

Taunton Deane Borough Council

Council Meeting - 24 February 2015

Part I

To deal with written questions to, and receive recommendations to the Council from, the Executive.

(i) Councillor Williams

(a) General Fund Revenue Estimates 2015/2016

(These recommendations need to be read in conjunction with the report submitted to the Executive on 5 February 2015 which includes all the details of the proposed General Fund Budget to reflect the proposed Council Tax Freeze.)

The Executive has considered its final 2015/2016 budget proposals which recognises the continuing financial challenges, with annual reductions in Government funding for Local Council services as the Government seeks to reduce the national deficit.

The 2015/2016 Budget has been prepared within the context of priorities identified by Members which are embedded in the Council's Corporate Business Plan.

The budget contains details on:-

- (i) the General Fund Revenue Budget proposals for 2015/2016, including a proposed Council Tax Freeze;
- (ii) draft figures on the predicted financial position of the Council for subsequent years.

The Corporate Scrutiny Committee considered the draft budget proposals at its meeting on 22 January 2015. Specific recommendations made by Members related to a request for further information in relation to public toilets and the process surrounding community asset transfers and arrangements with Town and Parish Councils and asking for the previous decision to remove the funding for the fixed-term Climate Change Officer role to be re-considered.

The Council Tax calculation and formal tax setting resolution is to be considered separately. The proposed budget for Taunton Deane contains a proposed Council Tax Freeze for 2015/2016 which will mean that the Band D Council Tax will remain at £137.88. The Band D taxpayer will, therefore, receive all the services provided by the Council in 2015/2016 at a cost of £2.64 per week.

The estimated Special Expenses chargeable to the non-parished area of Taunton in 2015/2016 amounts to £42,900, which represents a freeze in the special expenses

per Band D equivalent of £2.98 per property per year in the Unparished Area. In addition, the Unparished Area Budget had received a notional Council Tax Support Grant of £6,030 in 2015/2016 giving a total budget for the year of £48,930.

Although the Fees and Charges for 2015/2016 had been approved by Full Council on 9 December 2014, work has progressed on a number of representations raised in connection with some of the Taxi Licensing fees and some minor amendments were now considered appropriate. The overall impact on the budget was forecast to be a cost of £2,400 and this would be addressed through the Licensing Earmarked Reserve.

It is a requirement for the Council to prepare not only budgets for the following financial year but to also provide indicative figures into future years. The MTFP provides an indication of the expected budget gap going forward into 2015/2016 and beyond and a summary of this position is reflected in the following table:-

	2015/16 £k	2016/17 £k	2017/18 £k	2018/19 £k	2019/20 £k
Net Expenditure on Services	12,067	12,744	13,332	13,934	14,493
Other Operating Costs & Income	(287)	(278)	(268)	(258)	(247)
Parish precepts and Special expenses	574	575	576	577	578
Transfers to/from Earmarked Reserves	2,141	3,358	3,482	3,351	3,180
Transfers to/from General Reserves	0	0	0	0	0
Capital Financing Adjustments	(1,302)	(1,422)	(1,548)	(1,548)	(1,548)
Net Expenditure	13,193	14,977	15,574	16,056	16,456
<i>Financed By:</i>					
New Homes Bonus	(3,179)	(3,768)	(3,892)	(3,761)	(3,590)
Retained Business Rates	(2,749)	(2,869)	(2,972)	(3,035)	(3,122)
Revenue Support Grant	(1,916)	(1,319)	(726)	(327)	(114)
Council Tax Freeze Grant	(62)	0	0	0	0
Demand on Collection Fund - TDBC	(5,288)	(5,433)	(5,583)	(5,736)	(5,894)
Demand on Collection Fund - Parishes & SER	(574)	(575)	(576)	(577)	(578)
Previous Years Collection Fund Deficit Share - NNDR	710	0	0	0	0
Previous Years Collection Fund Surplus Share - Council Tax	(135)	0	0	0	0
Predicted Budget Gap	0	1,013	1,825	2,620	3,158

The above estimates include the following main assumptions related to funding:-

- The Revenue Support Grant for 2015/2016 is as set out in the Provisional Finance Settlement. It is then projected to diminish to nil by 2020/2021.
- The updated estimates for Business Rates funding for 2015/2016 took into account the cap on the Retail Price Index increase to Rates at 1.91%.
- Council Tax is assumed to be frozen in 2015/2016 and increases by 1.99% in

2016/2017.

It is proposed that the minimum acceptable reserves position should be retained at £1,500,000, or £1,250,000 if funds are allocated to 'invest to save' initiatives.

The current Budget for 2015/2016 will maintain reserves above this minimum, but following a number of allocations from reserves agreed during 2013/2014 there is limited 'headroom' in the current estimated balance. This will significantly limit the Council's ability to fund 'up front' service and transformation investment from revenue reserves.

Based on the MTFP position set out above the General Reserves forecast is summarised as follows:-

General Reserves Forecast

	2015/16 £k	2016/17 £k	2017/18 £k	2018/19 £k	2019/20 £k
Estimated Balance B/F	1,897	1,897	884	-942	-3,562
Predicted Budget Gap	0	-1,013	-1,825	-2,620	-3,158
Estimated Balance C/F	1,897	884	-942	-3,562	-6,721

Clearly the Council will need to ensure action is taken to ensure the projected financial deficit over the medium term is avoided and (at least) minimum balances are maintained. This is essential for the continuing financial resilience and sustainability of the Council. The Budget Proposals and Options presented for consideration provide opportunities to make significant progress towards addressing the financial challenge.

Before the start of each financial year, the Council is required to determine the basis on which it will make provision from revenue for the repayment of borrowing undertaken for the purpose of financing capital expenditure. This annual provision, known as Minimum Revenue Provision (MRP), is designed to ensure that authorities make prudent provision to cover the continuing costs of their borrowing.

The proposed Policy for 2015/2016 is for the calculation of MRP to be the same as the current year.

The Council's Section 151 Officer has a duty to comment, as part of the budget setting process on the robustness of the budget and the adequacy of reserves. In her response, Shirlene Adam has stated that she believes the Council's reserves to be adequate and the budget estimates used in preparing the 2015/2016 budget to be robust.

Equalities Impact Assessments as to the implication of the Budget proposals are undertaken when appropriate. However, it is considered that none are required for the savings proposals included in the budget.

It is therefore **recommended** that the budget for General Fund services for 2015/2016 as outlined in the report to the Executive be agreed and that:-

- (a) The Section 151 Officer's Statement of Robustness, which applies to the whole budget including General Fund, Housing Revenue Account and Capital Budget proposals be noted;
- (b) The General Fund Revenue Budget 2015/2016, including a Basic Council Tax Requirement budget of £5,287,500 and Special Expenses of £42,900 be approved;
- (c) The transfer of any unallocated year end under/overspend in the 2014/2015 General Fund Revenue Account Outturn to/from the General Fund Reserves be approved;
- (d) The Budget Savings Proposals for 2015/2016 as set out in the report to the Executive be approved and that it be noted that Equalities Impact Assessments are not required for the savings detailed in the report to the Executive;
- (e) The General Reserves position and Medium Term Financial Plan projections, and the continuing financial challenge to address the Budget Gap for future years be noted;
- (f) The Minimum Revenue Provision (MRP) Policy for 2015/2016 as set out in the report to the Executive be approved; and
- (g) The revised Taxi Licensing Fees, set out in the report to the Executive be also approved.

(b) Capital Programme Budget Estimates 2015/2016

(These recommendations need to be read in conjunction with the report submitted to the Executive on 5 February 2015 which includes all the details of the proposed Capital Programme.)

The Executive has also considered the proposed General Fund (GF) and Housing Revenue Account (HRA) Capital Programmes for 2015/2016.

In terms of the GF Capital Programme, a prioritisation system is used to assess bids received from budget holders using the following approved criteria:-

Priority	
1	Business Continuity (corporate / organisational)
2	Statutory Service Investment (to get to statutory minimum / contractual / continuity)
3	Growth (top 5)
4	Transformation
5	Others

The prioritisation system has been developed in order to ensure that the Council's very limited Capital Resources are channelled at key projects.

The proposed Draft General Fund Capital Programme for 2015/2016 totalled £1,012,000 split between Deane DLO schemes and General Fund Schemes.

In addition to these schemes which primarily deliver service continuity and improvements, the following table incorporates the highest priority 'Growth' schemes and their estimated total costs. It is not expected that the Council will be liable for the full amounts but it is anticipated that Taunton Deane will need to make a financial contribution towards these. The Council's strategy of setting aside the majority of the New Homes Bonus Grant could provide funding towards these schemes in future.

Bids Submitted for Growth Schemes

Project	Cost £k	Priority				
		1	2	3	4	5
Growth Schemes						
Firepool Infrastructure and Planning	3,500			3,500		
Toneway Corridor Improvements (including Creech Castle)	23,120			23,120		
J25 Improvements	9,240			9,240		
Taunton Strategic Flood Alleviation Work	15,000			15,000		
Total	50,860			50,860		

Funding for capital investment by the Council could come from a variety of sources including:-

- Capital Receipts;
- Grant Funding;
- Capital Contributions (for example from another Local Authority or Section 106 Agreement funding);
- Revenue budgets/reserves (often referred as RCCO – Revenue Contributions to Capital Outlay); and
- Borrowing.

The Capital Programme for 2015/2016 is fully funded through a combination of revenue contributions (DLO and General) plus grant funding provided via Somerset County Council. There is projected unallocated resources of £149,000, pending actual capital receipts arising, which will provide some flexibility to support future priority schemes.

As to the HRA, the proposed Draft Capital Programme for 2015/2016 totals £8,670,000. This is part of a Five-Year Capital Expenditure Estimate of some £40,340,000 for the period 2015/2016 to 2019/2020. The Programme reflects the priorities set out in the 30-Year Business Plan which is reviewed every year.

The following table shows the total draft high level Five-Year Programme estimated costs. This is in line with the current Business Plan, with a higher budget to Year 7

of the Business Plan (2018/2019). This is in recognition of the backlog of major works required which has been spread over this period.

Draft HRA Capital Programme Totals 2015/2016 to 2019/2020

	2015/16 £k	2016/17 £k	2017/18 £k	2018/19 £k	2019/20 £k	5-Year Total £k
Capital Programme	8,665	8,715	8,869	8,928	5,158	40,335

A breakdown of proposed Capital Programme for 2015/2016 is shown below highlighting the proposed capital investment requirements in the next budget year.

Draft HRA Capital Programme 2015/2016

Project	Total Cost £
Major Works	6,590,000
Improvements	155,000
Related Assets	125,000
Exceptional Extensive Works	260,000
Disabled Facilities Grants and Aids and Adaptations	435,000
IT Systems and Software Improvements	100,000
Social Housing Development Fund	1,000,000
Total Proposed HRA Capital Programme 2015/16	8,665,000

It is proposed that the HRA Capital Programme for 2015/2016 will be fully funded from revenue resources, including the Major Repairs Reserve, Revenue Contributions to Capital Outlay and the Social Housing Development Fund.

The Corporate Scrutiny Committee has considered the draft programmes and made no formal suggestions for any changes. The Tenants Services Management Board has also considered the draft Housing Capital Programme.

Equality Impact Assessments have been undertaken on the proposed budget items, where appropriate. Members are asked to take these assessments into account in confirming the recommended budget proposals for 2015/2016.

It is therefore **recommended** that:-

- (a) The additional General Fund Capital Programme Budget of £1,012,000 for 2015/2016 be approved; and
- (b) The Housing Revenue Account Capital Programme of £8,670,000 for 2015/2016 also be approved.

(c) Council Tax Setting 2015/2016

(These recommendations need to be read in conjunction with the report submitted to the Executive on 5 February 2015 which includes all the details of the proposed Capital Programme.)

The Localism Act 2011 has made significant changes to the Local Government Finance Act 1992, and now requires the billing authority to calculate a Council Tax requirement for the year.

The Town and Parish Council Precepts for 2015/2016 total £574,623. The increase in the average Band D Council Tax for Town and Parish Councils, including Special Expenses for the Unparished Area, is 3.41% and results in an average Band D Council Tax figure of £14.98 for 2015/2016.

The Avon and Somerset Constabulary Police and Crime Commissioner has recently announced a 1.99% increase. The confirmed precept is £6,702,560 which results in a Band D Council Tax of £174.78. The precept will be adjusted by a Collection Fund contribution of £151,312.

The Devon and Somerset Fire and Rescue Authority is due to approve its tax requirement on 20 February 2015. The estimated amount of precept reflects a 0% increase (subject to confirmation after this report is published) and has been set at £2,948,620, which results in a Band D Council Tax of £76.89. The Precept will be adjusted by a Collection Fund contribution of £66,565.

The Somerset County Council is due to approve its tax requirement on 18 February 2015. The amount of precept also includes a 0% increase (subject to confirmation after this report is published) and would be £39,395,457, which results in a Band D Council Tax of £1,027.30. The Precept will be adjusted by a Collection Fund contribution of £907,040.

The estimated balance on the Council Tax Collection Fund is forecast on 15 January each year. Any surplus or deficit is shared between the County Council, the Police and Crime Commissioner, the Fire Authority and Taunton Deane, in shares relative to the precept levels.

This year the estimated balance is a surplus of £1,259,450. Taunton Deane's share of this amounts to £134.533, and this has been reflected in the General Fund Revenue Estimates.

It is **recommended**:-

- (a) That the following formal Council Tax Resolution to reflect the proposed Council Tax Freeze in 2015/2016 be approved:-
 - (1) That it be noted that on 15 January 2015 the Council calculated the Council Tax Base for 2015/2016:-
 - (i) for the whole Council area as 38,348.55 [Item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended (the "Act"); and,

- (ii) for dwellings in those parts of its area to which a Parish precept related as in Appendix B below;
- (2) That the Council Tax requirement for the Council's own purposes for 2014/2015 (excluding Parish precepts) be calculated as £5,287,500;
- (3) That the following amounts be calculated for the year 2015/2016 in accordance with Sections 31 to 36 of the Act:-
- (i) £90,777,603 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Parish Councils. (*Gross Expenditure including amount required for working balance*)
- (ii) £84,915,480 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act. (*Gross Income including reserves to be used to meet Gross Expenditure*)
- (iii) £5,862,123 being the amount by which the aggregate at 3(a) above exceeds the aggregate at 3(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. (Item R in the formula in Section 31B of the Act). (*Total Demand on Collection Fund.*)
- (iv) £152.86 being the amount at 3(c) above (Item R), all divided by Item T (1(a) above), calculated by the Council, in accordance with Section 31B of the Act, as the basic amount of its Council Tax for the year (including Parish precepts). (*Council Tax at Band D for Borough Including Parish Precepts and Special Expenses*)
- (v) £574,623 being the aggregate amount of all special items (Parish precepts) referred to in Section 34(1) of the Act (as in Appendix B below). (*Parish Precepts and Special Expenses*).
- (vi) £137.88 being the amount at 3(d) above less the result given by dividing the amount at 3(e) above by Item T (1(a) above), calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates. (*Council Tax at Band D for Borough Excluding Parish Precepts and Special Expenses*);
- (4) To note that Somerset County Council, Avon and Somerset Police and Crime Commissioner and Devon and Somerset Fire Authority would issue precepts to the Council in accordance with Section 40 of the Local Government Finance Act 1992 for each category of dwellings in the Council's area;

- (5) That the Council, in accordance with Sections 30 and 36 of the Local Government Finance Act 1992, hereby sets the aggregate provisional amounts shown in the table in Appendix A to these Minutes as the amounts of Council Tax for 2015/2016 for each part of its area and for each category of dwellings;
- (6) To determine that the Council's basic amount of Council Tax for 2015/2016 was not excessive in accordance with principles approved under Section 52ZB Local Government Finance Act 1992; and
- (7) To note that if the above formal Council Tax Resolution was approved the total Band D Council Tax would be as follows:-

	2014/2015	2015/2016	Increase
	£	£	%
Taunton Deane Borough Council	137.88	137.88*	0.00%
Somerset County Council	1,027.30	1,027.30*	0.00%
Police and Crime Commissioner	171.37	174.78*	1.99%
Devon and Somerset Fire Authority	76.89	76.89*	0.00%
Sub-Total	1,413.44	1,416.85*	0.24%
Town and Parish Council (average)	14.49	14.98	3.41%
Total	1,427.93	1,431.83*	0.27%

* provisional figures

APPENDIX A

Valuation Bands								
Council Tax Schedule 2015/16	Band A £	Band B £	Band C £	Band D £	Band E £	Band F £	Band G £	Band H £
Taunton Deane Borough Council *	91.92	107.24	122.56	137.88	168.52	199.16	229.80	275.76
Somerset County Council *	684.87	799.01	913.16	1,027.30	1,255.59	1,483.88	1,712.17	2,054.60
Police and Crime Commissioner * Devon & Somerset Fire & Rescue Authority *	116.52	135.94	155.36	174.78	213.62	252.46	291.30	349.56
	51.26	59.80	68.35	76.89	93.98	111.06	128.15	153.78
Parish / Town only (a) *	9.99	11.65	13.32	14.98	18.31	21.64	24.97	29.97
Parish / Town & District (b) *	101.91	118.89	135.88	152.86	186.83	220.80	254.77	305.73
Total (c)	954.56	1,113.65	1,272.74	1,431.83	1,750.02	2,068.20	2,386.39	2,863.67
<u>Parish: **</u>								
Ash Priors	944.57	1,101.99	1,259.42	1,416.85	1,731.71	2,046.56	2,361.42	2,833.70
Ashbrittle	958.51	1,118.26	1,278.02	1,437.77	1,757.27	2,076.78	2,396.28	2,875.54
Bathealton	948.41	1,106.48	1,264.55	1,422.61	1,738.75	2,054.89	2,371.02	2,845.23

Bishops Hull	957.31	1,116.87	1,276.42	1,435.97	1,755.08	2,074.18	2,393.29	2,871.94
Bishops Lydeard/Cothelstone	967.00	1,128.16	1,289.33	1,450.50	1,772.83	2,095.16	2,417.50	2,900.99
Bradford on Tone	959.21	1,119.08	1,278.95	1,438.82	1,758.55	2,078.29	2,398.03	2,877.63
Burrowbridge	960.91	1,121.07	1,281.22	1,441.37	1,761.67	2,081.98	2,402.28	2,882.74
Cheddon Fitzpaine	959.68	1,119.63	1,279.58	1,439.52	1,759.42	2,079.31	2,399.21	2,879.05
Chipstable	956.88	1,116.36	1,275.84	1,435.32	1,754.28	2,073.24	2,392.21	2,870.65
Churchstanton	961.49	1,121.73	1,281.98	1,442.23	1,762.73	2,083.22	2,403.72	2,884.46
Combe Florey	958.48	1,118.23	1,277.98	1,437.73	1,757.22	2,076.72	2,396.21	2,875.45
Comeytrowe	952.46	1,111.20	1,269.95	1,428.69	1,746.18	2,063.66	2,381.15	2,857.38
Corfe	954.91	1,114.06	1,273.21	1,432.36	1,750.67	2,068.97	2,387.27	2,864.73
Cotford St Luke	959.24	1,119.11	1,278.99	1,438.86	1,758.61	2,078.35	2,398.10	2,877.72
Creech St Michael	964.83	1,125.63	1,286.44	1,447.24	1,768.85	2,090.46	2,412.07	2,894.49
Durstun	951.44	1,110.01	1,268.58	1,427.15	1,744.30	2,061.44	2,378.59	2,854.31
Fitzhead	961.65	1,121.93	1,282.20	1,442.48	1,763.03	2,083.58	2,404.13	2,884.96
Halse	953.89	1,112.87	1,271.85	1,430.84	1,748.80	2,066.76	2,384.73	2,861.67
Hatch Beauchamp	954.94	1,114.09	1,273.25	1,432.41	1,750.72	2,069.03	2,387.34	2,864.81

Kingston St Mary	953.13	1,111.99	1,270.84	1,429.70	1,747.41	2,065.12	2,382.83	2,859.40
Langford Budville	957.69	1,117.30	1,276.92	1,436.53	1,755.76	2,074.99	2,394.22	2,873.07
Lydeard St Lawrence/Tolland	957.41	1,116.98	1,276.54	1,436.11	1,755.25	2,074.38	2,393.52	2,872.22
Milverton	960.81	1,120.95	1,281.08	1,441.22	1,761.49	2,081.76	2,402.03	2,882.43
Neroche	957.05	1,116.55	1,276.06	1,435.57	1,754.58	2,073.60	2,392.62	2,871.14
North Curry	960.11	1,120.12	1,280.14	1,440.16	1,760.19	2,080.23	2,400.27	2,880.32
Norton Fitzwarren	962.38	1,122.78	1,283.17	1,443.57	1,764.36	2,085.15	2,405.95	2,887.14
Nynehead	957.44	1,117.01	1,276.58	1,436.16	1,755.30	2,074.45	2,393.59	2,872.31
Oake	954.91	1,114.06	1,273.21	1,432.36	1,750.66	2,068.97	2,387.27	2,864.72
Otterford	944.57	1,101.99	1,259.42	1,416.85	1,731.71	2,046.56	2,361.42	2,833.70
Pitminster	956.75	1,116.20	1,275.66	1,435.12	1,754.04	2,072.95	2,391.87	2,870.24
Ruishton/Thornfalcon	960.73	1,120.85	1,280.97	1,441.09	1,761.33	2,081.57	2,401.81	2,882.18
Sampford Arundel	970.43	1,132.17	1,293.91	1,455.65	1,779.12	2,102.60	2,426.08	2,911.29
Staplegrove	952.60	1,111.36	1,270.13	1,428.90	1,746.43	2,063.96	2,381.49	2,857.79
Stawley	956.03	1,115.37	1,274.71	1,434.05	1,752.72	2,071.40	2,390.08	2,868.09
Stoke St Gregory	962.56	1,122.98	1,283.41	1,443.84	1,764.69	2,085.54	2,406.40	2,887.68

