addition, the Board will be supported by an officer working group;

7. agreement be given to a procurement preparation and evaluation exercise (to be timetabled as set out in paragraph 11.1 and Appendix 1 of the presented agenda report);
8. officers be instructed to appoint specialist leisure expertise (or other expertise as required) to support the procurement and evaluation of leisure services in accordance with procurement procedures and Financial Regulations;
9. officers also be instructed to conclude liaison with stakeholders and interested parties in order to refine third party details for inclusion in procurement;
10. detailed arrangements for procurement and evaluation be delegated to the Natural Environment and Recreation Manager, in consultation with the Leader of the Council, the Chairman of the Community Services Committee, Board Members and relevant local Ward Members (where there are location specific issues); and
11. a further report be presented to the Council on the outcome of the procurement exercise and tender evaluation setting out recommendations for future service arrangements.”

CM 80

COLLABORATION AGREEMENT

Members considered a report that presented a draft Collaboration Agreement between the Council and South Hams District Council to record the basis upon which the Councils would continue to collaborate together.

In introducing the report, the Leader clarified that reference in the draft agreement to: *'the unanimous consent of the Councils'* referred to each of the Councils involved in the Agreement and not the number of voting Members at each Council meeting.

In discussion, particular reference was made to:-

- (a) the shared services relationship with South Hams District Council. The Leader stressed that this recommendation was in no way whatsoever a stepping stone towards a fully fledged merger with South Hams District Council. In addition, the point was raised that the purpose of the report was to formalise the working relationship between the two authorities;
- (b) initial concerns being allayed. A Member commented that, before this meeting, the Executive Director (Service Delivery and Commercial Development) had been able to allay his initial concerns in relation to the recommendation and he was therefore now minded to vote in support of these proposals.

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

1. the Collaboration Agreement (as outlined at Appendix A of the presented agenda report) be agreed; and
2. the Executive Director (Service Delivery and Commercial Development) be given delegated authority, in consultation with the Leader of Council, to make any minor amendments to the Agreement to reflect the new structure, in accordance with the Transformation Programme.”

CM 81 INTERIM DELEGATION SCHEME TO OFFICERS

A report was considered that sought to adopt an interim Delegation Scheme to Officers during the transitional and implementation period of the new Transformation Programme.

In discussion, it was noted that, whilst the Interim Delegation Scheme would come into effect immediately, the remaining Parts of the Constitution would be presented to the Annual Council meeting in May.

It was then moved by Cllr P R Sanders, seconded by Cllr M V L Ewings and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that:

1. the interim Delegation Scheme (as attached at Appendix 1 of the presented agenda report) be adopted; and
2. authority be delegated to the Head of Paid Service and the Monitoring Officer to amend the Delegation Scheme to ensure continuity during the implementation of the T18 structure.”

CM 82 APPOINTMENT OF ELECTORAL REGISTRATION OFFICER AND RETURNING OFFICER

Consideration was given to a report that sought approval for the appointment of the Executive Director (Strategy and Commissioning) as the Electoral Registration Officer and the Returning Officer, in accordance with the Representation of the People Act 1983.

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

1. the Executive Director – Strategy and Commissioning (Steve Jordan) be appointed as the Electoral Registration Officer and Returning Officer for West Devon Borough Council; and

2. the Executive Director – Service Delivery and Commercial Development (Sophie Hosking) be appointed as the Deputy Electoral Registration Officer for West Devon Borough Council.”

CM 83

APPOINTMENT OF A NEW INDEPENDENT REMUNERATION PANEL

A report was considered that sought Council approval to appoint a new Independent Remuneration Panel and that endorsed the next Review being undertaken before May 2015.

In discussion, reference was made to:-

- (a) reviewing the Scheme before May 2015. On balance, a number of Members felt that, despite the new governance arrangements not taking effect until May 2015, it was appropriate for the new Council to inherit a revised Scheme upon its election. Whilst expressing this view, these Members also acknowledged that a further Review into the scheme would be required once the new governance arrangements had been given the opportunity to settle down;
- (b) additional cost implications arising from this Review. Whilst an additional £28,000 had been built into the Budget for Members Allowances, some Members felt that, unless absolutely impossible, the Review should result in a cost neutral outcome for the Council.

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

1. with immediate effect, the proposed appointments (as outlined at paragraph 2.3 of the presented agenda report) be made to the Independent Remuneration Panel; and
2. the next review of the Scheme of Members’ Allowances be completed before the new Council be elected in May 2015.”

CM 84

MEMBERS’ MEETING ATTENDANCE STATISTICS

Members considered a report that presented the recommendations of the Member Group that was tasked with reviewing the subject of Members’ attendance at public meetings of the Council and its Committees.

In discussion, the following points were raised:-

- (a) A Member requested that the published record should include an explanatory sentence for instances when Members had suffered a long term illness;
- (b) Since it would be so difficult to monitor attendance at Outside Bodies, it was proposed that these should not be included on the published record;

- (c) To also provide a more accurate record of Member attendance, it was agreed that, with effect from May 2015, minutes of the Council and its Committees should include the arrival and leave time of Members during each meeting;
- (d) Whilst a number of Members expressed their support for the principle of publishing attendance statistics on the website, they also had a number of reservations in respect of imposing sanctions on what was considered to be such a limited barometer of performance. A lengthy debate ensued on this matter, after which the majority of Members concluded that the Council should trial this proposal before then undertaking a review into the process in twelve months time.