Stoke St Mary	955.38	1,114.61	1,273.85	1,433.08	1,751.54	2,070.00	2,388.46	2,866.15
Taunton	946.55	1,104.31	1,262.07	1,419.83	1,735.35	2,050.87	2,366.38	2,839.66
Trull	959.17	1,119.03	1,278.89	1,438.75	1,758.47	2,078.19	2,397.92	2,877.50
Wellington	962.83	1,123.31	1,283.78	1,444.25	1,765.19	2,086.14	2,407.08	2,888.50
Wellington Without	957.89	1,117.54	1,277.19	1,436.84	1,756.14	2,075.43	2,394.73	2,873.68
West Bagborough	959.39	1,119.29	1,279.19	1,439.09	1,758.88	2,078.68	2,398.48	2,878.17
West Buckland	956.46	1,115.87	1,275.28	1,434.69	1,753.50	2,072.32	2,391.14	2,869.37
West Hatch	956.31	1,115.69	1,275.08	1,434.46	1,753.23	2,072.00	2,390.77	2,868.93
West Monkton	959.39	1,119.28	1,279.18	1,439.08	1,758.87	2,078.67	2,398.46	2,878.16
Wiveliscombe	961.04	1,121.21	1,281.38	1,441.56	1,761.90	2,082.25	2,402.59	2,883.11

(* provisional figures)

(** this may be subject to penny rounding adjustments and will be confirmed in the final Tax Report to Full Council on the 24 February 2015)

**APPENDIX
B**

TOWN AND PARISH COUNCIL PRECEPTS

Parish/Town Council	2014/15			2015/16			Council Tax Increase
	Tax Base	Precept Levied	Council Tax Band D	Tax Base	Precept Levied	Council Tax Band D	
	£	£	£	£	£	£	
Ash Priors	77.15	-	-	80.62	-	-	0.00%
Ashbrittle	91.49	1,800	19.67	91.07	1,905	20.92	6.32%
Bathealton	85.52	500	5.85	86.75	500	5.76	-1.42%
Bishops Hull	1,066.11	21,000	19.70	1,098.26	21,000	19.12	-2.93%
Bishops Lydeard/Cothelstone	1,051.08	32,321	30.75	1,075.15	36,176	33.65	9.42%
Bradford on Tone	285.36	5,500	19.27	284.52	6,250	21.97	13.97%
Burrowbridge	200.22	4,900	24.47	203.92	5,000	24.52	0.19%
Cheddon Fitzpaine	612.72	13,900	22.69	611.88	13,874	22.67	-0.05%
Chipstable	130.11	2,223	17.09	127.21	2,350	18.47	8.12%
Churchstanton	348.93	8,681	24.88	353.59	8,974	25.38	2.01%
Combe Florey	120.42	2,250	18.68	119.75	2,500	20.88	11.73%

Comeytrowe	1,955.60	23,154	11.84	1,955.48	23,153	11.84	0.00%
Corfe	132.54	1,500	11.32	128.91	2,000	15.51	37.09%
Cotford St Luke	764.65	16,065	21.01	755.37	16,626	22.01	4.76%
Creech St Michael	952.22	26,948	28.30	957.82	29,111	30.39	7.40%
Durston	58.89	600	10.19	58.23	600	10.30	1.13%
Fitzhead	116.15	2,844	24.49	116.86	2,995	25.63	4.67%
Halse	139.93	2,000	14.29	143.01	2,000	13.99	-2.15%
Hatch Beauchamp	252.87	4,000	15.82	257.15	4,000	15.56	-1.66%
Kingston St Mary	425.85	5,508	12.93	428.70	5,508	12.85	-0.66%
Langford Budville	228.27	4,500	19.71	228.61	4,500	19.68	-0.15%
Lydeard St Lawrence/Tolland	204.14	3,938	19.29	207.41	3,995	19.26	-0.15%
Milverton	569.28	14,000	24.59	574.56	14,000	24.37	-0.92%
Neroche	245.73	4,484	18.25	237.51	4,446	18.72	2.58%
North Curry	692.49	15,342	22.15	706.54	16,469	23.31	5.21%
Norton Fitzwarren	904.74	25,122	27.77	946.60	25,292	26.72	-3.78%
Nynehead	162.35	4,250	26.18	165.76	3,200	19.31	-26.25%

Oake	320.09	5,000	15.62	322.36	5,000	15.51	-0.70%
Otterford	168.69	-	-	166.18	-	-	0.00%
Pitminster	451.84	8,899	19.70	459.77	8,400	18.27	-7.24%
Ruishton/Thornfalcon	576.15	14,000	24.30	577.61	14,000	24.24	-0.25%
Sampford Arundel	124.91	4,800	38.43	123.72	4,800	38.80	0.96%
Staplegrove	743.74	11,800	15.87	788.65	9,500	12.05	-24.08%
Stawley	133.37	2,400	18.00	139.56	2,400	17.20	-4.44%
Stoke St Gregory	352.08	9,000	25.56	355.72	9,600	26.99	5.58%
Stoke St Mary	198.81	3,236	16.28	199.43	3,236	16.23	-0.31%
Taunton	14,206.18	42,292	2.98	14,395.62	42,900	2.98	0.00%
Trull	994.65	18,000	18.10	1,004.56	22,000	21.90	21.02%
Wellington	4,355.37	108,666	24.95	4,482.33	122,816	27.40	9.82%
Wellington Without	292.04	5,640	19.31	300.18	6,000	19.99	3.50%
West Bagborough	163.53	2,500	15.29	157.40	3,500	22.24	45.45%
West Buckland	419.36	7,483	17.84	416.48	7,428	17.84	-0.05%
West Hatch	135.80	2,330	17.16	132.29	2,330	17.61	2.65%

West Monkton	1,105.07	27,379	24.78	1,276.68	28,379	22.23	-10.28%
Wiveliscombe	1,046.48	25,000	23.89	1,048.77	25,910	24.71	3.41%
Totals	37,662.97	545,755	14.49	38,348.55	574,623	14.98	3.41%

(ii) Councillor Mrs Jean Adkins

Housing Revenue Account Estimates 2015/2016

(These recommendations need to be read in conjunction with the report submitted to the Executive on 5 February 2014 which includes all the details of the proposed Housing Revenue Account Budget.)

The Executive has given consideration to the proposed Housing Revenue Account (HRA) estimates for the 2015/2016 Financial Year. It also includes details of the proposed increase in Average Weekly Rent for the year where a 2.2% increase has been recommended.

2015/2016 will be the fourth year of operating the HRA under self-financing arrangements. The Council remains on course to repay the settlement debt of £85,200,000 by 2030.

The Proposed Budget is based on assumptions and estimates on expenditure requirements and income projections, in order to deliver the updated Business Plan.

Dwelling rents for approximately 5,800 properties provides annual income of over £24,000,000 for the HRA.

Local authorities have both the power and duty to set their own rent. However, in December 2000 Central Government set out a policy for social rents in England to be fair, affordable and less confusing for tenants. Local Authorities and Housing Associations were required to bring rents into line over several years, using a national formula to set a target rent (also called 'formula rent') based on property values and average manual earnings in each area.

The previous subsidy system required Local Authorities to raise their 'average weekly rent' to meet the 'target' or 'formula' rent by the convergence date of 2015/2016. However, the Government has recently amended its guidance in this respect and full convergence cannot now be obtained.

2014/2015 was the final year that a convergence factor could be included in the rent calculation and the continuing budget impact of this change is that the Council will lose the potential to increase rent income by approximately £242,000 per year from 2015/2016 onwards.

From 2015/2016 the Government has altered the basis for calculation of guideline rent increases, from RPI plus ½%, to CPI plus 1%.

In line with the national rent guidance and the service need identified in the Business Plan, it is proposed that the average weekly rent for dwellings for 2015/2016 should be set at the guideline rent of £83.88, an increase of 2.2% or £1.82 per week.

The budget for non-dwelling rents and charges for services and facilities is based on a 2.3% increase.

The Corporate Scrutiny Committee considered the 2014/2015 draft budget at its meeting on 22 January 2015 where no formal recommendations to change the HRA budget were made.

The Tenants Services Management Board has also considered the report.

An Equality Impact Assessment has been undertaken on the proposed rent increase. Members are asked to take this assessment into account in confirming the recommended budget proposals for 2014/2015.

It is therefore **recommended** that:-

- (1) The Average Weekly Rent increase of 2.2% be approved; and
- (2) The Housing Revenue Account budget for 2015/2016 be agreed.

(iii) Councillor Norman Cavill

(a) Support and Funding for the Arts and Creative Industries

At its January meeting, the Executive considered requests for financial assistance from two organisations within the Arts and Creative Industry sector.

The applications are from:-

- **Arts Taunton** – This is the new umbrella organisation that seeks to draw together Cultural and Arts organisations in Taunton Deane creating a vibrant, coordinated programme of activity.

The former Taunton Cultural Consortium has been rebranded to take on the new name Arts Taunton. The new brand has a strapline of “Driving prosperity through culture”. However the re-branding involves costs particularly around publicity materials which include a new website. These costs are estimated to be a maximum of £10,000 which the Council has been asked to consider funding.

Arts Taunton also have a number of key actions the group intended to take which included:-

- (1) An independent feasibility study to evaluate whether the aspiration expressed by a number of organisations within the consortium for a 1000-1500 seat flexible entertainment venue is viable in Taunton;
- (2) An audit of all performing spaces in Taunton, their capacity and infrastructure; and
- (3) To make available a public space with good footfall for a regularly

changing “pop-up” art display.

- **Hestercombe Gardens Trust**

The trust has applied for a grant of £10,000 for each of the next two financial years 2015/2016 and 2016/2017. This would enable continued delivery of the Contemporary Arts Gallery at Hestercombe House. This funding would create leverage for access to significant match funding.

A significant footfall has been generated by the Gallery during the current year as has the number of additional volunteers that have been recruited to deliver the work. This represents significant economic benefit to the area.

The applications have also been considered by the Corporate Scrutiny Committee and Members are generally supportive as to providing the requested funding.

In the circumstances, it is **recommended** that:-

- (i) A Supplementary Estimate of £10,000 for 2014/2015 from General Fund Reserves to enable a grant to be made to support Arts Taunton be approved; and
- (ii) A Supplementary Estimate of £20,000 from General Fund Reserves to enable a grant be made to the Hestercombe Gardens Trust be also approved. The funds would be held in an earmarked reserve with £10,000 available in both the 2015/2016 and 2016/2017 financial years.

(b) Movement of the Tourist Information Centre (TIC) to part of The Market House, Taunton – Request for funding

The TIC has been located in Paul Street adjacent to Taunton Library since 1996.

The Taunton Rethink document previously made reference to the relocation of the TIC possibly to the Coal Orchard site in conjunction with a regenerated Brewhouse Theatre or to a site in North Street.

As neither of these options were currently available, the possible use of part of The Market House in Fore Street, Taunton has been considered. This building is very large with distinct areas which could be let in individual sections to maximise the income generated by the Council and widened the use of the building.

Its position would also create a very visible presence in this key central part of Taunton which is also perceived as increasing the commercial opportunities for the TIC.

The proposed location of the TIC in the western end of The Market House will complement the letting of the ground floor and basement areas to a good quality

restaurant chain. This is in part due to the quality of the proposed design incorporating a new glazed area within the arches of the Market House which will create a new entrance to the this area of the building.

The final benefit of this proposed move is the reduction of costs associated with the current lease at the Library. The rental cost at the Library together with the annual management charge represents a cost of over £20,000 per annum. Whilst the final rental cost for The Market House is not yet settled, overall savings should be in the region of £10,000.

The company JP Gainsford has been instructed to provide an initial design, provide indicative costings, secure necessary access permissions and project manage any agreed build.

The indicative costing for the work is £120,000 although this represents a maximum cost and includes an appropriate contingency which links to the age of the building.

If the necessary budgetary allocations are made, it is aimed to complete the works by 30 June 2015.

In the circumstances, it is **recommended** that:-

- (1) The principle of moving the Tourist Information Centre to The Market House be agreed; and
- (2) Full Council be recommended to agree the inclusion of a capital budget of £120,000 within the General Fund Capital Programme, to be funded from the Growth and Regeneration (New Homes Bonus) Reserve.

(iv) Councillor Vivienne Stock-Williams

(a) Proposed Business Case for a Shared Legal Service

The Executive has recently considered a report which set out the latest position in respect of the preparation of a draft Business Case for establishing a shared Legal Service between Mendip District Council (MDC), Taunton Deane Borough Council (TDBC) and West Somerset Council (WSC).

The three Councils have been working together to examine the feasibility of sharing legal services. This work has flowed from the Somerset Shared Services Task and Finish Group which directed that such a project should be potentially undertaken across all Somerset authorities.

Following the completion of an outline business case in April 2014, Somerset County Council, Sedgemoor District Council and South Somerset Council decided not to pursue the matter at this time. However, MDC, TDBC and WSC have agreed to pursue their ambition to forge a constructive partnership to deliver legal services collectively.

A Joint Officer Project Board was established to develop the Business Case. Its vision was to create a dedicated service to support public and third sector clients with specialist and cost effective advice.

The key objectives of the project will be to:-

- Deliver a significant budget saving for TDBC and WSC;
- Create a flexible resilience model, with a critical mass of expertise;
- Provide enhanced efficiency and effectiveness; and
- Establish an arrangement that would operate for a minimum initial five year period with a review at the end of year four.

The outcome from this work was the production of a draft Business Case for a shared Legal Service based on the model of MDC to be the host authority and aiming for an implementation date of 1 April 2015.

The lead authority model option is seen to be the most appropriate as it will enable the three Councils to set up a shared service relatively swiftly with the minimum of risk. It is likely to be seen as a first step towards a fully integrated service that could potentially be expanded with further partners at a later date.

It was proposed that MDC should be the host authority for the following reasons:-

- they had the management capacity to absorb the work required;
- they had significant experience of managing such joint arrangements, for example, managing the WSC Legal Contract and also undertaking legal work for Somerset County Council;
- their financial requirements were more flexible which would enable MDC to bear some upfront management costs whilst ensuring that TDBC and WSC could benefit from immediate savings; and
- they were very committed and keen to undertake this role.

The host authority model involves current TDBC staff being transferred under the Transfer of Undertakings and Protection of Employees (TUPE) Regulations to MDC. There has been consultation with all affected staff throughout the process. It is anticipated that all existing staff would have the option of a job in the new shared service.

The Business Case has demonstrated that for TDBC the annual cost of providing the Legal Service will be reduced by £22,323 to £200,915, representing a 10% saving. Correspondingly, the annual cost to WSC would be reduced by £20,113 to £113,977 which represents a 15% saving.

MDC has agreed to defray initial savings on the basis that in the Business Case it is anticipated that there will be some growth in terms of generating additional income and the distribution formula for this will be set to ensure that MDC receives a 15% saving from this income as the first priority. Additional

growth beyond this would then be distributed between the three partners based on a formula linked to their respective inputs into the partnership.

The high level financial Business Case has been signed off by the Section 151 Officers of the three Councils.

Consultations have been undertaken with UNISON and the affected staff at the three Councils. The comments received from the Taunton Deane UNISON Branch and the Management responses thereto have previously been made available to Members of the Corporate Scrutiny Committee and the Executive.

Reports on the proposed shared service produced by the Association for Public Excellence (APSE) and the Chartered Institute of Public Finance and Accountancy (CIPFA), have also been circulated for the information of Members.

The Business Case has been considered by the Scrutiny Committees and Cabinets of both WSC and MDC, all of whom were fully supportive of the proposals.

TDBC's Corporate Scrutiny Committee considered the proposal at its meeting on 20 November 2014 where, after a lengthy debate, the decision was taken to defer consideration until such time as the report from APSE was received.

A further meeting of the Corporate Scrutiny Committee was held on 13 January 2015 when Members agreed to support the introduction of a Shared Legal Service subject to a six month 'break clause' being included in the Inter Authority Agreement between the Councils which could be invoked by TDBC after the first three years of operation of a shared service.

Reported that MDC has indicated that it was amenable to this amendment subject to certain 'receipted costs' incurred by that authority being able to be recouped. Such costs would be agreed at the time of any termination of the agreement.

The Executive accepted this recommended change to the Inter Authority Agreement from the Corporate Scrutiny Committee.

In anticipation that Full Council choose to adopt the proposed Business Case, attached at Appendix A is a draft Inter-Authority Agreement to ensure the proper and transparent governance of the proposed Shared Legal Service. Essentially this document formalises an arrangements whereby MDC can discharge TDBC's and WSC's relevant functions through a shared legal practice under the provisions of Section 101 of the Local Government Act 1972 and of the Local Government (Arrangement for the Discharge of Functions) (England) Regulations 2000.

This is an important document as it sets out the terms and conditions that the three authorities will be required to work within for the provision of the service. A broad framework of the document is based on best practice and has been

the subject of detailed due diligence from senior managers, legal professionals, human resource specialists and Section 151 Financial Officers from all three authorities.

There is a specific requirement in clause 3.6 that TDBC and WSC will designate a senior officer as a Contract Manager for the service in relation to delivery of the service to TDBC and WSC. The Assistant Chief Executive is currently the senior officer responsible for the provision of the legal service across both authorities and has had significant experience in managing a similar contract with Mendip District Council since 2008.

It is therefore recommended that the Assistant Chief Executive be designated to fulfil the role of Contract Manager for WSC and TDBC.

If these recommendations are adopted, then certain detailed amendments to the existing constitution need to be agreed and these are set out in Appendix B to this report.

It is **recommended** that:-

- (1) The draft Business Case for a Shared Legal Service to be implemented with effect from 1 April 2015 be approved;
- (2) The Inter-Authority Agreement – as set out in Appendix A – as the framework for operating a Shared Legal Service with effect from 1 April 2015 be endorsed;
- (3) The Assistant Chief Executive be designated to undertake the role of “Contract Manager” as defined in the Inter-Authority Agreement; and
- (4) Amendments to the Constitution be agreed to reflect the proposed arrangements as set out in Appendix B.

Appendix A

DATED

2015

MENDIP DISTRICT COUNCIL

And

TAUNTON DEANE BOROUGH COUNCIL

And

WEST SOMERSET COUNCIL

Agreement relating to the Shared Legal Service

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THIS Agreement is made the _____ day of _____ 2015

BETWEEN:

- (1) Mendip District Council of Cannards Grave Road, Shepton Mallet, BA4 5BT ("MDC")
 - (2) Taunton Deane Borough Council of Deane House, Belvedere Road, Taunton, TA1 1HE ("TDBC")
 - (3) West Somerset District Council known as West Somerset Council of West Somerset House, Killick Way, Williton. Taunton, TA4 4QA ("WSC")
- together known as the parties to this Agreement ("the Parties").

WHEREAS:

- (A) The Parties have each decided that their respective strategies and objectives will be best achieved by arranging for the setting up of a shared local government legal service practice which will provide legal services to the Parties. Whilst such shared legal practice will be provided by MDC the Parties agree that it will be a genuine shared legal practice for the duration of the Agreement.
- (B) The Parties agree that this arrangement will assist in achieving Best Value by maximising economies of scale and cost efficiencies for the Parties; and so the Parties have agreed that in order to achieve this the provision of the Service by and for the Parties and the costs of doing so will be directed through the shared legal practice.
- (C) TDBC and WSC has therefore resolved through a resolution of their respective Executive and Cabinet dated 14th January 2015 and 7th January 2015 that MDC should discharge TDBC's and WSC's relevant functions through the shared legal practice under the provisions of Section 101 of the 1972 Act and of the Local Government (Arrangement for the Discharge of Functions) (England) Regulations 2000.
- (D) MDC has resolved by resolutions of Cabinet dated 24 November 2014 and 12 January 2015 to agree to discharge the relevant functions through the Service in accordance with Section 101 of the 1972 Act and of the Local Government (Arrangement for the Discharge of Functions) (England) Regulations 2000.
- (E) This Agreement sets out the terms on which the relevant functions will be discharged.

IT IS HEREBY AGREED AS FOLLOWS:

1 Definitions

- 1.1 The following definitions shall apply and have effect in relation to the words and expressions used in this Agreement and the interpretation and construction of this Agreement.

"1972 Act"

means the Local Government Act 1972;

"1989 Act"

means the Local Government and Housing Act 1989;

"1999 Act"

means the Local Government Act 1999;

"Additional Clients"

are organisations other than TDBC and WSC to whom MDC provides legal services in accordance with Clause 22.1;

"Additional Expenditure"

means any Expenditure which is not included within the Core Legal Budget as set out in the baseline budget, is directly attributable and commensurate to the Service and which has been agreed in advance by the Contract Manager including but not limited to benefit fraud, monitoring officer case work, etc.;

"Agreed Variation Notice"

is a variation notice which has been agreed in accordance with Clause 21;

"Best Value"

means each Party's duty to secure economy, efficiency and effectiveness in delivery of Services pursuant to section 3 of the 1999 Act;

"Business Services Manager"

means the Senior Officer at MDC appointed in accordance with Clause 3.12;

"CEDR"

means the Centre for Effective Dispute Resolution;

"CILEX"

means the Chartered Institute of Legal Executives

"Charges"

means the payments made to MBC by TDBC or WSC in accordance with Clause 11;

"Clients"

means elected members of or departments of or duly authorised officers employed by TDBC and WSC who wish to be or are provided with the Service together or such other organisations wholly owned by TDBC and WSC as they may nominate;

"Codes of Conduct"

means the Solicitors Regulation Authority Code of Conduct 2011 and the CILEX Professional Standards Code of Conduct;

"Commencement Date"

means 1 April 2015;

"Consents"

means all permissions, consents, approvals, certificates, permits, licences and authorisations required for the performance of the Service in accordance with this Agreement and consents of Clients, the court or as may be required to comply with the Codes of Conduct;

"Contract Managers"

means the Senior Officers appointed in accordance with Clause 3.5 and 3.6;

"Core Hours"

means the number of hours allocated to the Parties in accordance with paragraph 2.9 of Appendix 2 (as varied in accordance with this Agreement);

"Core Legal Budget"

means the annual amounts set out in paragraphs 2.4 and 2.5 of Appendix 2, which includes such direct costs and agreed central overheads of the shared level service as set out in Annex 1 of Appendix 2;

"Data Controller" and "Data Processor"

means the same as set out in the Data Protection Act 1998;

"Day(s)"

means a calendar day unless specifically noted to be a Working Day;

"DPA"

means the Data Protection Act 1998;

"Default"

means a breach of the Agreement which does not amount to a Fundamental Breach;

"Dispute Resolution"

means the dispute resolution process set out in Clause 20;

"Employees"

means the employees listed in Appendix 7;

"Employee Liability Information"

means the information that a transferor is obliged to notify to a transferee under Regulation 11(2) of TUPE;

"Employment Claim"

has the meaning given in Clause 6.10;

"EIR"

means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations;

"Excluded Services"

means the services specified in Part B of Appendix 1;

"Exit Plan"

means a document agreed between the Parties in accordance with Appendix 5;

"Expenditure"

means the sum of :

- (a) an equitable proportion of MDC's overheads attributable to such finance, human resources, administrative and corporate Staff who support the Service;

- (b) "Employee Costs" comprising monthly pay for Staff (basic); agreed overtime; training for professional qualifications; other CPD training costs; practising certificates; Staff travel expenses; costs of professional subscriptions; Staff car allowances/mileage costs; statutory notices; and
- (c) "Non-Employee Costs" comprising solely of Staff training (general); recruitment expenses; building maintenance; contract hire and operations; purchase and lease of equipment; case management and ICT systems and upgrades; knowledge management systems; relevant insurance costs; costs and fees of inspections including LEXCEL(when implemented) and IIP; catering costs and expenses; corporate membership of appropriate bodies including the Law Society, CILEX, Association of Council Secretaries and Solicitors, stationary; in-house printing; external printing; brochures; books and publications; postage; DX charges; mobile phone charges; subsistence and conferences; hotel accommodation; conference fees; office equipment (including dictation machines, chairs, foot stools, binding machine and supplies); copyright licences; staff newsletters and meetings; remote working equipment and running costs and miscellaneous supplies; expenditure on the development of systems or individuals and on consultancy all for the purposes of improving the efficiency, quality and effectiveness of the shared legal service;

together with any additional items of Employee or Non-Employee costs which are reasonably required for the delivery of the Service and which have been agreed with the Contract Managers provided always that all Employee Costs and Non-Employee Costs have been incurred solely, directly, properly and reasonably in the provision of the Service by the shared legal service to Clients and are consistent with the Parties' own policies in relation to incurring expenses in the relevant Financial Year.

"Expiry Date"

means 31 March 2020;

"Extension Period"

means an extension to the duration of the Agreement in accordance with Clauses 2.2 and 2.3;

"Financial Year"

means any year during this Agreement commencing on 1 April and finishing on 31 March;

"FOIA"

means the Freedom of Information Act 2000;

"Force Majeure"

has the meaning given in Clause 17;

"Fundamental Breach"

means:

- a) a breach of Clause 12.1 or 12.2;
- b) three or more Defaults in a six month period;

- c) a default which is not capable of remedy in accordance with Clause 16 and which has or will have a material adverse impact on TDBC, WSC and/or Clients;

"Future Provider"

A provider of the Services or part thereof or of services substantially the same as the Services or part thereof upon the cessation of provision thereof by MDC;

"Guidance"

means any applicable guidance or directions with which MDC is bound to comply;

"Head of Partnership"

Means the Corporate Manager for Governance Assets and Public Spaces and Monitoring Officer at MDC

"Income "

shall include but not be limited to fees (including the Parties legal budgets), charges, virements, any interest accrued, revenues and royalties attributable to provision of the Service by the Shared Legal Service under this Agreement;

"Intellectual Property Rights"

means any and all patents, trademarks, service marks, copyright, database rights, moral rights, rights in a design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attached thereto;

"Legislation"

means any one or more of the following:

- a) any Act of Parliament;
- b) any subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978;
- c) any exercise of the Royal Prerogative; and
- d) any enforceable community right within the meaning of Section 2 of the European Communities Act 1972,

in each case in the United Kingdom;

"Local Government Pay Award"

means any National Joint Council for Local Government Services pay award made for any Financial Year;

"Losses"

has the meaning given in Clause 6.6;

"Material Breach"

means a breach of the terms of this Agreement of sufficient significance to impede the effective delivery of the Service, or which creates a significant risk for a Party, or causes TDBC and WSC significant losses or costs;

"Mediator"

means a mediator appointed in accordance with Clause 20;

"Model Procedure"

has the meaning given in Clause 20.4;

"Monitoring Officer"

means the officer responsible for performing duties imposed by section 5 of the 1989 Act;

"Notice of Termination"

means a notice served in accordance with Clause 16;

"Personal Data"

has the meaning ascribed to it in the Data Protection Act 1998;

"Potential Returning Employees"

has the meaning given in Appendix 5 Clause 5.3;

"Professional Head of Service"

means the Senior Officer at MDC appointed in accordance with Clause 3.11;

"Public Procurement Regulations"

means Directive 2014/24/EU and the Public Contracts Regulations 2006 and any regulations implemented thereunder and any future directive, enactment, order, regulation, or instrument as may amend, replace, consolidate or re-enact;

"Records"

means any record, data (including metadata), document or information howsoever stored which is communicated in writing, orally, electronically or by any other means by MDC, its staff, sub-contractors and agents relating to the Service and the Agreement;

"Redundant"

means redundant as defined in section 139 of the Employment Rights Act 1996;

"Relevant Transfer"

a transfer to which TUPE applies;

"Returning Employees"

an employee who transfers to MDC or a Future Provider on a Relevant Transfer;

"Returning Services"

the Service or part thereof, or of services substantially the same as the Service or part thereof upon cessation of provision thereof by MDC, which will continue to be provided by TDBC and WSC or a Future Provider

"Senior Officer"

Means an officer of at least tier 3 or equivalent seniority.

"Service"

means all legal services included at Appendix 1 except for any Excluded Services set out in Part B of Appendix 1;

"The Shared Legal Service"

means the Shared Legal Service which is not a separate legal entity in its own right and hence where any obligation in this Agreement is expressed to be an obligation of the shared legal service, such obligation shall be deemed to be an obligation of MDC;

"Shared Service Account"

means the specific account held by MDC for the purposes of the operation of the Shared Legal Service;

"SLA "

means a Service Level Agreement entered into between the Shared Legal Service and the Clients

"SRA "

means the Solicitors Regulation Authority;

"Staff"

means any employee who delivers the Service (including the Employees);

"Surplus"

means the amount by which the Income of the Shared Legal Service exceeds the Expenditure as established through the preparation of an income and expenditure statement prepared in accordance with CIPFA'S Statement of Recommended Practice (SORP);

"Termination"

means termination of the Agreement in accordance with Clause 16;

"TUPE"

the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246);

"Variation Notice"

means a notice served in accordance with Clause 21.2;

"Working Day(s)"

means a day on which clearing banks in the City of London are (or would be but for strike, lock-out or other stoppage affecting particular banks generally) open during banking hours.

1.2 In this Agreement except where the context otherwise requires:

1.2.1 the masculine includes the feminine and vice-versa;

1.2.2 the singular includes the plural and vice-versa;

1.2.3 any reference to this Agreement or to any other document shall include any permitted variation, amendment or supplement to such document;

1.2.4 any reference to any enactment, order, regulation, code, guidance or other similar instrument shall be construed as a reference to the enactment, order, regulation, code, guidance or instrument (including any EU instrument) as amended, replaced, consolidated or re-enacted;

- 1.2.5 headings are for convenience of reference only;
- 1.2.6 words preceding include, includes, including and included shall be construed without limitation by the words which follow those words; and
- 1.2.7 the Appendices to this Agreement form part of this Agreement.
- 1.3 The Parties agree that nothing within the Agreement shall be construed as a solicitor's undertaking as defined in the Codes of Conduct.
- 1.4 Save as otherwise expressly provided, nothing contained or implied in this Agreement shall prejudice, affect or otherwise fetter the rights, powers, duties and obligations of any Party in the exercise of its functions as a local authority.
- 1.5 Notwithstanding any other provisions of this Agreement, no Party shall be entitled to claim an amount, include a figure in a calculation, or recover a cost to the extent that it had already been accounted for, included, or recovered pursuant to this Agreement or otherwise.
- 1.6 If any payment due under this Agreement is paid later than the due date then interest will be payable from the date the payment is due to the date of payment at 4% above the base lending rate of the Bank of England.

2 Start and duration of this Agreement

- 2.1 Subject to Clause 2.2 this Agreement will start on the Commencement Date and shall remain in force for a minimum period of five years until the Expiry Date unless terminated earlier in accordance with the provisions of this Agreement.
- 2.2 The Parties shall review the Agreement at the expiry of four years from the Commencement Date following which review the Parties may agree to extend the terms of this Agreement for a further period of five years from the Expiry Date. If the Parties so agree this Agreement shall continue in force on the terms set out in this Agreement or on such varied terms as may be agreed in accordance with Clause 21 of this Agreement.
- 2.3 At the end of the extension referred to in Clause 2.2, this Agreement may be extended for further periods of five years and if such extensions are agreed by the Parties then this Agreement shall continue in force on the terms set out in this Agreement or on such varied terms as may be agreed in accordance with Clause 21 of this Agreement.

3 Governance

- 3.1 TDBC and WSC warrant that they have validly resolved that MDC shall provide the Service through the Shared Legal Service, and copies of the relevant resolutions of TDBC and WSC are attached at Appendix 6 of this Agreement and that to the best of their knowledge and belief they have not received notification of any call in, scrutiny or legal challenge to that resolution and that such resolution remains valid.

- 3.2 MDC warrants that it has validly resolved that it will discharge the relevant functions of TDBC and WSC through the Shared Legal Service and copies of the relevant resolutions of MDC are attached at Appendix 6 of this Agreement and that to the best of its knowledge and belief it has not received notification of any call in, scrutiny or legal challenge to that resolution and that such resolution remains valid.
- 3.3 The Parties confirm that the Service shall be delivered through the Shared Legal Service under the terms of this Agreement.
- 3.4 The Parties confirm that subject to the terms of this Agreement the delivery of the Service and the expenditure of the costs directed to the provision of the Service in accordance with Appendix 2 shall be the responsibility of the Shared Legal Service.
- 3.5 MDC will designate a Senior Officer as a Contract Manager for the Service in relation to delivery of the Service to MDC.
- 3.6 TDBC and WSC will designate a Senior Officer as a Contract Manager for the Service in relation to delivery of the Service to TDBC and WSC.
- 3.7 The Parties agree that the Contract Managers shall operate with the overall purpose of monitoring, directing, advising and securing adherence to the effective performance of the Agreement and the delivery of the Service.
- 3.8 The Parties agree that in order to comply with Clause 3.7 above the Contract Managers shall meet monthly with progression to quarterly meetings as and when agreed.
- 3.9 The Parties agree that they shall seek to operate this Agreement through consensus wherever possible and shall use the Contract Managers as a forum for discussing and seeking to resolve any issues, concerns or complaints arising in relation to the operation of this Agreement.
- 3.10 The Parties agree that they will therefore use reasonable endeavours to seek to resolve any issues, concerns or complaints arising in relation to the operation of this Agreement through the Contract Managers before seeking to invoke any of the provisions of this Agreement relating to Default, Termination or Dispute Resolution.
- 3.11 The Parties agree that the Contract Managers together with the Head of Partnership shall negotiate settlements where there is a mutual agreement between the employer and a member of staff that, despite a responsible period of support and development by MDC, the member of staff does not have the necessary skills and experience to satisfy the requirements of the new roles. This clause is subject to clause 6.7 and 6.8.
- 3.12 MDC will appoint a Senior Officer as the Professional Head of Service and Deputy Monitoring Officer of the Parties who will in addition be responsible for

essential areas of practice which ensure delivery of high a high quality and cost effective Shared Legal Service.

- 3.13 MDC will appoint a Senior Officer as the Business Services Manager and Deputy Monitoring Officer of the Parties who will in addition take day to day management decisions relating to the Service.

4 The Agreement

- 4.1 This Agreement sets out all the terms and conditions which the Parties have agreed regarding the provision of the Service and supersedes any representations, documents, negotiations or understandings, whether oral or written, made, carried out or entered into before the date of this Agreement.
- 4.2 The Parties have satisfied themselves in relation to any matters or information which they are relying upon in deciding to enter into this Agreement save where the Parties have warranted matters, in Clauses 3.1. and 3.2 above.
- 4.3 The Parties agree that (except for any liability which a Party has under or in respect of any breach of this Agreement in particular but not limited to the provision of the Service in accordance with the Service Standards of any liabilities relating to fraud, death, personal injury or any other liability which cannot be excluded or limited by law and Clauses 10.6 and 10.7), no Party shall owe any duty of care or have any liability in tort or otherwise to any other Party in respect of, arising out of or in any way relating to the transactions contemplated by this Agreement, provided that nothing in this Clause 4 shall exclude any liability for, or remedy in respect of, fraudulent or negligent misrepresentation.

5 Objectives and Partnership Working

- 5.1 The Parties shall establish, develop and implement their collaborative relationship with the objective of:
- 5.1.1 implementing the Service from the Commencement Date and within the budgets set out in Appendix 2;
 - 5.1.2 providing a high quality Service;
 - 5.1.3 committing to people including staff and Clients of the Service; and
 - 5.1.4 delivering long term savings and benefits to the Parties.
- 5.2 The objectives are to be kept under review in accordance with Clause 3.8 and through Staff meetings and effective communication.
- 5.3 The Parties agree to adopt a systematic approach to partnership working and problem resolution which is based on:

- 5.3.1 the achievement of solutions for the benefit of Clients and to achieve Best Value for each Party;
- 5.3.2 trust, fairness, mutual co-operation, dedication to agreed common goals and an understanding of each Party's expectations and values;
- 5.3.3 seeking solutions without apportioning blame;
- 5.3.4 mutually beneficial outcomes;
- 5.3.5 treating the Parties as equals in the dispute resolution process;
- 5.3.6 a mutual acceptance that adversarial attitudes waste time and money; and
- 5.3.7 the Parties being equal stakeholders.

6 Staffing

- 6.1 The Parties acknowledge that the provision by MDC of the Service to TDBC and WSC through the Shared Legal Service from the Commencement Date shall, with respect to each of the employees listed in Appendix 7 (“the Employees”) constitutes a relevant transfer for the purposes of TUPE. The Parties further agree that as a consequence of that transfer the contracts of employment made between TDBC and WSC and the Employees (save insofar as such contracts relate to benefits for old age, invalidity or survivors under any occupational pension scheme) shall have effect from and after the Commencement Date as if originally made between MDC and the Employees.
- 6.2 TDBC and WSC has supplied to MDC information which is contained in Appendix 7 in relation to the Employees and TDBC and WSC warrant that such information is complete and accurate as far as it is aware or should reasonably be aware as at the date of this Agreement. TDBC and WSC shall indemnify and keep indemnified MDC against any Losses caused to MDC by any inaccuracy or incompleteness in such information.
- 6.3 TDBC and WSC hereby indemnifies MDC and/or any Future Provider and, where relevant, their sub-contractors from and against all costs, claims, liabilities and expenses (including reasonable legal expenses) (“Losses”) suffered or incurred by it or them which arise from claims by Employees or Returning Employees by any trade unions, elected employee representatives or staff associations in respect of all or any such employees which losses relate to pension rights in respect of periods of employment on and after the Commencement Date until the date of termination or expiry of this Agreement and the Parties agree that Clause 24 (Contracts (Rights Third Parties)) of this Contract shall not apply to this 6.3
- 6.4 TDBC and WSC shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national

insurance contributions, pension contributions and otherwise, up to and including 31 March 2015. TDBC and WSC shall provide and, where necessary, update the Employee Liability Information for the Employees to MDC, as required by TUPE. TDBC and WSC shall warrant that such information is complete and accurate as far as it is aware or should reasonably be aware as at the date it is disclosed.

6.5 From the commencement date MDC shall be responsible for:

6.5.1 all remuneration, benefits, entitlements and outgoings in respect of the Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and otherwise, from the Commencement Date to the expiry or termination of this Agreement.

6.6 Unless otherwise agreed between MDC and the trade unions recognised in respect of the Employees, MDC agrees that if it seeks to vary the terms and conditions of employment of any Employee following the Commencement Date, it shall comply with its consultation obligations as the employer of the Employees and conduct all reasonable negotiations with such recognised trade unions. The Parties agree that MDC may make such changes to the Employees' terms and conditions of employment as are reasonably necessary to effectively manage the organisational structure of its workforce. Unless otherwise agreed between MDC and the trade unions recognised in respect of the Employees, the Parties further agree that MDC will have regard at all times to the terms of the TDBC and WSC staff handbooks made available to MDC at the Commencement Date.

6.7 TDBC and WSC shall indemnify MDC against all Losses incurred by MDC in connection with or as a result of any claim or demand by or on behalf of any employee of TDBC and WSC (whether in contract, tort, under statute, pursuant to European law or otherwise) including, without limitation, any claim for unfair dismissal, wrongful dismissal, a redundancy payment, breach of contract, unlawful deduction from wages, discrimination on the grounds of sex, race, disability, age, sexual orientation, religion or religious belief, personal injury, a protective award or a claim or demand of any other nature (together, "Employment Claim") in each case arising directly or indirectly from any act, fault or omission of TDBC and WSC in respect of any such employee in the period before the Commencement Date and up to and including 31 March 2016, provided that such costs, claims, expenses and liabilities are not payable as a result of any act or omission of MDC.

6.8 The Parties hereby agree that any Losses incurred by MDC in connection with or as a result of any claim or demand by or on behalf of any employee of TDBC and WSC (whether in contract, tort, under statute, pursuant to European law or otherwise) including, without limitation, any claim for unfair dismissal, wrongful dismissal, a redundancy payment, breach of contract, unlawful deduction from wages, discrimination on the grounds of sex, race, disability, age, sexual orientation, religion or religious belief, personal injury, a protective award or a claim or demand of any other nature (together, "Employment Claim") in each

case arising directly or indirectly from any act, fault or omission of TDBC and WSC in respect of any such employee in the period 1 April 2016 and up to and including 31 March 2018 shall be equally shared between the Parties in accordance with an agreed profit sharing mechanism provided that such costs, claims, expenses and liabilities are not payable as a result of any act or omission of MDC.