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

1. with immediate effect, the principle of publishing Members’ meeting attendance statistics on the Council website on a quarterly and annual basis be agreed;
2. the meetings (as outlined at paragraph 2.1 of the presented agenda report) be included on the published record, with an attendance threshold being set at 75% of those meetings to which a Member had been appointed;
3. the process for sanctions (as outlined at paragraph 2.6 of the presented agenda report) be adopted to come into effect during the 2015/16 Municipal Year and be reviewed twelve months thereafter; and
4. the importance of Members appointed to Outside Bodies providing regular feedback to the Council be reinforced.”

CM 85

PLANNING OBLIGATIONS THRESHOLD

Consideration was given to a report that was produced in response to a change in government policy on the use of S106 obligations, which had been introduced through a Ministerial Statement published on 28 November 2014.

In introducing the report, the Leader informed of his intention to propose an additional recommendation whereby the Council should write a letter to the Department for Communities and Local Government and West Berkshire and Reading District Councils in support of their legal challenge.

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

1. the following thresholds for affordable housing be adopted in respect of new applications for planning permission:
 - a) In Tavistock and Okehampton (the towns), the Council will seek ‘on site’ provision of affordable housing on developments of 11 units or more unless the site lies within an Area of Outstanding Natural Beauty (AONB).
 - b) In the rural areas of West Devon and Areas of Outstanding Natural Beauty (AONB) (excluding Dartmoor National Park) , the Council will seek a financial contribution from developments of between 6 – 10 units and ‘on site’ provision of affordable housing on developments off 11 units or more.
2. the following thresholds for tariff - style infrastructure be adopted in respect of new applications for planning permission:
 - a) In Tavistock and Okehampton (the towns), the Council will seek contributions on developments of 11 units or more unless the site lies within an Area of Outstanding Natural Beauty (AONB).
 - b) In the rural areas of West Devon and Areas of Outstanding Natural Beauty (AONB) (excluding Dartmoor National Park), the Council will seek a financial contribution from developments of between 6 – 10 units and above.
3. the interim threshold be reviewed prior to the submission of the new Local Plan; and
4. That this authority writes a letter to the Department for Communities and Local Government and West Berkshire and Reading District Councils supporting their legal challenge.”

CM 86

REVIEW OF PARKING CHARGES IN PRINCETOWN CAR PARK

Members considered a report that made a recommendation in respect of the Pay and Display tariffs in Princetown Car Park.

It was agreed that Members would be notified once these changes had come into effect.

It was then moved by Cllr R F D Sampson, seconded by Cllr T G Pearce and upon being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the revised parking charges in Princetown Car Park (as detailed at paragraph 2.1 of the presented agenda report) be implemented.”

CM 87

PAY POLICY STATEMENT

Consideration was given to a report that set out the Council's statutory obligation to adopt a pay policy statement in accordance with the provisions of the Localism Act.

It was then moved by Cllr P R Sanders, seconded by Cllr R E Baldwin and upon being submitted to the Meeting was declared to be **CARRIED** and "**RESOLVED** that the pay policy statement for 2015/16 be adopted."

CM 88

PAYMENT OF COUNCILLOR EXPENSES

Part 6 of the Constitution (Members' Allowance Scheme), Paragraph 9.1 stated that "no payment can be made of any travel and subsistence claim made more than three months after the meeting for which the claim was made without the authority of Council in every case".

A request had been received from Cllr J B Moody for payment of expenses dating back to October 2014.

It was subsequently moved by Cllr R F D Sampson, seconded by Cllr P R Sanders and upon being submitted to the Meeting was declared to be **CARRIED** and "**RESOLVED** that payment could be made of the expense claims from Councillor J B Moody (backdated to October 2014)."

CM 89

THE FUTURE OPTIONS FOR THE DEVON BUILDING CONTROL PARTNERSHIP

It was moved by Cllr R F D Sampson, seconded by Cllr A Clish-Green and upon 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 discussion, the Head of Paid Service emphasised that the recommendation was only seeking approval to prepare a business case at this stage. Assuming that the recommendation was approved, a further report would be presented back to each Council and it would then be a matter for the partner authorities to see if they could agree upon the same solution as a way forward for the Partnership.

It was then proposed by Cllr T G Pearce, seconded by Cllr P R Sanders and upon being submitted to the meeting was declared to be **CARRIED** and **“RESOLVED** that agreement be given to the preparation of a detailed business case for the setting up of a Local Authority Trading Company (joint venture) and to explore the possibility of a joint venture with a private sector company.”

It was then proposed by Cllr R F D Sampson, seconded by Cllr M V L Ewings and upon the motion being submitted to the Meeting was declared to be **CARRIED** and **“RESOLVED** that the press and public be re-admitted to the meeting.”

CM 90

COMMON SEAL

A copy of the documents signed by the Mayor during the period from 2 December 2014 to 30 January 2015 was attached to the agenda (page 95 refers) and noted by the Meeting.

It was then moved by Cllr R F D Sampson, seconded by Cllr M V L Ewings and upon the motion being submitted to the Meeting was declared to be **CARRIED** and **”RESOLVED** that the Mayor and the Monitoring Officer (or deputies appointed by them) be authorised to witness the fixing of the seal on any documents for the forthcoming year”.

(The Meeting terminated at 7.15 pm)

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