- 6.9 MDC shall indemnify TDBC and WSC against all Losses incurred by TDBC and WSC in connection with or as a result of any claim or demand by or on behalf of any of the Staff (whether in contract, tort, under statute, pursuant to European law or otherwise) including, without limitation, any Employment Claims in each case arising directly or indirectly from any act, fault or omission of MDC in respect of any such employee for the period from 1 April 2015 to expiry or termination of this Agreement, provided that such costs, claims, expenses and liabilities are not payable as a result of any act or omission of TDBC and WSC.
- 6.10 MDC shall indemnify TDBC and WSC against all Losses and/or Employment Claims incurred by TDBC and WSC in connection with or as a result of any claim or demand
- 6.10.1 by an employee of TDBC and WSC who would, had it not been for the termination of that employee's employment pursuant to the provisions of TUPE Regulation 4(9) and/or 4(11), have been an employee with a right to transfer to MDC under TUPE, save that this indemnity shall not extend to any claim or demand arising out of the change in workplace location of the Employees;
- 6.10.2 arising out of MDC's failure to comply with its obligations under TUPE Regulation 13(4).
- 6.11 TDBC and WSC shall indemnify and keep indemnified MDC against all Losses and/or Employment Claims arising from or as a consequence of:
- 6.11.1 any changes to terms and conditions of employment proposed by TDBC and WSC in order to implement the Shared Legal Service or after the Commencement Date;
- 6.11.2 any of the Employees informing TDBC and WSC they object to being employed by MDC save in those circumstances set out in clause 6.12 above; and
- 6.11.3 any change in identity of the Employees' employer as a result of the operation of TUPE.
- 6.12 TDBC and WSC and MDC will comply with their obligations under TUPE of each relevant transfer under TUPE pursuant to this Agreement (including without limitation the obligation under Regulation 13 of TUPE), and without prejudice to the provisions of clauses 6.13 and 6.14 each Party shall indemnify the other

against all Losses incurred in connection with or as a result of any claim or demand (whether in contract, tort, under statute, pursuant to European law or otherwise) including, without limitation any Employment Claim, provided that such Losses are not payable to the extent that they are as a result of any act or omission of the Party claiming under this Clause.

- 6.13 If the circumstances under which the Service is provided are such that MDC's officers, employees, agents or sub-contractors are exempt from the provisions of Section 4(2) of the Rehabilitation of Offenders Act 1974 working on that Service (for the purposes of this sub-Clause the "Act"), by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (for the purposes of this sub-Clause the "Order"), then MDC shall to the extent permitted by Legislation or Guidance use reasonable endeavours to ensure that such officers, employees, agents or sub-contractors shall provide information in accordance with the Act and Order about convictions which would otherwise be spent under the provisions of the Act and shall undertake checks of the appropriate level with the Disclosure and Barring Service, in respect of all such individuals ("DBS Checks").
- 6.14 MDC shall to the extent permitted by Legislation or Guidance disclose to TDBC and WSC the details of all convictions and DBS Checks of such officers, employees, agents or sub-contractors and in the event that such checks reveal that any of them have relevant convictions or other relevant Criminal Record(s), TDBC and WSC may direct that such persons should be removed from the provision of the Service, provided always that, if such person is an Employee and such convictions or other Criminal Record(s) are revealed within the period of 3 months from the Commencement Date, TDBC and WSC shall indemnify MDC against all Losses and/or Employment Claims incurred by MDC in connection with or as a result of any removal from the provision of the Services.
- 6.15 TDBC and WSC shall indemnify MDC against all Losses and/or Employment Claims incurred by MDC in connection with or as a result of any claim or demand (whether in contract, tort, under statute, pursuant to European law or otherwise) including, without limitation, any Employment Claims made at any time by or on behalf of any employee of TDBC and WSC other than the Employees who claim to have become an employee of or have rights against MDC by virtue of TUPE.
- 6.16 On expiry or termination of this Agreement the Parties agree that it is their intention that TUPE shall apply in respect of the provision thereafter of any service equivalent to a Service (including the Returning Services) by TDBC and WSC or any Future Provider but the position shall be determined in accordance with the law at expiry or termination and this clause is without prejudice to such determination. The Parties agree that the provisions of Appendix 5 shall apply.

7 Application of s 113 LGA 1972

The Parties agree that where the employees of the Shared Legal Service are engaged on work for TDBC and WSC the provisions of section 113 of the 1972 Act will apply and that those employees will be placed by MDC at the disposal of TDBC and WSC for the purposes of their functions, and such employees shall be treated at all times as an officer of TDBC and WSC whilst so engaged and MDC undertakes that it shall have duly consulted such employees prior to placing them at TDBC and WSC's disposal and that MDC shall continue to treat such employees as its own employees.

8 Accommodation

- 8.1 The Parties agree that the Shared Legal Service is to be hosted at each Parties current offices and accordingly the Parties hereby undertake to make available at each Parties own cost all necessary accommodation, working space, and associated facilities and services, including such telephone systems and meeting rooms as shall be necessary to host the Shared Legal Service unless otherwise agreed by the Parties.
- 8.2 The Parties undertake to the Shared Legal Service to make available such reasonable use of accommodation, working space and associated facilities and services including telephone systems and meeting rooms as shall from time to time be necessary to enable to deliver the Service to TDBC and WSC from time to time to the extent that it is agreed by the Contract Managers.
- 8.3 The Parties hereby license all appropriately authorised employees of the Parties engaged in the Shared Legal Service to enter its premises for the purposes of the performance of the Service and to utilise free of charge such associated services and facilities required as from time to time [and agreed by the Contract Managers].

9 Equipment and Information Technology

- 9.1 TDBC and WSC undertakes to the Shared Legal Service to license free of charge (insofar as it is able to legally and contractually do so) the Staff as reasonably necessary in order to enable the Shared Legal Service and its Employees to access its Data systems, records, information technology systems, computer systems, telephone and other systems as may be necessary from time to time as to deliver the Service to TDBC and WSC; and to allow and facilitate free of charge (insofar as it is able to legally and contractually do so), the transfer of necessary data records and information as may be held by TDBC and WSC to the Shared Legal Service for the purposes of the delivery of the Service to TDBC and WSC.
- 9.2 In the event of TDBC and WSC levying a charge on the Shared Legal Service to access the systems and/or to transfer the Data, records and information referred to in Clause 9.1 such charge shall be treated as Expenditure.

- 9.3 No Shared Legal Service Employee shall access TDBC and WSC systems unless prior written approval is granted by a Contract Manager at his/her absolute discretion, in order to preserve confidentiality or prevent and manage a potential or actual conflict of interest.

10 Intellectual Property

- 10.1 Nothing in this Agreement is intended to transfer to MDC any Intellectual Property Rights owned by TDBC and WSC whether solely or jointly as at the Commencement Date.
- 10.2 TDBC and WSC hereby grants to MDC for the purposes of the Shared Legal Service a non-exclusive, revocable, royalty-free licence to use and copy materials the Intellectual Property Rights in which vest solely in TDBC and WSC solely for the purpose of providing the Service through the Shared Legal Service to TDBC and WSC for the duration of this Agreement.
- 10.3 All and any Intellectual Property Rights in materials developed for or on behalf of the Shared Legal Service during the duration of this Agreement shall (as between the Parties) vest in MDC.
- 10.4 MDC shall on expiry or termination of this Agreement for any reason grant TDBC and WSC a non-exclusive, perpetual, irrevocable, royalty-free licence to use and copy materials the Intellectual Property Rights in which vest in MDC for the purpose of providing or having provided the Service to TDBC and WSC through the Shared Legal Service.
- 10.5 Nothing in this Clause 10 shall require a Party to provide or disclose to another Party any materials to the extent that they contain confidential information or attract legal professional privilege or Intellectual Property Rights where such provision or disclosure would amount to a waiver of privilege or put a Party or any Employee in breach of any legal obligation or Codes of Conduct or infringe any Intellectual Property Rights.
- 10.6 Where a claim or proceeding is made or brought against TDBC or WSC which arises out of the infringement of any Intellectual Property Rights or because the use of any materials, Data, plant, machinery or equipment in connection with the Service infringes any Intellectual Property Rights of a third party then, unless such infringement has arisen out of the use of any Intellectual Property by or on behalf of TDBC or WSC otherwise than in accordance with the terms of this Agreement, MDC shall indemnify TDBC and WSC at all times from and against all direct and indirect losses arising as a result of such claims and proceedings.
- 10.7 Where a claim or proceeding is made or brought against MDC which arises out of the infringement of any Intellectual Property Rights or because the use of any materials, data, plant, machinery or equipment in connection with the Service infringes any Intellectual Property Rights of a third party then, unless such infringement has arisen out of the use of any Intellectual Property by or on behalf

of MDC otherwise than in accordance with the terms of this Agreement, TDBC and WSC shall indemnify MDC at all times from and against all direct and indirect losses arising as a result of such claims and proceedings.

11 Financial provisions

- 11.1 In return for MDC carrying out its obligations under this Agreement TDBC and WSC shall pay to MDC the Charges relating to the Service in accordance with Appendix 2.
- 11.2 From 1 April 2014 the Charges relating to the Service in accordance with Appendix 2 shall be subject to annual adjustments in respect of inflation effected through the application of the agreed Office of National Statistics index for Retail Prices(RPI) and taking account of any Local Government Pay Award where such Local Government Pay Award exceeds the prevailing RPI rate.

12 The Service and Adherence to Policies

- 12.1 MDC shall ensure that the Shared Legal Service provides the Service in accordance with its obligations under this Agreement and with all the skill, care and diligence to be expected of a competent local authority legal practice including compliance with the Codes of Conduct.
- 12.2 MDC shall at all times hold any relevant accreditation through the Solicitors Regulation Authority required to carry out the Service.
- 12.3 In providing the Service, MDC shall ensure that the Shared Legal Service:
 - 12.3.1 complies with any and all codes of practice, performance ratings and quality standards that are laid down in this Agreement or that are issued to MDC as part of an Agreed Variation Notice;
 - 12.3.2 complies with any statutory or regulatory provisions which apply to the Service;
 - 12.3.3 obtains, maintains and complies with all Consents;
 - 12.3.4 allocates sufficient and appropriately qualified and experienced resources to provide the Service at all times in accordance with the terms of this Agreement;
 - 12.3.5 proactively manages the performance of the Staff including but not limited to effective appraisal and review mechanisms, supervision and one-to-one meetings between Staff and supervisors, setting and regular monitoring of personal performance targets;
 - 12.3.6 implements an effective risk management procedure; and
 - 12.3.7 provides the Service in accordance with the Codes of Conduct.

- 12.4 MDC shall notify TDBC and WSC forthwith where any Staff becomes subject to investigatory or disciplinary or criminal proceedings, has conditions placed on his or her practising certificate or their practising certificate is withdrawn and shall ensure that such member of Staff is not engaged in the provision of the Service.
- 12.5 MDC shall ensure that sufficient numbers of Staff are available with appropriate levels of experience and expertise to provide the Service to TDBC and WSC in accordance with Appendix 1 and that procedures are in place to ensure the Service to TDBC and WSC is not disrupted by staffing issues (unless this is outside of MDC's control).
- 12.6 In delivering the Service, the Shared Legal Service shall comply with those policies of MDC listed in Appendix 8 together with any additional MDC policies relevant to the delivery of the Service which are introduced by MDC during the operation of the Agreement.

13 Insurance

- 13.1 TDBC and WSC undertakes that it will maintain in full force and effect the insurance policies with Zurich Municipal or other provision which it has in place at the start of this Agreement in relation to the provision of legal services by TDBC and WSC and that in addition TDBC and WSC undertakes that it will maintain in place the professional indemnity (or equivalent) insurance which it has in place at the start of this Agreement in relation to the legal service in TDBC and WSC.
- 13.2 MDC undertakes that it will maintain in full force and effect such other insurance policies, which shall include appropriate employer's liability insurance, or other provision which are required by applicable law in relation to the Service and this Agreement at all times during the term of this Agreement, including any extension thereof. In addition MDC undertakes that it will maintain sufficient professional indemnity (or equivalent) insurance to cover the activities of the Shared Legal Service in relation to the Service provided to TDBC and WSC under this Agreement from the expiry of TDBC and WSC current professional indemnity policies and TDBC and WSC undertake to advise MDC in writing of the expiry dates of such policies.
- 13.3 Each of the Parties undertakes to the other that it shall provide to the other upon the Commencement Date and thereafter upon reasonable demand sight of all insurance documentation relevant to the Service and this Agreement including policies, cover notes, premium receipts and any other documents, provided that no Party shall have to comply with this Clause if to do so would invalidate any terms of its insurance.
- 13.4 Each of the Parties shall hold the other harmless for all actions, claims, demands, liabilities, damages, costs, losses or expenses resulting from any circumstances where an insurance claim can be made.

14 Monitoring of the Service

The Service will be monitored in accordance with the procedures and service standards referred to in Appendix 2 (Charging Arrangements), Appendix 3 (Governance Arrangements) and Appendix 4 (Operational Arrangements).

15 Defaults

- 15.1 If a Party commits a Default then they shall as soon as reasonably practicable notify the other Parties in writing and take such steps as are necessary to rectify the Default.
- 15.2 If the Default has not been rectified within thirty (30) Working Days to the satisfaction of the other Parties then the matter shall be referred to the Contract Managers unless the Parties agree a longer period.
- 15.3 The Parties shall use reasonable endeavours to resolve the Default through the Contract Managers in accordance with Clauses 3.9 and 3.10 of this Agreement.
- 15.4 If the Parties cannot resolve the Default through the Contract Managers within a reasonable time any Party can refer the matter for resolution, in accordance with Clause 20 (Dispute Resolution).

16 Withdrawal from Agreement and Consequences of Withdrawal

- 16.1 A Party may withdraw from this Agreement by giving the other Parties not less than one year's written notice with such notice not to be given before 1 April 2019
- 16.2 In addition to the general right of withdrawal provided by Clause 16.1, TDBC shall have the option to withdraw from this Agreement with effect from 30 September 2018 by giving the other parties notice of such withdrawal by 30th March 2018
- 16.3 In the event that notice is given by TDBC pursuant to Clause 16.2, TDBC shall be liable to MDC in respect of any proportion of the start-up costs incurred in respect of the setting up of the Shared Legal Service which is directly attributable to TDBC with the amount of such start-up costs to be repaid under this Clause 16.3 to be agreed between MDC and TDBC in consultation with their respective Chief Executives and Section 151 officers.
- 16.4 In addition to the general right of withdrawal provided by Clause 16.1, TDBC and WSC shall each be entitled to withdraw from this Agreement by giving the other Parties three months' written notice of such withdrawal in the event that in relation to this Agreement and the provision of the Service
 - 16.4.1 MDC or any person employed by MDC or acting on MDC's behalf commits or causes the commission of any criminal offence in providing the Service (except for any minor offence or minor traffic offence); or

- 16.4.2 MDC or any person employed by MDC or acting on MDC's behalf commits an offence under the Bribery Act 2010 or gives any fee or reward which is an offence under Section 117(2) of the 1972 Act; or
- 16.4.3 MDC Commits a default which is identified by any term of this Agreement as being a Fundamental Breach or which is otherwise a fundamental breach of its obligations under this Agreement; or
- 16.4.4 MDC Invalidates the insurance referred to in Clause 13.2
- 16.5 In the event that both TDBC and WSC decide to withdraw from this Agreement pursuant to Clause 16.4 then such joint withdrawal shall represent a termination of this Agreement (in which event the provisions of Clause 18 shall apply)
- 16.6 In addition to its general right of withdrawal provided by Clause 16.1 MDC shall be entitled to cease the provision of the Service to any Party if;
 - 16.6.1 On three separate occasions in any period of twelve months such Party has failed to pay the Charges to MDC on time and MDC has following the third occasion given the said Party fourteen days' notice of its intention to cease provision of the Service; or
 - 16.6.2 Such Party has committed a default which is identified by any term of this Agreement as a Fundamental Breach and MDC has given the said Party fourteen days' notice of its intention to cease provision of the Service
- 16.7 In the event of a withdrawal from this Agreement by MDC pursuant to Clause 16.1, such withdrawal shall have the effect of terminating the Agreement with effect from the date on which the notice given by MDC expires, in which event the provisions of Clause 18 shall apply to such termination
- 16.8 In the event of MDC ceasing to provide the Service to a Party pursuant to Clause 16.6 then this Agreement shall continue in force with the remaining Parties unless those remaining Parties agree that following such cessation this Agreement should be terminated (in which event the provision of Clause 18 shall apply to such termination)
- 16.9 In the event of a withdrawal from this Agreement by WSC (under Clause 16.1 or 16.4) or by TDBC (under Clause 16.1, 16.2 or 16.4) by a cessation of the provision of the Service to a Party by MDC (under Clause 16.6) the remaining Parties shall decide whether following such withdrawal
 - 16.9.1 This Agreement should be terminated and the provision of the Service pursuant to this Agreement be ended (in which event the provisions of Clause 18 shall apply to such termination); or
 - 16.9.2 This Agreement should continue in force (albeit with the withdrawing Party or the Party not receiving the Service no longer being a Party to the Agreement) and the provision of the Service should continue
- 16.10 In the event of a withdrawal from this Agreement by WSC (under Clause 16.1 or 16.4) or by TDBC (under Clause 16.1, 16.2 or 16.4) then the withdrawing Party shall be entitled

- 16.10.1 To retain any moneys owed to MDC under this Agreement until MDC has paid to the said Party any moneys owed by MDC to such Party under this Agreement; and
- 16.10.2 To deduct from any moneys owned by such Party to MDC under this Agreement any moneys owed by MDC to such Party under this Agreement
- 16.11 Following the giving of any notice of withdrawal by TDBC or WSC pursuant to Clause 16.2, 16.4 or by TDBC pursuant to Clause 16.2 then the Shared Legal Service shall continue to provide the Service to the withdrawing Party in accordance with this Agreement up to the date on which such Party's withdrawal becomes effective following expiry of any required notice period and shall ensure that there is no degradation or diminution in the Service as received by such Party during this period
- 16.12 In the event of a withdrawal from this Agreement by WSC or TDBC, then the withdrawing Party shall:
- 16.12.1 ensure that any documents and files connected with the provision of the Service and held by them shall be stored in accordance with the Data Protection Act by the Party or their agents with such Party allowing MDC reasonable access on demand free of charge to such documents and files however held
- 16.12.2 reimburse MDC for any reasonable proper and mitigated costs which may arise in respect of the transfer of electronic or other Data from the Shared Legal Service which costs have arisen as a result of the withdrawal of the said Party.

17 Force Majeure and Non-Performance

- 17.1 If TDBC and WSC believes that MDC is failing to provide the requisite Service detailed in the Agreement, then the dispute resolution procedures outlined in Clause 20 will apply.
- 17.2 If an event of Force Majeure occurs then TDBC and WSC shall meet with MDC to discuss how best MDC can continue to provide the Service until the Force Majeure event ceases, which may include TDBC and WSC providing MDC with assistance, where possible.
- 17.3 Clause 17 is subject to the proviso that whichever Party is affected shall have given the other notice that such failure is the result of Force Majeure within ten (10) Working Days of such failure occurring. If notice is not given in accordance with this Clause 17 then the failure may be regarded as a Default.
- 17.4 If a Party fails to carry out its respective obligations under this Agreement as a result of Force Majeure then whichever Party is affected shall not be liable under this Agreement for any such failure.

- 17.5 In this Clause Force Majeure means:
- 17.5.1 acts of war;
 - 17.5.2 acts of God;
 - 17.5.3 decrees of Government;
 - 17.5.4 riots; and
 - 17.5.5 civil commotion
 - 17.5.6 and any event or circumstance which is both beyond the control of whichever Party is affected and which could not have been prevented by acting prudently, diligently or with reasonable foresight.
- 17.6 Force Majeure shall not include any labour dispute between MDC and Staff, any other staffing problem or the failure to provide the Service by any of MDC's sub-contractors.
- 17.7 In the event that a Party is prevented from carrying out its obligations under this Agreement by any act of Force Majeure which continues for a period of thirty (30) days, the other Parties may terminate the Agreement by notice in writing giving sixty (60) Days' notice.
- 17.8 The Parties shall at all times following an act of Force Majeure use all reasonable endeavours to mitigate the effects of the event of Force Majeure and facilitate the continued performance of this Agreement.

18 Termination and Consequences of Termination

- 18.1 This Clause 18 shall apply to any termination of this Agreement arising from:
- 18.1.1 Clause 15 (Defaults)
 - 18.1.2 Withdrawal from the Agreement by MDC pursuant to Clause 16.1
 - 18.1.3 Withdrawal from the Agreement by TDBC and WSC pursuant to Clause 16.4 and 16.5
 - 18.1.4 Agreed termination pursuant to Clause 16.8 or 16.9.1
 - 18.1.5 Clause 22.4 (Extending the Partnership)
- 18.2 Following any termination of this Agreement then the Shared Legal Service shall continue to provide the Service in accordance with this Agreement and shall ensure that there is no degradation or diminution in the Service up to the date on which termination takes place following the expiry of any relevant notice period

- 18.3 Following any termination of this Agreement (other than a termination by WSC and TDBC under Clause 16.5) the Parties shall share the costs of termination and all financial liabilities proportionally under the provisions of Appendix 2 (other than any liability owed by one Party to another Party under this Agreement) and which have arisen under this Agreement
- 18.4 In the application of Clause 18.3
- 18.4.1 The costs to be shared shall not include any costs or liabilities arising from any fraudulent or negligent act or omission by the Shared Legal Service
- 18.4.2 The costs to be shared shall include (but shall not be limited to):
- (a) leasehold or tenancy payments where the Shared Legal Service has by prior agreement between the Parties taken on additional premises outside the Premises and where a liability arises due to the early termination of the Agreement;
 - (b) payments for the leasing of equipment or provision of information technology systems for the Shared Legal Service where a liability arises due to the early termination of the Agreement.
- 18.5 Following any termination of this Agreement by WSC and TDBC under Clause 16.5 MDC shall bear its own costs of termination and be liable for the entirety of WSC's and TDBC's costs arising from such termination
- 18.6 Prior to the date of any termination MDC shall use its best endeavours to ensure that comprehensive handover and attendance notes are compiled, all correspondence, deeds, files, records, documents and other information in whatever format which are part of and connected with the provision of the Service for TDBC and WSC shall be filed; either electronically or as paper documents as TDBC and WSC may reasonably require and the Shared Legal Service shall put into good and proper order for handover to whichever officer or other agent TDBC and WSC shall notify to MDC and such officer or agent shall make arrangements with the Shared Legal Service for the collection of such files and documents.
- 18.7 TDBC and WSC hereby undertake that in the event of any termination of this Agreement they shall individually ensure that any documents and files connected with the provision of the Service and held by them shall be stored in accordance with the Data Protection Act with MDC being allowed reasonable access on demand free of charge to such documents and files however held
- 18.8 TDBC and WSC hereby undertake that they will reimburse MDC for any reasonable proper and mitigated costs which may arise in respect of the transfer of electronic or other Data from the Shared Legal Service which costs have arisen as a result of the said termination
- 18.9 The Parties shall individually and collectively use reasonable endeavours to reduce and mitigate the amount of financial liabilities which may arise in the event of Termination.

- 18.10 MDC shall repay to TDBC and WSC within thirty (30) Working Days any element of the Charges attributable to any part of the Service which has not been provided due to termination of the Agreement.
- 18.11 Clause 6 and Appendix Five shall apply in relation to the staffing consequences of the expiry or termination of the Agreement.

19 Operational matters, Undertakings and Indemnities

- 19.1 The day to day operation of the provision of the Service shall be in accordance with Appendix 4 (including without limitation the annexes to Appendix 4).
- 19.2 The Parties agree that:
- 19.2.1 during the continuance of this Agreement all transactions entered into by them shall be conducted in good faith and on the basis set out in this Agreement;
 - 19.2.2 that at all times they will act in good faith towards the other and use reasonable endeavours to ensure the observance of the terms of this Agreement;
 - 19.2.3 that they shall use reasonable endeavours to give effect to this Agreement provided always that any disagreement between the Parties shall be resolved in accordance with the Dispute Resolution Clause 20.

Where a Party fails to meet its responsibilities and liabilities under this Agreement at any time during the currency of this Agreement the cost of any resulting penalties losses liabilities or loss or failure of the Shared Legal Service which is caused to another Party shall be passed to the defaulting Party and shall be apportioned equitably.

20 Dispute Resolution

- 20.1 This Clause 20 is subject to Clauses 3.9, 3.10 and 3.11 of this Agreement.
- 20.2 If there is a dispute between the Parties concerning the interpretation or operation of this Agreement, then a Party may notify the other Parties in writing that it wishes the dispute to be referred the Business Services Manager to resolve, negotiating on the basis of good faith.
- 20.3 If after twenty-eight (28) Working Days (or such longer period as the Parties may agree) of the date of the notice referred to in Clause 20.2 (above), the dispute has not been resolved then a Party may notify the other that it wishes the dispute to be referred to the Contract Managers to resolve, negotiating on the basis of good faith.

- 20.4 If after twenty-eight (28) Working Days (or such longer period as the Parties may agree) of the date of the notice referred to in Clause 20.3 (above), the dispute has not been resolved then a Party may notify the other that it wishes the dispute to be referred to the Head of Partnership to resolve, negotiating on the basis of good faith.
- 20.5 If after twenty-eight (28) Working Days (or such longer period as the Parties may agree) of the date of referral pursuant to Clause 20.4 (above) the dispute has not been resolved then a Party may notify the other that it wishes the dispute to be referred to a meeting of the Chief Executive of TDBC and WSC, (or a person appointed by him or her to act on his or her behalf) and the Chief Executive of MDC (or a person appointed by him or her to act on his or her behalf), to resolve, negotiating on the basis of good faith.
- 20.6 If after twenty-eight (28) Working Days (or such longer period as the Parties may agree) of the date of referral to the Chief Executives pursuant to Clause 20.5 (above), the dispute has not been resolved then a Party may notify the other that it wishes to attempt to settle the dispute by mediation, in accordance with the CEDR Model Mediation Procedure 2014 (the "Model Procedure") or such later edition as may be in force from time to time.
- 20.7 If the Parties do not agree on the identity of the Mediator then any Party may request CEDR to appoint one.
- 20.8 The procedure in the Model Procedure will be amended to take account of:
- 20.8.1 any relevant provisions in this Agreement; or
- 20.8.2 any other agreement which the Parties may enter into in relation to the conduct of the mediation.
- 20.9 The Parties in dispute must:
- 20.9.1 use their reasonable endeavours to ensure that the mediation starts within twenty (20) Working Days of service of the notice referred to in Clause 20.5? (above); and
- 20.9.2 pay the Mediator's fee in equal shares.
- 20.10 Any agreement the Parties reach as a result of mediation shall be binding on them, as set out in the Model Procedure, but if the dispute has not been settled by mediation within ten (10) Working Days of the mediation starting, a Party may commence litigation proceedings (but not before then).
- 20.11 Any Party shall be precluded by Clause 20.10 (above), from taking such steps in relation to court proceedings as it may deem necessary or desirable to protect their respective positions. This shall include:
- 20.11.1 issuing or otherwise pursuing proceedings to prevent limitation periods from expiring; and

20.11.2 applying for interim relief.

20.12 The use of the dispute resolution procedures set out in this Clause 20, (Dispute Resolution) shall not delay or take precedence over the provisions for termination set out in Clause 15 (Default) and Clause 16 (Termination).

21 Variations To The Agreement

21.1 A variation to this Agreement shall only be valid if it has been agreed in writing and executed as a deed by duly authorised representatives of all Parties

21.2 If a Party wishes to vary this Agreement then it shall serve on the other Parties a Variation Notice which shall set out the nature of the variation sought and the reasons for it.

21.3 If a Party receives a Variation Notice then within twenty-eight (28) Working Days of receipt it shall notify the other Parties in writing whether or not it agrees to the variation and if not, the reasons.

21.4 If the variation is agreed by all Parties it will be incorporated into the Agreement.

22 Additional Clients and Extending the Partnership

22.1 The Shared Legal Service shall be able to provide legal services to any organisations ("Additional Clients") in addition to MDC and the Clients subject to the provisions of this Clause 22 and provided that the engagement of Additional Clients shall not create any detriment to the cost and quality of services provided to TDBC and WSC nor otherwise be injurious to TDBC and WSC interests, including compliance with Public Procurement Regulations.

22.2 It is agreed by the Parties that requests from other Additional Clients to join the Shared Legal Service will be actively considered by the Contract Managers who will discuss any such requests taking into account:

22.2.1 whether the enlargement of the Shared Legal Service will improve the cost effectiveness and sustainability of the Shared Legal Service;

22.2.2 ensuring no detriment to the level and quality of service provided to MDC and TDBC and WSC;

22.2.3 the implications of additional councils joining the Shared Legal Service on this Agreement;

22.2.4 ensuring the Parties incur no additional costs and/or Charges;

22.2.5 the anticipated relative proportion of the overall Shared Legal Service turnover likely to be attributable to any Additional Client during any Financial Year.

22.2.6 any other factor which the Contract Managers consider is relevant to their decision.

22.3 Discussions on this issue will be approached in the spirit of partnership and good faith and the Contract Managers will seek to agree an outcome which will include measures to ensure that there is compliance with the Public Procurement Regulations and no detriment to the cost or quality of the Service provided to TDBC and WSC by the Shared Legal Service.

22.4 Prior to such a Contract Managers meeting, MDC will provide the monitoring officer of TDBC and WSC with the information relevant to Clause 22.2 and 22.3 at least twenty (20) Working Days before the relevant Contract Managers meeting or as soon as possible (but never less than five (5) Working Days) if the Contract Managers are due to meet within that period.

22.5 If the admission of Additional Clients cannot be agreed by the Contract Managers then the decision to admit Additional Clients shall be made jointly by the Parties' Chief Executives.

23 Waiver

23.1 If a Party fails to exercise or delays in exercising any right or remedy to which it is entitled under this Agreement or at law then this shall not constitute a waiver of any such right or remedy.

23.2 If a Party waives a Default on the part of another Party then this shall not constitute a waiver of any future Default.

23.3 No waiver shall be effective unless it is:

23.3.1 expressly stated to be a waiver;

23.3.2 in writing; and

23.3.3 signed by the Contract Manager or Head of Partnership as appropriate.

24 Contracts (Rights of Third Parties) Act 1999

No Party intends to confer any right or benefit upon a third party and the provisions of the Contracts (Rights of Third Parties) Act 1999 are expressly excluded from this Agreement.

25 Best Value

MDC undertakes that it will seek to achieve a continuous improvement in economy, efficiency and effectiveness (including productivity of the Staff) in carrying out its obligations throughout the term of this Agreement to deliver the savings agreed by the Parties and will seek to deliver outcomes in less time and at less cost whilst maintaining quality; TDBC and

WSC undertakes that they will use their reasonable endeavours to assist MDC in achieving this on the basis that the improvements will benefit the communities of MDC, TDBC and WSC.

26 Notices

- 26.1 Any notice or other communication under this Agreement must be in writing and can only be sent by:
- 26.1.1 Pre-paid 1st class post;
 - 26.1.2 Recorded delivery post;
 - 26.1.3 Personal delivery;
 - 26.1.4 No notices under this Agreement will accepted by email.
- 26.2 For the purposes of sending notices by post or personal delivery or other communication by post, or personal delivery TDBC and WSC's address is as first heretofore appearing in this Agreement .
- 26.3 For the purposes of sending notices by post or personal delivery or other communication by post, or personal delivery MDC's address is as set out in this Agreement and marked for the attention of the Business Services Manager
- 26.4 If the address of either MDC or TDBC and WSC changes, it must notify the other Parties within seven (7) Days of such change. .
- 26.5 Subject to Clauses 26.2 and 26.3, all notices and communications shall be deemed to have been served:
- 26.5.1 if posted, two (2) Working Days after the date when posted; or
 - 26.5.2 if personally delivered, on the date of delivery.
- 26.6 Notwithstanding Clause 26.5, if by applying its provisions a notice is deemed to have been served on a Day which is not a Working Day or it is not received between the hours of 9am to 5pm on a Working Day then it shall be deemed to have been served on the next immediately following Working Day.

27 Confidentiality and Data

- 27.1 MDC undertakes that the Shared Legal Service will respect the confidentiality of information provided to it. Exceptionally the Shared Legal Service may need to disclose this information where required to do so by the Court or under the FOIA in which case MDC shall inform TDBC and WSC of such proposed disclosure as soon as reasonably practicable.

- 27.2 MDC shall ensure that all Records held on behalf of TDBC and WSC (save for such information as may be returned to TDBC and WSC on Expiry or Termination) is retained for disclosure for at least six (6) years (from the date it is acquired) and shall permit TDBC and WSC to inspect such Data as requested from time to time.
- 27.3 MDC shall permit all Data to be examined and copied from time to time by TDBC and WSC's auditors (whether internal or external) and their representatives upon reasonable notice.

28 Data Protection, Freedom of Information and Environmental Information

- 28.1 The Parties shall comply with the DPA, the FOIA and the EIR.
- 28.2 TDBC and WSC shall co-operate with and provide assistance to MDC at its own cost in enabling MDC to comply with Clause 28.1 relating to disclosure of information arising from the performance of the Service by the Shared Legal Service.
- 28.3 Any Party on receipt of a request for information in relation to the FOIA or the EIR should, if the request relates to another Party, promptly refer the request to the other Party for comments before a decision whether to disclose is made.
- 28.4 The Party subject to any request for information in relation to the FOIA or the EIR will decide whether information should be disclosed and will make disclosure when that Party considers that such disclosure is proper and in accordance with this Clause.
- 28.5 The Parties will ensure that the information requested and comments sought is supplied to the relevant Party within sufficient time to comply with the timescales set out in the FOIA or the EIR.
- 28.6 In relation to all Personal Data supplied or created under or in connection with this Agreement, each Party shall at all times comply with the DPA, as a Data Controller and/or a Data Processor and/or as Data Controller in common with the other Parties as the case may be which includes (but is not limited to) maintaining a valid and up to date notification under the DPA covering the data processing activities to be performed by it in connection with this Agreement and/or the Shared Legal Service. The Parties may agree for any specific purpose which of them is Data Controller (or that they are both Data Controllers in common) but, in the absence of any such specific agreement, the Parties hereby agree that MDC shall, acting as (where both Parties are Data Controllers for the same Personal Data) Data Controller in common with TDBC and WSC and (where TDBC and WSC is not Data Controller for the relevant Personal Data) sole Data Controller, have primary control of all Personal Data processes by it for the purposes of or in connection with the provision of the Service (the **Service Data**) and that MDC shall be responsible for implementing appropriate technical and organisational measures to protect the security and integrity of that Service Data.

- 28.7 Each Party:
- 28.7.1 shall process Personal Data belonging to or supplied by another Party, or Personal Data derived from or created using Personal Data belonging to or supplied by another Party) only on the instructions of that Party (subject to compliance with applicable law); and
- 28.7.2 shall only undertake processing of Personal Data reasonably required in connection with the operation of this Agreement and shall not transfer any Personal Data belonging to or supplied by another Party (or derived from or created using Personal Data belonging to or supplied by another Party) to any country or territory outside the European Economic Area without the other Party's prior written consent.
- 28.8 No Party shall disclose Personal Data supplied or created under or in connection with this Agreement to any third parties other than:
- 28.8.1 to its employees to whom such disclosure is reasonably necessary in order for that Party to carry out its obligations under this Agreement; or
- 28.8.2 to the extent required under a court order binding on it or to comply with any applicable laws including (but not limited to) any statute, bye law, European Directive or regulation;
- provided that each Party shall give notice in writing to the relevant Party of any disclosure of Personal Data belonging to it which it is required to make under Clause 28.8.2 immediately upon becoming aware of such a requirement.
- 28.9 Each Party shall bring into effect and maintain all reasonable technical and organisational measures necessary to prevent unauthorised or unlawful processing of Personal Data and accidental loss or destruction of, or damage to, Personal Data including but not limited to taking reasonable steps to ensure the reliability and probity of any employee having access to the Personal Data.
- 28.10 A Party may, at reasonable intervals, request a written description of the technical and organisational methods employed by the other Parties. Within five (5) Working Days of such a request, or such other period as the Parties may agree, the Party requested to do so shall supply written particulars of all such measures as it is maintaining detailed to a reasonable level such that the requesting Party can determine whether or not, in connection with the relevant Personal Data, the other Party is compliant with the DPA and/or its obligations under this Agreement.
- 28.11 Each Party shall ensure that any Personal Data it obtains and provides to another Party has been obtained lawfully in accordance with the DPA.
- 28.12 If:-
- 28.12.1 under the DPA a Party (the "required Party") is required to provide information to a data subject (as defined in the DPA) in relation to

Personal Data when such data is in the possession or under control of another Party (the "controlling Party"); and

28.12.2 the required Party informs the controlling Party in writing that this is the case.

then the controlling Party shall, at its own expense, provide all reasonable and prompt co-operation to the required Party in meeting its obligations under the DPA including making and/or providing (as the case may be) copies of the relevant Personal Data, and other relevant information reasonably required by the required Party, to the extent the same are in its possession or under its control.

28.13 Each Party shall provide another Party, as soon as reasonably practicable, with such information in relation to Personal Data and their processing as the other Party may reasonably request in writing and the Party asked to provide the relevant data has in its possession or under its control in order for the other Party to:-

28.13.1 comply with its obligations under this Clause and/or the DPA; and

28.13.2 assess whether the processing of the relevant Personal Data in connection with this Agreement is breaching or may breach the DPA in a manner which is material and not effectively sanctioned by any guidance statement issued by the Information Commissioner.

28.14 Each Party shall take reasonable precautions (having regard to the nature of its obligations under this Agreement) to preserve the integrity of any Personal Data supplied or created under or in connection with this Agreement and in its possession or under its control.

28.15 The Parties agree to enter into the Information Sharing Protocol which is set out in Appendix 9 in respect of the Personal Data processed for the purposes of the Shared Legal Service and this Agreement and the Records.

29 Audit and Provision of Information

29.1 Except where an audit is imposed on TDBC or WSC by a regulatory body, TDBC and WSC may, not more than once in any Financial Year and for a period of 12 months following the Term, conduct an audit for the following purposes unless otherwise agreed by the Contract Managers:

29.1.1 to verify the accuracy of Expenditure (and proposed or actual variations to them in accordance with this agreement) and any cost reduction and income generation initiatives carried out pursuant to clause 5.1;

29.1.2 to review the integrity, confidentiality and security of TDBC and WSC Data;

- 29.1.3 to review the Shared Legal Service compliance with the DPA, FOIA, EIR and any other legislation applicable to the Service;
 - 29.1.4 to review the Shared Legal Service compliance with its obligations in Appendix 4;
 - 29.1.5 to review any records created during the provision of Service;
 - 29.1.6 to review any books of account kept by the Shared Legal Service in connection with the provision of the Service;
 - 29.1.7 to carry out the audit and certification of TDBC and WSC accounts;
 - 29.1.8 to carry out an examination of the economy, efficiency and effectiveness with which the Shared Legal Service has provided the Service;
 - 29.1.9 to verify the accuracy and completeness of any management information delivered or required by this Agreement;
- 29.2 TDBC and WSC shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Shared Legal Service or delay the provision of the Service.
- 29.3 The Shared Legal Service shall on demand provide TDBC and WSC and any relevant regulatory body (and/to their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 29.3.1 all information requested by TDBC and WSC within the permitted scope of the audit;
 - 29.3.2 reasonable access to any premises controlled by MDC and to any equipment used (whether exclusively or non-exclusively) in the performance of the Service; and
 - 29.3.3 access to the Staff.
- 29.4 TDBC and WSC shall endeavour to provide at least fifteen (15) Working Days' notice of its intention to conduct an audit;
- 29.5 TDBC and WSC shall reimburse the Shared Legal Service's reasonable costs and expenses incurred in respect of compliance with their obligations under this Clause, unless the audit identifies a Fundamental Breach of the terms of this Agreement by the Shared Legal Service in which case the Shared Legal Service shall reimburse TDBC and WSC for all TDBC and WSC's reasonable costs incurred in the course of the audit.
- 29.6 If an audit identifies that:
- 29.6.1 the Shared Legal Service has failed to perform its obligations under this Agreement in any material manner, the Contract Managers shall agree

and implement a remedial plan. If the Shared Legal Service's failure relates to a failure to provide any information to TDBC and WSC about the Charges, proposed Charges or the Shared Legal Service's costs, then the remedial plan shall include a requirement for the provision of all such information;

29.6.2 TDBC and WSC has overpaid any Charges, the Shared Legal Services shall pay to TDBC and WSC the amount overpaid within thirty (30) Days of the date on which the final audit report is published which identifies the overpaid Charges. TDBC and WSC may deduct the relevant amount from the Charges if the Shared Legal Service fails to make this payment; and/or

29.6.3 TDBC and WSC has underpaid any Charges, TDBC and WSC shall pay to the Shared Legal Service the amount of the under-payment less the cost of audit incurred by TDBC and WSC if this was due to a Default by the Shared Legal Service in relation to invoicing within thirty (30) Days of the date on which the final audit report is published which identifies the under-paid Charges.

29.7 The Shared Legal Service shall respond to any reasonable request by TDBC and WSC to provide information in relation to the operation of the Shared Legal Service in order to assist TDBC and WSC in responding to reasonable and legitimate inquiries about the operation of the Shared Legal Service provided that the collection and provision of such information by the Shared Legal Service does not unreasonably disrupt the Shared Legal Service or delay the provision of the Service and the costs of the collection and provision of information are reimbursed by TDBC and WSC to the Shared Legal Services if these are considered by the Contract Mangers to be material.

30 Legal Professional Privilege

30.1 The Parties shall treat communications relating to legal matters as confidential and take reasonable endeavours to avoid disseminating them more widely than is necessary beyond the original recipient; so as to prevent the protection relating to general legal professional privilege which will apply to communications between the Shared Legal Service and MDC or TDBC and WSC being lost or waived and thus potentially being subject to disclosure in litigation, under FOI Act or in other circumstances.

30.2 MDC undertakes that the Shared Legal Service will only disclose privileged information to third parties in circumstances where the Shared Legal Service is under a statutory obligation to do so or if ordered by a court or tribunal of competent jurisdiction and shall notify TDBC and WSC of the proposed disclosure unless to do so would contravene such obligation or order.

31 Money Laundering

Should the Shared Legal Service be obliged to carry out identity checks on those instructing it to fulfil its obligations under the Proceeds of Crime Act 2002 or the Money Laundering Regulations 2007 the Parties will cooperate fully and in a timely manner.

32 Counterparts

This Agreement may be executed in any number of counterparts or duplicates each of which shall be an original but such counterparts or duplicates shall together constitute one and the same agreement.

33 Law and Jurisdiction

33.1 This Agreement shall be construed as a contract made in England and shall:

33.1.1 be governed by and shall be construed in accordance with English law; and

33.1.2 be subject to the exclusive jurisdiction of the courts of England, to which the Parties shall submit.

In witness whereof the Parties have executed this Agreement as a Deed the day and year set out above.

Executed as a Deed by)
Mendip District Council)
By affixing its **Common Seal** hereunto)
In the presence of:)

.....

Authorised Officer

Executed as a Deed by)
Taunton Deane Borough Council)
By affixing its **Common Seal** hereunto)
In the presence of:)

.....

Authorised Officer

Executed **as a Deed** by)
West Somerset Council)
By affixing its **Common Seal** hereunto)
In the presence of:)

.....

Authorised Officer

APPENDIX 1 - DESCRIPTION OF THE SERVICE

PART A – GENERAL

- 1 This Appendix defines the legal services which are included within the Service to be provided by the Shared Legal Service under this Agreement and shall be interpreted so that the descriptions included within this Appendix 1 shall be taken to include the provision of legal advice and services which are incidental to the description contained within this Appendix 1.

PART B – EXCLUSIONS

- 2 Certain legal services are excluded from the Service to be provided by the Shared Legal Service as follows:
 - 2.1 legal advice or representation on any matter where in the opinion of any Party, to act for TDBC and WSC would create an actual or potential conflict of interest as set out in Chapter 3 of the SRA Code of Conduct 2011;
 - 2.2 any function of the Monitoring Officer for TDBC and WSC unless and until the Parties agree by way of a variation to this Agreement as provided in Clause 21 of the Agreement that such services relating to the Monitoring Officer function shall thereafter be included;
 - 2.3 any legal work or advice which relates to complex commercial cases;
 - 2.4 legal work on matters already outsourced
 - 2.4.1 where there is a contractual commitment to the outsourced provider; or
 - 2.4.2 where TDBC and WSC considers that the matter should continue to be outsourced because there is a natural extension to a contractual commitment to an outsourced provider or because it is in the interests of continuity of service and/or cost effectiveness, provided that before taking any such decision TDBC and WSC refers the matter to the Business Services Manager for discussion and the views of the Business Services Manager are taken into account by TDBC and WSC before the proposed decision is made, or where in the interests of the Client the matter requires a more expeditious decision than the next meeting of the Contract Managers TDBC and WSC may canvass the Business Services Manager's views informally and the Business Services Manager shall respond within five (5) Days of such referral.

PART C – CATEGORIES OF SERVICE

3 The following areas of legal service shall constitute the Service

Corporate and Governance

- Advice to Council, Cabinet, Committees (including attendance at meetings) and other decision making bodies of TDBC and WSC to the extent this is not excluded by Part B of this Appendix 1
- Advice on Constitutional matters

Commercial, Contracts and Procurement

- Advice on the application of EU procurement rules and individual Council Financial Regulations and Standing Orders
- Advice on contract matters
- Drafting and negotiation of contracts
- Advice on State Aid
- Construction contracts

Property

- Property law advice
- Encroachment/trespass
- Right to buy (prior to conveyance)
- Sales
- Purchases
- Leases
- Agreements
- Licences
- CPO

Enforcements/Prosecutions

Advice and conduct of proceedings in relation to all Council enforcement functions including:

- Planning enforcement
- Licensing enforcement
- Anti-social behaviour
- Car parking fines
- Statutory and other nuisance
- Benefits
- Environmental
- Housing
- Food standards
- Advice on enforcement policy and procedures

Employment

- Advice to the employer, its managers and HR advisers on employment law and procedure
- Conduct of disciplinary appeals and employment tribunal cases
- TUPE

Litigation

- Advice on litigation and how to avoid it
- Advice to any Party on insurance claims
- Advice and conduct of proceedings in relation to negligence
- Personal injury
- Property damage
- Trespass
- Commercial litigation
- Professional negligence
- Judicial review and defending civil claims

- Debt recovery
- Housing repossessions and advice
- Statutory appeals
- Injunctions
- Warrants
- Judicial applications under RIPA
- Homelessness appeals
- Disrepair
- Benefit fraud

Exclusions

Insured litigation for anyone other than TDBC and WSC that accesses legal representation for insured cases through its insurers.

Planning

- Advice on town and country planning matters
- Road naming orders
- Building Regulations advice
- Advice on common land and village greens
- Orders and advice on and including drafting section 106 Planning Obligations, Enforcement Notices and Stop Notices
- Listed buildings (Enforcement and Repair Notices)
- Conservation Areas (Order and Enforcement) plus Article 4 Directions
- Tree Preservation Orders
- Compulsory purchase
- Rights of Way
- Public Inquiries
- Appeals
- Other orders etc under the Localism Act 2011

Highways

- Rights of Way

Information and Complaints

- Legal advice on FOIA and EIR requests for information and DPA subject access requests
- Legal advice on corporate complaints and Ombudsman investigations

Electoral law

- Legal advice on the conduct of elections

Housing

- General Advice all aspects of housing including policy and homelessness
- Homelessness
- Possessions

Licensing

- Advice
- Attendance at licensing hearings and committees where required

Regulation of Investigatory Powers Act (“RIPA”)

- Legal advice on the application of the Act to Council activities
- General legal advice including advice relating to legislation affecting local government
- Leading on inspections by the Information Commissioner
- Seeking Judicial approval for RIPA authorisations

Training and Information

- Updating and advice on forthcoming legislative changes; and
- Whatever legal advice and assistance the Parties may from time to time require.

Health

- Advice and related work on public health.
- Advice and related work on partnership working in/with the NHS

Integration and Outsourcing

- 4 TDBC and WSC are undertaking an extensive programme of service integration which will have an impact on a number of categories of the Service set out above. MDC may undertake outsourcing activities in the future.
- 5 Each Party shall ensure that it keeps the other Parties fully informed of the progress of such projects which will impact on the volume or nature of the Service in order that the Parties shall be able to assess the implications and consequences and make such changes and decisions as are needed to ensure the continuation of the delivery of the Service, provided always that no Party shall be required to disclose information to another Party which is of a commercially confidential nature or which, if disclosed, might prejudice the effective running of the procurement processes for the outsourcing(s).
- 6 It is agreed that any time spent by the Shared Legal Service in dealing with the implications and consequences of any integration or outsourcing project including managing staff and workloads, consultation on TUPE and redundancies, restructurings and SLA re-negotiations shall be charged to the Party undertaking the outsourcing as part of their agreed hours of Service.

APPENDIX 2 – CHARGING PROVISIONS

This Appendix sets out the details of the charging arrangements agreed by the Parties

1 Key Principles

- 1.1 The Core Legal Budget and any Additional Expenditure will be channelled through the Shared Legal Service in order to maximise economies of scale and cost efficiencies for the Parties in accordance with the principles behind this Agreement. The Contract Managers will decide how the Core Legal Budget and any Additional Expenditure is best spent to deliver the legal service needs of the Parties.
- 1.2 The Parties all spend further amounts on legal services each year (in addition to the Core Legal Budget) which are funded from centrally controlled budgets for external legal spend, client department budgets, capitalisation on major projects and other sources ("Additional Legal Spend").
- 1.3 The Parties will use their reasonable endeavours to ensure that all Additional Legal Spend is channelled through the Shared Legal Service in the interests of economies of scale and cost efficiencies for all.

2 Charging arrangements

- 2.1 Each monthly invoice payable by TDBC and WSC to MDC shall include the following elements which together shall constitute a "Monthly Instalment":

X+Y+Z+A where:

X = 1/12 of TDBC and WSC's contribution to the Core Legal Budget (detailed in paragraph 2.5)

Y = the cost of any additional hours charged in accordance with paragraph 2.13 of Appendix 2.

Z = any agreed Additional Expenditure

A = the extra hours required in the any Financial Year (detailed in paragraph 2.6)

Amounts included in the monthly invoice will be supported by invoices where relevant or any other supporting information.

Annual prices are detailed at Annex 1 hereto

- 2.2 The Monthly Instalment will be paid to MDC, in arrears, the first of which shall be paid on 30 April 2015 and each month following thereafter throughout the Agreement unless subject to deductions or varied in accordance with the terms of this Agreement.
- 2.3 MDC will apply the sums paid by TDBC and WSC under clause 2.2 above to the provision of the Service through the Shared Legal Service.

- 2.4 MDC agrees that from the Commencement Date to the end of the Financial Year **2017 / 2018** it shall commit annually the sum of £218,719 (net of predicted income) in respect of its own share of the Core Legal Budget and allocate it to the provision of the Service through the Shared Legal Service.
- 2.5 TDBC and WSC shall commit annually the sums of £200,915 and £113,977 respectively from the Commencement Date to the 31 March 2018, to the Core Legal Budget to reflect TDBC and WSC's total contribution to the Core Legal Budget up to 31 March 2018.
- 2.6 If TDBC and WSC have a requirement for extra hours in any Financial Year relating to specific one off projects. TDBC and WSC shall pay for these hours on the same basis as the Core Legal Budget and this shall be an element of the Monthly Instalment
- 2.7 In relation to the Financial Years 2018/2020 TDBC and WSC shall at least three months before the start of the relevant Financial Year request their required Core Hours for the relevant subsequent Financial Year and the Shared Legal Service shall propose how it intends to deliver the Service at the required level for the forthcoming Financial Year.
- 2.8 If, following agreement on the Core Hours and the Core Legal Budget for the ensuing Financial Year, there is a change in TDBC and WSC's requirements against the then current year, part X of the Monthly Instalments for the ensuing year may be adjusted accordingly by agreement between the Parties taking into account whether the change is likely to be repeated in the ensuing year. There will be no midyear variations to part X of the Monthly Instalment (other than in the circumstances of clause 2.13).
- 2.9 After 1 April 2018 the Core Hours to be provided by the Shared Legal Service shall be agreed on an annual basis taking due cognisance of the recorded data emerging from the Case Management system.
- 2.10 From 1 April 2015 the Charges relating to the Service in accordance with Appendix 2 shall be subject to annual adjustments in respect of inflation effected through the application of the agreed Office of National Statistics Index for Retail Prices (RPI) and taking due of any LGA awards where such LGA awards exceed the prevailing RPI rate.
- 2.11 If the Shared Legal Service is requested by MDC and/or TDBC and WSC to provide hours of Service in addition to the monthly allocation of Core Hours for any particular month, these additional hours shall be charged to the relevant Party at the rate of £65 per hour and invoiced at the end of the month in which the work has been undertaken. The hourly rate will be reviewed annually by the contract officers in accordance with the provisions of paragraph 2.10.
- 2.12 A profile shall be prepared by the Shared Legal Service based on historical data of usage of legal services in TDBC and WSC showing the likely demand for the hours of Service spread across a standard year and therefore the anticipated monthly allocation of hours – "the annual work profile".

- 2.13 The hours of Service provided to TDBC and WSC as part of the Core Legal Budget shall be monitored monthly against the annual work profile and to the extent to which the monthly allocation of hours has not been required by TDBC and WSC in any one month the same number of hours as unused shall be provided in any subsequent month in the same financial year to the extent that the Shared Legal Service has the capacity to do this within its core resources.
- 2.14 MDC shall maintain a record of all Core Hours allocated, accrued and used each month and each Financial Year and these records shall be available to review on request from TDBC and WSC and shall be reviewed by the Contract Managers on a quarterly basis showing the Core Hours used against the annual work profile.

3 Disbursements

- 3.1 Any expenditure on disbursements or experts' or counsels' fees, whatsoever or howsoever incurred, in respect of the provision of the Service to the Parties and in excess of five hundred pounds (£500) shall be agreed beforehand with the relevant Contract Manager and Business Services Manager. Disbursements incurred by the Shared Legal Service in respect of TDBC and WSC matters shall be invoiced to TDBC and WSC at the end of the month in which the disbursement is authorised. Payment will be due at the end of the following month.

4 Set up costs

- 4.1 The agreed items of set up costs together with an estimate of costs incurred "the set up costs estimate" are set out in Annex Two to this Appendix.
- 4.2 At the end of the first year of operation of the Agreement the Parties shall review the actual expenditure on set up costs and may either identify and agree any additional set up costs reasonably incurred but not identified at the Commencement Date. MDC shall recover all agreed set up costs before any surplus is made available to be shared between the Parties.
- 4.3 Where there is any dispute as to the eligibility of an item to qualify as a set up cost or a dispute as to the quantum involved, this will be resolved between the senior finance officers of the Parties or if the senior finance officers fail to reach agreement, in accordance with the Dispute Resolution provisions contained in Clause 20 of this Agreement.

5 Annual budgeting/reconciliation and Shared Surpluses

- 5.1 At the end of each Financial Year of operation of the Shared Legal Service there will be a review by the Parties of the charging arrangements and budget figures. If any material inaccuracies are identified in the budget figures which were relied on as the basis for setting up or continuing to operate the Shared Legal Service these will be rectified and adjustments made to place each Party in the position they would have been in had the figures been accurate.

- 5.2 At the end of each Financial Year of operation of the Shared Legal Service the Shared Legal Service will report to the Parties respective Chief Executives on the end of year accounts for the Shared Legal Service including any Surplus proposed to be carried forward into the next Financial Year. Within ninety (90) Days of the end of each Financial Year, the Contract Managers and the respective Chief Executives shall meet and consider whether and if so how much of the Surplus is appropriate for distribution to the Parties taking into account the requirements of the Shared Legal Service to retain sufficient working balances to operate effectively. The resulting Surplus shall be shared between TDBC and WSC and MDC in proportion to the total amount of hours of Service (including both Core hours and any additional hours of activity above the hours specified in paragraph 2.5 of this Appendix 2) that each Party has accrued during the Financial Year . MDC shall transfer any agreed amount by way of distribution of Surplus to the TDBC and WSC Account (account number [], sort code []) within thirty (30) Days of the Contract Managers [and the respective Chief Executives] agreeing such distribution.

6 Surplus

- 6.1 MDC acknowledges that it owes TDBC and WSC a duty of good faith, to use all reasonable endeavours and to act in a bona fide manner having regard to the liability on the part of MDC to TDBC and WSC in relation to Surplus.
- 6.2 If the Surplus for a Financial Year is less than zero, resulting in a shortfall for that Financial Year, MDC shall be entitled to carry forward and recover such shortfall, including the costs identified at Annex 2 hereto, pursuant to paragraph 6.4 of this Appendix.
- 6.3 If the Surplus for a Financial Year is greater than zero, then prior to calculating any Surplus, there shall be due to MDC any shortfall arising under a previous Financial Year in respect of which the Surplus calculation has arisen.
- 6.4 Following the calculation of the Surplus for a Financial Year, MDC shall pay into the TDBC and WSC Account the Surplus for the Financial Year (if any) in accordance with paragraph 5.2.
- 6.5 Where at any time during the operation of the Shared Legal Service there is a substantial sum standing to the credit of the Shared Legal Service Account and all Parties (acting reasonably) are of the opinion that all or part of such sum will not be required to assist with the delivery of the Service, then subject to the written agreement of the Parties, all or part of the sum held shall be distributed on a pro-rata basis between TDBC and WSC and MDC in accordance with the agreed surplus distribution formula.
- 6.6 Where this Agreement is terminated for any reason, then the provisions of Clauses 16 (Termination) 18 (Consequences of Termination) shall apply.

APPENDIX 2 – ANNEX 1

TDBC Prices

Financial Year	TDBC core hours price	TDBC Estimated Core Hours
2015/2015	£200,915	N/A
2016/2017	£200,915	N/A
2017/2018	£200,915	N/A
2018/2019	£200,915	TBA *
2019/2020	£200,915	TBA *

- In accordance with the provisions of paragraphs 2.7 and 2.8 of Appendix 2

Charge rate for any Additional Hours shall be £65 per hour

NB

Prices are based as at 1 April 2014 and subject to inflation in accordance with paragraph 2.11 of Appendix 2

WSC Prices

Financial Year	WSC core hours price	WSC Estimated Core Hours
2015/2015	£113,977	N/A
2016/2017	£113,977	N/A
2017/2018	£113,977	N/A
2018/2019	£113,977	TBA *
2019/2020	£113,977	TBA *

- In accordance with the provisions of paragraphs 2.7 and 2.8 of Appendix 2

Charge rate for any Additional Hours shall be £65 per hour

NB

Prices are based as at 1 April 2014 and subject to inflation in accordance with paragraph 2.10 of Appendix 2

APPENDIX 2 – ANNEX 2

Set Up Costs

The estimated set up costs for the Legal Shared Service to be funded initially by MDC are:

MDC Absorbed Costs	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020
	£	£	£	£	£
Management	55,000	25,000	25,000	25,000	25,000
Backfill of MDC Lawyer for Implementation	20,000	Nil	Nil	Nil	Nil
Marketing	10,000	Nil	Nil	Nil	Nil
Training	10,000	Nil	Nil	Nil	Nil
Branding	Nil	10,000	Nil	Nil	Nil
Overheads for 5.6 FTE TUPE staff at 50%	36,400	36,400	36,400	36,400	36,400
Total	131,000	71,400	61,400	61,400	61,400

NB

Prices are based as at 1 April 2014 and subject to inflation in accordance with paragraph 2.10 of Appendix 2.

APPENDIX 3 – GOVERNANCE

- 1 The Parties shall set up the following governance arrangements:
 - 1.1 Contract Managers
 - 1.1.1 The Contract Managers shall be a senior level forum for oversight, consultation, discussion, resolution of issues and recommendation back to the Parties on all aspects of the delivery of the Service.
 - 1.1.2 The Contract Managers shall have no decision making powers vested in them by the Parties (except in relation to delivery of the Service) as documented in the Schemes of Delegation of the respective Parties.
 - 1.2 The terms of reference of the Contract Managers shall include but not be limited to responsibility to:
 - 1.2.1 monitor the delivery of the Service and in particular compliance with the Service Standards;
 - 1.2.2 receive, scrutinise and comment on regular reports on the performance of this Agreement;
 - 1.2.3 ensure and enforce the effective performance of the Service in accordance with the Service Standards and to identify Defaults;
 - 1.2.4 ensure Defaults are rectified to the satisfaction of the Parties;
 - 1.2.5 receive, scrutinise and comment on a report on the Initial Business Plan for the Service (the Business Services Manager shall have the responsibility to prepare this) and provided the report is acceptable recommend agreement of the proposed plan and Charges to TDBC and WSC and MDC;
 - 1.2.6 receive, scrutinise and comment on a report each Financial Year on the proposed Business Plan for the forthcoming year and provided the report is acceptable to recommend agreement of the proposed plan to TDBC and WSC and to MDC;
 - 1.2.7 receive, review and comment on any reports during each Financial Year where it is considered that a change in statutory requirements, a change in policy or a change in financial circumstances requires the Business Plan (and potentially the charges) to be revisited and to recommend appropriate action to MDC and to TDBC and WSC;
 - 1.2.8 receive, review and comment on reports on any proposed policy changes in connection with the delivery of the Service and to recommend any revised policy to MDC and to TDBC and WSC;

1.2.9 consider, scrutinise and comment on any reports about issues, concerns or complaints relating to the delivery of the Service and to seek to resolve these;

1.2.10 stipulate any necessary action to MDC or to TDBC and WSC to resolve any concerns about the delivery or quality of the Service which may include but not be limited to recommending changes in practice or operational matters, further training, mentoring, disciplinary action or in severe cases, replacement redeployment or removal of staff or replacement of equipment or IT systems as appropriate; and

1.2.11 review of Client satisfaction surveys.

1.3 The Shared Legal Service shall pay due regard to any comments of the Contract Managers and ensure any adverse issues are fully addressed or any stipulated actions are implemented within the timescales to be agreed between the Parties.

2 The Business Services Manager of the Shared Legal Service shall attend relevant management meetings with client departments of TDBC and WSC as and when required by TDBC and WSC to ensure effective communication, accountability and feedback about the operation of the Service.

3 If the Contract Managers cannot agree an issue on which it is required to give a decision on, then such issue may be referred to a meeting with the Head of Partnership to resolve negotiating on the basis of good faith. If the Head of Partnership is unable to settle the issue then it may be referred to a meeting of the Chief Executive of TDBC and WSC (or a person appointed by him or her to act on his or her behalf) and the Chief Executive of MDC (or a person appointed by him or her to act on his or her behalf) to resolve, negotiating on the basis of good faith.

APPENDIX 4 – OPERATIONAL MATTERS

1 Service Level Agreements

- 1.1 As soon as reasonably practicable after the Commencement Date and in any event before 1 April 2015 for each subsequent twelve months, the Shared Legal Service shall agree Service Level Agreements ("SLAs") including embodied service standards with the relevant client leads in each Party. The SLAs shall be in a form agreed between the Parties and shall set out the agreed volume of hours of legal services which shall be provided within the overall number of chargeable hours to be provided to the Party and any variation within the SLAs shall be managed within the respective Party always provided that the total number of hours for either Party shall not exceed the overall sum of core hours agreed as set out in Appendix 2.
- 1.2 The SLAs with TDBC and WSC shall cover the following areas of Service as described in Appendix 1 Part C:
- Corporate and Governance
 - Commercial, Contracts and Procurement
 - Property
 - Enforcements/Prosecutions
 - Employment
 - Litigation
 - Planning
 - Highways
 - Information and Complaints
 - Electoral law
 - Housing
 - Licensing
 - Regulation of Investigatory Powers Act
 - Training and Information
 - Health

or such other areas of Service as agreed from time to time with the Client to reflect changing requirements for the scope of SLAs and/or organisational change.

- 1.3 The legal services provided shall be monitored monthly against the anticipated workload levels in each of the SLAs, and the Business Services Manager of the Shared Legal Service will provide such reasonable information about the monthly workloads to the Contract Manager for TDBC and WSC.

2 Quality and Standards

- 2.1 The Shared Legal Service shall comply with the standards required by the Solicitors Regulation Authority and the Chartered Institute of Legal Executives which apply to every aspect of the Service the Shared Legal Service provides.
- 2.2 The Shared Legal Service shall provide training to all Staff on all Parties' anti-money laundering, anti-bribery and FOI Act procedures.
- 2.3 The performance standards to which the Shared Legal Service will perform in the provision of the Service will be agreed as soon as reasonably practicable after the Commencement Date by the Business Services Manager.
- 2.4 In cases involving a dispute that may lead to court or tribunal proceedings the need to comply with court/tribunal rules places responsibilities on TDBC and WSC and the Shared Legal Service as TDBC and WSC's lawyers. Failure by TDBC and WSC to comply with its responsibilities may lead to the imposition of sanctions for which TDBC and WSC shall be responsible.
- 2.5 Where negligence or misconduct by the Shared Legal Service results in an adverse costs order being made against TDBC and WSC, the liability for meeting such costs shall be met by MDC and shall not be included within the Charges.
- 2.6 Any advice provided by the Shared Legal Service provided to WSC or TDBC is provided for the benefit of TDBC and WSC and solely for the purpose of the instructions to which it relates. It should not be used or relied on for any other purpose and may not be relied on by any other person without the prior written consent of the Business Services Manager.

3 Key Contacts

- 3.1 The Key Representatives in respect of this Agreement for TDBC and WSC shall be the officer designated by TDBC and WSC as the Contract Manager as notified to MDC from time to time. The Key Representative in respect of this Agreement for MDC shall be the officer appointed by MDC as the Contract Manager as notified to TDBC and WSC from time to time.
- 3.2 The Key Representatives shall be responsible for the overall operation of this Agreement and the relationship between the Parties.

- 3.3 For day to day queries concerning financial matters including time spent on individual cases TDBC and WSC should contact the Business Services Manager .
- 3.4 In relation to individual matters TDBC and WSC should contact the person handling the matter or the person listed in Appendix 6 as responsible for the relevant area of work.
- 3.5 The Shared Legal Service shall keep updated full information as to its people and structure and the Service that the Shared Legal Service provide.

4 Managing this Agreement

- 4.1 The Shared Legal Service welcomes and shall actively seek feedback and comments from TDBC and WSC.
- 4.2 The Shared Legal Business Services Manager shall be responsible for dealing with any comments or complaints but the Shared Legal Service shall also have a formal complaints procedure. Where problems arise the Shared Legal Service shall review its working practices to reduce the risk of a reoccurrence. .

5 Instructions and Communication

- 5.1 As at the Commencement Date the Shared Legal Service shall continue to accept instructions in the ways in which it accepted them prior to the Commencement Date including accepting telephone instructions on urgent one-off pieces of advice. The Shared Legal Service will require written instructions from TDBC and WSC to enable the Shared Legal Service to be absolutely certain about TDBC and WSC's requirements. An e-mail shall suffice. The level of detail required shall depend on the complexity of the matter but should include:

- 5.1.1 The instructing officer and any relevant contact officer (if different);
- 5.1.2 The nature of the assistance required; and/or
- 5.1.3 The timescale in which the assistance is required.

TDBC and WSC should provide the Shared Legal Service with what TDBC and WSC considers to be the relevant background information. The Shared Legal Service shall discuss this with TDBC and WSC and identify any additional information requirements. If the Shared Legal Service require further instructions it shall let TDBC and WSC know.

The Shared Legal Service shall discuss with TDBC and WSC in more detailed protocols for the giving and receipt of instructions to enable the efficient allocation of work within the Shared Legal Service.

It is agreed that once the legal case management system is implemented then all instructions shall be standardised in accordance with that system and from the date of implementation only instructions in this form shall be accepted by the Shared Legal Service.

- 5.2 The Shared Legal Service shall accept instructions from any of TDBC and WSC's staff unless TDBC and WSC specifically restrict the authority to commission legal work to specified individuals or grades of staff in which case TDBC and WSC shall provide the Shared Legal Service with a list of duly authorised instructing officers. The Parties shall work towards a consistent approach to a scheme of delegation in relation to the delivery of the Service, including by way of example, authority to institute proceedings.
- 5.3 When the Shared Legal Service need to communicate in writing the Shared Legal Service shall communicate through e-mail wherever possible. The Shared Legal Service shall meet with TDBC and WSC when a meeting will add value. Otherwise the Shared Legal Service shall speak to TDBC and WSC over the telephone. Attendance at meetings may exceptionally be required at short notice but wherever possible reasonable notice will be given.
- 5.4 If appropriate, the Shared Legal Service shall discuss with TDBC and WSC whether the proposed course of action shall justify the expense or risk involved including, if relevant, the risk of having to bear an opponent's costs. The Shared Legal Service shall inform TDBC and WSC in writing of any circumstances of which it becomes aware which will or may affect the degree of risk involved or cost benefit to TDBC and WSC of continuing with the matter.
- 5.5 The Shared Legal Service shall be committed to a culture which promotes equality and values diversity. The Shared Legal Service aims to make its service accessible to all. This shall include staff of TDBC and WSC who deal with the Shared Legal Service as a service and members of the public and other third parties who deal with the Shared Legal Service direct when the Shared Legal Service are representing TDBC and WSC.
- 5.6 The Shared Legal Service shall work with TDBC and WSC to ensure that no person is disadvantaged in accessing the Shared Legal Service services as a result of the way the Shared Legal Service is delivered to them.

6 Conflicts of Interests

- 6.1 As an in-house legal service, the Shared Legal Service shall also have corporate governance responsibilities in order to protect the Client's position as a whole. In the event of conflict, these duties take precedence.
- 6.2 The Shared Legal Service has a duty to ensure that the Client acts legally and shall assist and advise at all times.
- 6.3 In any other situation where conflict may exist, the matter shall be discussed with the Client immediately and steps taken to address any conflict issues.

7 Refusing or Ceasing to Act

- 7.1 There are certain circumstances where the Shared Legal Service may be required by the Codes of Conduct to refuse or cease to act for MDC, TDBC and WSC. The Shared Legal Service, acting by the Business Services Manager, may do so if to act would involve the Shared Legal Service in a breach of law or of the Code of Conduct, cause an actual or potential conflict of interest or if the Shared Legal Service has insufficient resources or lacks the competence/specialist skills to deal with the matter.
- 7.2 In such circumstances, the Shared Legal Service reserve the right to refuse to act for TDBC and WSC and the Shared Legal Service shall notify TDBC and WSC forthwith and subject to TDBC and WSC's prior consent, the Shared Legal Service shall pass the instructions directly to external solicitors chosen by TDBC and WSC. The Shared Legal Service shall use their best endeavours to ensure that the external legal advisers chosen to carry out the work do so at their agreed standard local authority rates.
- 7.3 TDBC and WSC shall be responsible for paying the cost of the external legal advisors unless the reason for the Shared Legal Service refusing to act has been an avoidable lack of capacity to carry out work which would normally be part of the Core Hours t. In these circumstances only, the amount of any fees paid by TDBC and WSC directly to the external legal adviser shall be deducted from the Charges paid by TDBC and WSC to the Shared Legal Service for the Service.

8 Dispute resolution

If a dispute arises between the Parties the Key Representatives will normally be expected to resolve it. In the case of a serious complaint or any other special circumstances (such as the Key Representatives him or herself being involved in the disputes) then the matter will resolved in accordance with Clause 20 of the Agreement.

APPENDIX 5 – EXIT ARRANGEMENTS

1 Overriding objectives

1.1 Within 3 (three) months of the date of this Agreement the Parties shall prepare a draft exit plan and shall have two overriding objectives in planning and implementing such exit plan, these are to ensure:

1.1.1 a smooth transition so that there is no interruption in the provision of the highest quality services to Clients, sufficient and comprehensive handover arrangements and business continuity for the Parties.

1.1.2 that the Client and the staff affected by the exit are fairly treated, receive adequate communication, are involved in the process and are not adversely affected.

2 Procedure on termination or expiry

2.1 On receipt of notice that the Agreement is to be terminated (whether in whole or in part) in accordance with the terms of the Agreement, the Parties shall implement the exit plan which shall contain details as outlined below:

2.1.1 Governance structure for the transition phase;

2.1.2 Subject to the provisions of this Agreement, identification of any equipment, files, file notes, correspondence, records, documents and other papers used by, produced by or stored by MDC to deliver the Services (which may include equipment not solely used for the provision of the Services);

2.1.3 Transfer of any data (whether in hard copy or electronic);

2.1.4 TUPE Lists, pension details (subject to data protection law);

2.1.5 The roles of each Party during the period leading up to Termination;

2.1.6 Sub licence or sub lease to TDBC and WSC to make use of any premises controlled by MDC as may be reasonably required.

3 Review of Exit Plan

3.1 The exit plan shall be reviewed by the Parties annually throughout the Term of the Agreement or at such other times as may be reasonably requested by a Party.

3.2 Such reviews shall examine the procedures and methodologies set out in the exit plan and assess their suitability in light of any changes to the Services that have

occurred since the later of the original approval of the exit plan or the most recent review.

4 Handover Period

The Parties shall take all such reasonable steps as shall be necessary for the orderly hand-over of the Services such that the Services can be carried on with the minimum of interruption and inconvenience to Clients and the Parties which shall include but not be limited to preparation of detailed handover notes summarising the status of each case or matter including relevant time limits and outstanding actions, undertakings given and client care issues.

5 Employment issues during exit period

- 5.1 The Parties will during the exit period jointly establish an exit group comprising staff of the Parties to manage transition of the Services, and to implement the provisions of the exit plan (the "Exit Group"). Each Party will make available sufficient resources to meet the requirements of the Exit Group. The Exit Group will manage all the activities needed for the transfer of the Returning Services from MDC to TDBC and WSC or any Future Provider so that the transition is carried out as seamlessly as possible.
- 5.2 On expiry or earlier termination of this Agreement, as part of the exit plan the Parties agree that it is their intention that TUPE shall apply in respect of the provision thereafter of any service equivalent to a Service to Clients by TDBC and WSC or any Future Provider but the position shall be determined in accordance with the Law during the exit period and this paragraph is without prejudice to such determination.
- 5.3 The Parties agree that during the exit period, the Exit Group shall work to identify those staff engaged by MDC who would:
- 5.3.1 if they remained employed by MDC at the end of the exit period, be the subject of a Relevant Transfer to TDBC and WSC or any Future Provider in respect of the Returning Services for which TDBS and WSC or any Future Provider shall become responsible at the end of the exit period, or
 - 5.3.2 be offered employment pursuant to the provisions of clause 5.8 below, (together "the Potential Returning Employees").
- 5.4 During the exit period, to the extent that any Potential Returning Employees resign or their employment is terminated by MDC, the Exit Group will agree that in the event that this creates any vacancies within the workforce delivering the Returning Services during the exit period, such vacancy shall to the extent possible in light of service delivery requirements in relation to the Returning Services either:
- i not be filled by MDC during the exit period; or

- ii be filled by the engagement by MDC of agency staff or staff engaged on fixed term contracts of employment; or
- iii TDBC and WSC or any third party shall instead recruit a suitable individual in relation to that vacancy and then second such individual to MDC for the remainder of the exit period to deliver the Returning Services with such secondment to end at the end of the exit period; or
- iv where MDC recruits any suitable individuals in relation to that vacancy, such recruitment shall be on the basis that the individual will only be engaged in the delivery of the Returning Services and it shall be made clear as part of such recruitment that the individual will be subject to a Relevant Transfer to TDBC and WSC or any third party at the end of the exit period.

- 5.5 At the start of the exit period, to the extent possible under TUPE and/or the applicable Law at the relevant time, the Exit Group shall use all reasonable endeavours to consult upon and agree a reorganisation process with the Potential Returning Employees and/or their appointed employee representatives or trade unions, to confirm who will be the subject of a Relevant Transfer to TDBC and WSC or any Future Provider at the end of the exit period;
- 5.6 The Exit Group shall use all reasonable endeavours to agree and implement any other steps, measures, processes and/or procedures in order to minimise the potential for any Potential Returning Employees not being the subject of a Relevant Transfer to TDBC and WSC or any Future Provider at the end of the exit period.
- 5.7 Where, despite the requirements of paragraphs 5.4 – 5.6 having been complied with, there remain any Potential Returning Employees who may not be the subject of a Relevant Transfer, the provisions of paragraphs 5.8 to 5.11 below shall apply.
- 5.8 If TUPE does not apply on the expiry or termination of this Agreement to any Potential Returning Employees, TDBC and WSC shall or shall procure that each Future Provider shall as far as possible offer employment to the Potential Returning Employees employed by MDC in the provision of the Returning Services immediately before the end of the exit period.
- 5.9 If an offer of employment is made in accordance with paragraph 5.8, the employment shall be on the same terms and conditions (except for entitlement to membership of an occupational pension scheme) as applied immediately before the expiry or earlier termination of this Agreement including full continuity of employment.
- 5.10 Where any such offer as referred to in paragraph 5.8 is accepted, MDC shall indemnify and keep indemnified in full TDBC and WSC and/or any Future Provider on the same terms and conditions as those set out in paragraph 5.17 as if there had been a Relevant Transfer in respect of each and every employee

who has accepted any such offer and for the purposes of paragraphs 5.14 - 5.19 each and every such employee shall be treated as if they were a Returning Employee.

- 5.11 Where TDBC and WSC or any Future Provider does not make any such offer or any such offer as referred to in paragraph 5.8 is not accepted and TUPE does not apply, the provision of paragraph 5.12 below shall apply regarding any redundancy or reorganisation costs incurred by MDC.

Redundancy and Reorganisation Costs

- 5.12 Where TDBC and WSC or any Future Provider does not make any such offer or any such offer as referred to in paragraph 5.8 is not accepted and TUPE does not apply to any Potential Returning Employee, then:

- (a) MDC shall be entitled to dismiss any or all of the Potential Returning Employees by reason of redundancy or for some other substantial reason provided that TDBC and WSC shall carry out in the required manner any obligation to consult with the Potential Returning Employees or any of them, or their respective representatives, and shall use all reasonable endeavours to mitigate the amount of any costs payable in respect of the said employees or their dismissal; and
- (b) TDBC and WSC shall indemnify MDC against all Losses and/or Employment Claims relating to the dismissals referred to in paragraph 5.12(a) above reasonably incurred by MDC (including any additional costs incurred in relation to the Local Government Pension Scheme).

- 5.13 Without prejudice to the provisions of clauses 5.1 - 5.12 above, and in any event,

5.13.1 during the twelve (12) months prior to the expiry of this Agreement or after TDBC and WSC has given notice to terminate this Agreement and within twenty one (21) Days of being requested to do so, MDC shall fully and accurately disclose to TDBC and WSC any and all information in relation to all persons engaged in providing the Service including:

- (a) a list of employees employed by MDC or any sub-contractor in the provision of the Services;
- (b) a list of agency workers, agents and independent contractors engaged by MDC or any sub-contractor in the provision of the Services;
- (c) the total payroll bill (i.e. total taxable pay and allowances including employer's contributions to pension schemes) of those persons; and
- (d) the terms and conditions of employment or other contract with such persons

and shall notify TDBC and WSC as soon as reasonably practicable of any variation in the information provided under this clause 5.13 and shall provide TDBC and WSC with the revised and accurate information. MDC shall warrant that such information is complete and accurate as far as it is aware or should reasonably be aware as at the date it is provided.

5.13.2 during the twelve (12) months prior to expiry of this Agreement or where notice to terminate this Agreement for whatever reason has been given, save where it is as a result of a decision by the Exit Group, MDC shall not and shall procure that any sub-contractor shall not without the prior written consent of TDBC and WSC (such consent not to be unreasonably withheld or delayed) unless in the ordinary course of business:

- (a) vary or purport or promise to vary the terms and conditions of employment of any employee employed in connection with the Services;
- (b) materially increase or decrease the number of employees employed in connection with the Services; or
- (c) assign or re-deploy any employee employed in connection with the Services to other duties unconnected with the Services or assign or re-deploy any employee employed to carry out duties unconnected with the Services to the duties connected with the Services.

5.14 MDC shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Returning Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and otherwise, up to the date of any Relevant Transfer in respect of such Returning Employees on expiry or termination of this Agreement.

5.15 TDBC and WSC shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Returning Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and otherwise, for the period on or after the date of any Relevant Transfer in respect of such Returning Employees on expiry or termination of this Agreement.

5.16 MDC shall indemnify and keep indemnified TDBC and WSC and any Future Provider against any Losses caused to TDBC and WSC or any Future Provider by any inaccuracy or incompleteness in such information as is provided under 5.13 above or by any changes in the information which have not been communicated to TDBC and WSC (whether relating to the number, identity or details of the Returning Employees or otherwise) which occur prior to the Relevant Transfer Date.

- 5.17 MDC shall indemnify TDBC and WSC and any Future Provider in full from and against all Losses and/or Employment Claims which TDBC and WSC and/or any Future Provider incurs arising from:
- (a) any act or omission of MDC or any sub-contractor in relation to the Returning Employees,
 - (b) subject to the provisions of paragraph 5.12 above, any claim by an employee or former employee of MDC or any sub-contractor who is not a Returning Employee, and
 - (c) any representations made by MDC or any sub-contractor in relation to employment by TDBC and WSC and/or any Future Provider, provided that such Losses and/or Employment Claims are not payable as a result of any act or omission by TDBC and WSC and/or any Future Provider.
- 5.18 TDBC and WSC shall indemnify MDC against all Losses and/or Employment Claims incurred by MDC in connection with or as a result of any claim or demand
- (a) by an employee of MDC who would, had it not been for the termination of that employee's employment pursuant to the provisions of TUPE Regulation 4(9) and/or 4(11), have been an employee with a right to transfer to TDBC and WSC under TUPE,
 - (b) arising out of TDBC and WSC's failure to comply with its obligations under TUPE Regulation 13(4).
- 5.19 TDBC and WSC shall indemnify MDC in full from and against all Losses and/or Employment Claims which MDC incurs arising from any act or omission of TDBC and WSC and/or any Future Provider in relation to the Returning Employees.

APPENDIX 6 – CABINET DECISIONS

Relevant resolutions given by the Parties executives and Councils are as follows:

MDC:

The 12th January 2015 Cabinet resolved that:

1. Endorsed the business case to establish a Shared Legal Services Partnership to support MDC, WSC and TDBC including the governance structure outlined in the business case and the costs identified therein.
2. Noted the Council will consider the Inter Authority Agreement relating to the Partnership in February 2015.
3. Noted that proposed commencement date of 1 April 2015 for the Partnership.
4. Noted the resource implications for the Council in leading an initiative of this nature, particularly for the Manager of corporate Support Services and Corporate manager for Governance, Assets and Public Spaces, but also for support functions such as Human Resources and Business Information Systems.
5. Noted the intention to develop a second stage business case to develop the Partnership and to explore the feasibility of increasing its breadth to include further Corporate Support Services.
6. Agreed to accept the TUPE of staff from WSC and TDBC to MDC.

The 23rd February 2015 Full Council resolved that:

To be inserted before signature

TDBC

The 14th January 2015 Executive resolved that:

“TDBC Executive it was agreed to recommend full council to approve the legal shared services business case subject to the inclusion of a 6 month termination option in the inter authority agreement as requested by corporate scrutiny. Mendip advised that they were prepared to accept this clause subject to the agreement also including a clause requiring TDBC, should they choose to exercise this clause, being required to reimburse MDC for their apportionment of receipted start-up costs for establishing the shared legal service.”

The 24th February TDBC Full Council resolved that:

To be inserted before signature

WSC

The 7th January 2015 Cabinet resolved that:

The Lead Member for Resources and Central Support presented the report, highlighting the key objectives of the project which included a 15% budget saving for WSC, and she went on to propose the recommendation which was seconded by Councillor S J Pugsley.

Members were supportive of the proposal and during the discussion clarification was provided regarding staff being TUPE'd to MDC and it was noted that the legal staff would have the opportunity to be located at any of the three bases, or work remotely, where convenient and there was not expected to be any less presence of legal staff at WSC. In addition, following the meeting, the Monitoring Officer noted the minor amendments raised regarding Appendix A to the report.

RESOLVED that it be recommended to Council to adopt the draft business case for a legal shared service – as set out in Appendix A to the report – with an implementation date of 1 April 2015 – and that Council consider and agree the full terms of the associated Authority Agreement.

The 25th February 2015 Council resolved that:

To be inserted before signature

APPENDIX 7 – THE EMPLOYEES

To be inserted prior to signature

APPENDIX 8 - "the Policies"

- Anti Fraud and Corruption Policy
- Communications and Operational Management policy
- Computer Telephony and Desk Use Policy
- Email Acceptable Use Policy
- Equalities Policy
- Health and Well being at Work Policy
- Information Governance Policy (including FOIA , and DP Policies)
- Information Protection Policy
- Information Security Incident Management Policy
- Internet Acceptable Use Policy
- IT Access policy
- IT Infrastructure Security Policy
- IT Legal Responsibilities Policy
- Misuse of Alcohol and Substance Abuse policy
- Officers Code of Conduct
- Removal of Media Policy and Protocol for the Storage of Media and Image Files
- Remote Working Policy
- Respect Fairness and Dignity at Work Policy
- RIPA Policy
- Safeguarding Policy – Safeguarding children and Vulnerable Adults
- Sickness Absence Management policy
- Social Media Staff Policy
- Software Policy
- Whistle Blowing Policy

APPENDIX 9 - "Data Sharing Protocol"

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1. INTRODUCTION

- 1.1 This document is an Information Sharing Protocol (for the purpose of this protocol, the terms data and information are synonymous). The aim of this document is to facilitate sharing of all personal, sensitive and non personal data between the public, private and voluntary sectors so that members of the public receive the services they need.
- 1.2 Organisations involved in providing services to the public have a legal responsibility to ensure that their use of personal data is lawful, properly controlled and that an individual's rights are respected. This balance between the need to share personal data to provide quality service and protection of confidentiality is often a difficult one to achieve.
- 1.3 The legal situation regarding the protection and use of personal data can be unclear. This situation may lead to information not being readily available to those who have a genuine need to know in order for them to do their job properly.
- 1.4 There are fewer constraints on the sharing of non-personal data, that is data which either does not identify a living individual or when combined with other information that is in or may come into the organisation's possession will not identify a living individual.
- 1.5 Each partner to this protocol should ensure that all of their staff who are affected by it are:
- aware of its contents and
 - the obligations it and any information sharing agreements (ISA) which are created between the organisation signed up to it bring to them.
- 1.6 Each partner should also ensure that revisions to the protocol and ISA raised in it are signed in good time, which should be before any sharing takes place.

2. SCOPE

- 2.1 This overarching protocol sets out the principles for information sharing between the Parties (referred to the Partner Organisations for the purposes of this protocol).
- 2.2 This protocol sets out the rules that all people working for or with the Partner Organisations must follow when using and sharing information.
- 2.3 This protocol applies to all information shared by Partner Organisations. Sharing is **not** restricted solely to information classified as Personal Data by the Data Protection Act 1998. This includes the following information:
- a) All information processed by the organisations including electronically (e.g. computer systems, CCTV, Audio etc), or in manual records;
 - b) Anonymised, including aggregated data. The considerations, though less stringent, must take into account factors such as commercial or business, sensitive data, and

the effect of many data sets being applied.

- 2.4 This Protocol will be further extended to include other public sector, private and voluntary organisations working in Partnership to deliver services.
- 2.5 The specific purpose for use and sharing information will be defined in the Information Agreements that will be specific to the Partner Organisations sharing information.

3. AIMS AND OBJECTIVES

3.1 The aim of this protocol is to provide a framework for the Partner Organisations and to establish and regulate working practices between Partner Organisations. The protocol also provides guidance to ensure the secure transfer of information, and that information shared is for justifiable legal purposes (see 6.3 and 11.5).

3.2 These aims include:

- a. To guide Partner Organisations on how to share personal information lawfully.
- b. To explain the security and confidentiality laws and principles of information sharing.
- c. To increase awareness and understanding of the key issues.
- d. To emphasise the need to develop and use Information Sharing Agreements.
- e. To support a process that will monitor and review all information flows.
- f. To encourage flows of information.
- g. To protect the Partner Organisations from accusations of wrongful use of personal data.
- h. To identify the legal basis for information sharing.

3.3 By becoming a Partner to this Protocol, Partner Organisations are making a commitment to:

- a. Apply the Information Commissioner's Code of Practice's 'Fair Processing' and 'Best Practices' Standards;
- b. Adhere to or demonstrate a commitment to achieving the appropriate compliance with the Data Protection Act 1998;
- c. Develop local Information Sharing Agreements (ISA) that specify transaction details.

3.4 Partner Organisations are expected to promote staff awareness of the major requirements of Information Sharing. This will be supported by the production of appropriate guidelines where required that will be made available to all staff via the Partners' Intranet sites and/or via other communication media.

4. THE LEGAL FRAMEWORK

4.1 The principal legislation concerning the protection and use of personal information is listed below and further explained in:

- Human Rights Act 1998 (article 8)
- The Freedom of Information Act 2000
- Data Protection Act 1998
- The Common Law Duty of Confidence
- Computer Misuse Act
- Civil Contingencies Act 2004

4.2 Other legislation may be relevant when sharing specific information.

4.3 As part of each ISA, Partner Organisations should identify how they will meet its legal obligations and the legal basis (legislation and appropriate section(s)) under which information may be shared.

5. INFORMATION COVERED BY THIS PROTOCOL

5.1 All Information, including personal data and sensitive personal data as defined in the Data Protection Act 1998 (DPA).

In order to reduce the risks of DPA compliance and security breaches where possible anonymised data should be used.

5.2 Personal Data

5.2.1 The term 'personal data' refers to **any** data held as either manual or electronic records, or records held by means of audio and/or visual technology, about an individual who can be personally identified from that data.

5.2.2 The term is further defined in the DPA as:

- Data relating to a living individual who can be identified from those data;
or
- Any other information which is in the possession of, or is likely to come into the possession of the data controller (person or organisation collecting that information).

5.2.3 The DPA also defines certain classes of personal information as 'sensitive data' where additional conditions must be met for that information to be used and disclosed lawfully.

5.2.4 An individual may consider certain information about themselves to be particularly private and may request other data items to be kept especially confidential e.g. any use of a pseudonym where their true identity needs to be withheld to protect them.

5.3 Anonymised Data

- 5.3.1 Organisations should ensure anonymised data, especially when combined with other information from different agencies, **does not** identify an individual, either directly or by summation.
- 5.3.2 Anonymised data about an individual can be shared without consent (subject to certain restrictions regarding health/social care records), in a form where the identity of the individual cannot be recognised i.e. when:
- Reference to any data item that could lead to an individual being identified has been removed;
 - The data cannot be combined with any data sources held by a Partner to produce personal identifiable data.

6. RESPONSIBILITIES WHEN SHARING INFORMATION

6.1 General

Each Partner Organisation is responsible for ensuring that their organisational and security measures protect the lawful use of information shared under this Protocol.

- 6.1.1 Partner Organisations will ensure a reasonable level of security for supplied information, personal or non-personal, and process the information accordingly.
- 6.1.2 Partner Organisations accept responsibility for independently or jointly auditing compliance with the Information Sharing Agreements in which they are involved within reasonable time-scales.
- 6.1.3 Every organisation should consider making it a condition of employment that employees will abide by their rules and policies in relation to the protection and use of confidential information. This condition should be written into employment contracts and any failure by an individual to follow the policy should be dealt with in accordance with that organisation's disciplinary procedures.
- 6.1.4 Every organisation should ensure that their contracts with external service providers include a condition that they abide by their rules and policies in relation to the protection and use of confidential information.
- 6.1.5 The Partner Organisation originally supplying the information should be notified of any breach of confidentiality or incident involving a risk or breach of the security of information.
- 6.1.6 Partner Organisations should have a written policy for retention and disposal of information.

- 6.1.7 Partner Organisations must be aware that a data subject may withdraw consent to processing (i.e. Section 10 DPA) of their personal information. In this case processing can only continue where an applicable Data Protection Act Schedule 2, and if relevant Schedule 3, purpose applies.
- 6.1.8 Where the Partner Organisations rely on consent as the condition for processing personal data then withdrawal means that the condition for processing will no longer apply. Withdrawal of consent should be communicated to Partner Organisations and processing cease as soon as possible.

6.2 Personal Data

Personal data should only be shared for a specific lawful purpose or where appropriate consent has been obtained.

- 6.2.1 Staff should only be given access to personal data where there is a legal right, in order for them to perform their duties in connection with the services they are there to deliver.
- 6.2.3 This agreement does not give licence for unrestricted access to information another Partner Organisation may hold. It sets out the parameters for the safe and secure sharing of information for a justifiable **need to know** purpose.
- 6.2.4 Each signatory organisation to an ISA is responsible for ensuring every member of its staff is aware and complies with the obligation to protect confidentiality and a duty to disclose information only to those who have a right to see it.
- 6.2.5 Each signatory organisation should ensure that any of its staff accessing information under an ISA is trained and fully aware of their responsibilities to maintain the security and confidentiality of personal information.
- 6.2.6 Each signatory organisation should ensure that any of its staff accessing information under an ISA to follow the procedures and standards that have been agreed and incorporated within this Information Sharing Protocol and any associated Information Sharing Agreements.
- 6.2.7 Each Partner Organisation will share information in compliance with the principles set out at section 4 and any other obligations detailed in both the ISP and relevant ISA.
- 6.2.8 Personal data shall not be transferred to a country or territory outside the EEA without an adequate level of protection for the rights and freedoms of the data subject in relation to the processing of personal data.

6.3 Non-Personal Data

- 6.3.1 Partner Organisations should not assume the non-personal information is not sensitive and can be freely shared. This may not be the case and the partner from whom the information originated from should be contacted before any further sharing takes place.

7. RESTRICTIONS ON USE OF INFORMATION SHARED

- 7.1 All shared information, personal or otherwise, must only be used for the purpose(s) specified at the time of disclosure(s) as defined in the relevant Information Sharing Agreement unless obliged under statute or regulation, or under the instructions of a court or as agreed elsewhere. Therefore any further uses made of this data will not be lawful or covered by the ISA.
- 7.2 Restrictions may also apply to any further use of non-personal information, such as commercial sensitivity or prejudice to others caused by the information's release, and this should be considered when considering secondary use for non-personal information. If in doubt the information's original owner should be consulted.
- 7.3 Additional Statutory restrictions apply to the disclosure of certain information for example Criminal Records, HIV and AIDS, Assisted Conception and Abortion, Child Protection etc. Information about these will be included in the relevant ISA.

8. CONSENT – APPLIES TO PERSONAL DATA ONLY

- 8.1 Consent is not the only means by which personal data can be disclosed. Under the Data Protection Act 1998 in order to disclose personal data at least one condition in schedule two must be met. In order to disclose sensitive personal data at least one condition in both schedules two and three must be met.
- 8.2 Where a Partner Organisation has a statutory obligation to disclose personal data then the consent of the data subject is not required; but the data subject should be informed that such an obligation exists.
- 8.3 If a Partner Organisation decides not to disclose some or all of the personal data, the requesting authority must be informed. For example the Partner Organisation may be relying on a lawful exemption from disclosure or on the inability to obtain consent from the data subject.
- 8.4 Consent has to be signified by some communication between the organisation and the Data Subject. If the Data Subject does not respond this cannot be assumed as implied consent. When using sensitive data, explicit consent must be obtained subject to any existing exemptions. In such cases the data subject's consent must be clear and cover items such as the specific details of processing, the data to be processed and the purpose for

processing.

- 8.5 If consent is used as a form of justification for disclosure, the data subject must have the right to withdraw consent at any time.
- 8.6 Specific procedures will apply where the data subject is either not considered able to give informed consent itself because of either the data subject's age (Gillick Competency) or where the data subject has a condition which means the data subject does not have the capacity to give informed consent. In these circumstances the relevant policy of the Partner Organisation should be referred to.

9. INDEMNITY

- 9.1 Each Partner Organisation will keep each of the other partners fully indemnified against any and all costs, expenses and claims arising out of any breach of this agreement and in particular, but without limitation, the unauthorised or unlawful access, loss, theft, use, destruction or disclosure by the offending partner or its sub-contractors, employees, agents or any other person within the control of the offending partner of any personal data obtained in connection with this agreement.

10. SECURITY

- 10.1 It is assumed that each Partner Organisation has achieved or will be working towards ISO 27001, the International Standard for Information Security Management, compliance or a similar level of compatible security. Partner Organisations should ensure that the minimum standards of security, that they require, are agreed with Partner Organisations with whom their information will be shared and included in the ISA. This should take account of the security classification of the information.
- 10.2 It is accepted that not all Partners will have security classification in place.
- 10.3 Each partner signing this protocol and any individual signing the confidentiality agreement, agrees to adhere to the agreed standards of security. If there is a security breach in which information received from another party under this ISA is compromised, the originator will be notified at the earliest opportunity via the postholder identified at 3.2 of the ISA, who must forward details to the Information Security Section.
- 10.4 Where a partner has regular, specific security requirements, for example a corporate policy, either these or, if available, a hypertext link to the protocol should be included. This should help to avoid reviewing standards agreed previously when each new ISA is set up.
- 10.5 Security requirements will not be included in individual Information Sharing Agreements except where they are unique to that Agreement. This will ensure requirements are kept current, as notified, and avoid errors arising from having more than one copy of a Partner's standard requirements.

11. INFORMATION QUALITY

- 11.1 Information quality needs to be of a standard fit for the purpose information is to be used for, including being complete, accurate and as up to date as required for the purposes for which it is being shared. Without this any decision made on the information may be flawed and inappropriate actions may result. Partner Organisations are expected to ensure that the Personal Data and Sensitive Personal Data that it holds is processed in accordance with DPA principles: this includes ensuring that the Data is accurate, complete and up-to-date and is not kept any longer than is necessary.
- 11.2 Where Partner Organisations share information under this Protocol it is expected that Partner Organisations will either have an Information Quality Strategy and the supporting processes and procedures in place or be formally working towards this.
- 11.3 All Partner Organisations are expected to give undertakings that information meets a reasonable quality level for the proposed purposes for which it is being shared and be able to evidence this.
- 11.4 It is expected that all partner organisations will have or be working towards an organisational Information Quality Strategy. In generating and maintaining this policy due regard should be paid to the Information Quality Assurance Strategy.

11.5 Audit

Where a partner requires the ability to audit a Partner Organisation's Information Quality standards, for example as part of a Local Area Agreement (LAA) in which the receiving partner is the lead LAA partner, this and the obligations on the partners should be identified in the contract or ISA relevant to the sharing.

12. TRAINING

- 12.1 All Partner Organisations staff processing information shared under this Protocol and its associated ISA are expected to be trained to a level that enables them to undertake their duties confidently, efficiently and lawfully. This is an obligation on each Partner Organisation and responsibility for it cannot be assigned to another organisation, although delivery of training can with that third party's consent.
- 12.2 To minimise the costs associated with training and to ensure that all staff participating in activities based on information shared under a specific ISA it is strongly advised that partners collaborate in the development and delivery of training. Obligations and costs arising out of such collaborative working should be clearly identified in the ISA.
- 12.3 For the avoidance of doubt, where collaborative training is not adopted this should be stated in the ISA.

13. INDIVIDUAL RESPONSIBILITIES

- 13.1 Every individual working for the organisations listed in this Partnership Agreement is personally responsible for the safekeeping of any information they obtain, handle, use and disclose.
- 13.2 Every individual should know how to obtain, use and share information they legitimately need to do their job.
- 13.3 Every individual has an obligation to request proof of identity, or takes steps to validate the authorisation of another before disclosing any information requested under this protocol and associated ISA's.
- 13.4 Every individual should uphold the general principles of confidentiality, follow the guidelines set out in this Protocol and seek advice when necessary.
- 13.5 Every individual should be aware that any violation of privacy or breach of confidentiality is unlawful and a disciplinary matter that could lead to their dismissal. Criminal proceedings might also be brought against that individual.

14. GENERAL PRINCIPLES

- 14.1 The principles outlined in this protocol are recommended good standards of practice or legal requirements that should be adhered to by all Partner Organisations.
- 14.2 This protocol sets the core standards applicable to all Partner Organisations and should form the basis of all Information Sharing Agreements established to secure the flow of personal information.
- 14.3 This protocol should be used in conjunction with local service level agreements, contracts or any other formal agreements that exist between the Partner Organisations.
- 14.4 All parties signed up to this protocol are responsible for ensuring that organisational measures are in place to protect the security and integrity of personal information and that their staff are properly trained to understand their responsibilities and comply with the law.
- 14.5 This protocol has been written to set out clear and consistent principles that satisfy the requirements of the law that all staff must follow when using and sharing personal information.
- 14.6 The specific purpose for use and sharing information will be defined in the Information Sharing Agreements that will be specific to the Partner Organisations sharing information.

15. REVIEW ARRANGEMENTS

15.1 This overarching agreement will be formally reviewed annually.

15.2 Any of the signatories can request an extraordinary review at any time where a joint discussion or decision is necessary to address local service developments.

Appendix B

LEGAL SHARED SERVICES

REQUIRED AMENDMENTS TO CONSTITUTIONS

TAUNTON DEANE

Page	Ref	Original	Amended version	Reason(s) for amendment
41	Article 12.3	<p><u>Post</u> Monitoring Officer and Solicitor to the Council <u>Functions and areas of responsibility</u> Responsible for ensuring the legality of the actions of the Council and promoting good standards of ethical and corporate governance</p>	<p><u>Post</u> Monitoring Officer <u>Functions and areas of responsibility</u> Responsible for promoting good standards of ethical and corporate governance</p> <p><u>Post</u> Solicitor to the Council <u>(being the person designated as such in the Council's Inter Authority Agreement with Mendip District Council and West Somerset Council relating to the provision of a shared legal service)</u> <u>Functions and areas of responsibility</u> Responsible for ensuring the legality of the actions of the Council</p>	<p>Monitoring Officer and Solicitor to the Council now separate posts, with separate responsibilities.</p> <p>From the introduction of the Shared Legal Service on 1 April 2015, the Solicitor to the Council will not be an employee of the Council.</p>
47	Article 14.3	<p>The Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests</p>	<p>The Solicitor to the Council <u>(being the person designated as such in the Council's Inter Authority Agreement with Mendip District Council and West Somerset Council relating to the provision of a shared legal service)</u> is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests</p>	<p>From the introduction of the Shared Legal Service on 1 April 2015, the Solicitor to the Council will not be an employee of the Council.</p>
47	Article 14.5	<p><u>Common Seal of the Council</u></p>	<p><u>Common Seal of the Council</u></p>	<p>From the introduction of the Shared Legal</p>

		<p>The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal will be attested by the Solicitor to the Council or by some other person authorised by him/her.</p>	<p>The Common Seal of the Council will be kept in a safe place in the custody of the <u>Assistant Chief Executive</u>. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixing of the Common Seal <u>may only</u> be attested by <u>the Chief Executive, the Assistant Chief Executive, any Director, or the Democratic Services Manager</u>.</p>	<p>Service on 1 April 2015, the Solicitor to the Council will not be an employee of the Council. Therefore it is necessary to amend the arrangements relating to custody of the Seal and the sealing of documents</p>
47	Article 14.6	<p><u>Certifying of Delegated Powers</u> The Solicitor to the Council is authorised to (a) effect to changes to the Council's management structure and as to the naming and responsibilities of individual posts (b) to amend the formal delegated powers allocated to those posts, and is authorised to certify the extent of those delegated powers</p>	<p><u>Certifying of Delegated Powers</u> The <u>Assistant Chief Executive</u> is authorised to (a) <u>give</u> effect to changes to the Council's management structure and as to the naming and responsibilities of individual posts (b) to amend the formal delegated powers allocated to those posts, and is authorised to certify the extent of those delegated powers</p>	<p>From the introduction of the Shared Legal Service on 1 April 2015, the Solicitor to the Council will not be an employee of the Council. Therefore it is necessary to reallocate the responsibilities in Art. 14.6</p>
58	Section 1 para 3(a)	<p><u>Function</u> Development Control; Building Control Appendix 1 – Part A</p> <p><u>If delegated – then to whom?</u> Planning Committee; Growth and Development Manager; Development Management Lead, Building Control Manager, Solicitor to the Council</p>	<p><u>Function</u> Development Control; Building Control Appendix 1 – Part A</p> <p><u>If delegated – then to whom?</u> Planning Committee; <u>Assistant Director (Planning and Environment); the Area Planning Managers; and the Building Control and Land Charges Manager</u> Solicitor to the Council</p>	<p>From the introduction of the Shared Legal Service on 1 April 2015, the Solicitor to the Council will not be an employee of the Council. Therefore it is necessary to delete the reference to the Solicitor to the Council from the list of officers who are able to exercise this delegated power. (The post titles of the other officers have also been updated).</p>

WEST SOMERSET

Page	Ref	Original	Amended version	Reason(s) for amendment
41	Article 14.03	<p><u>Legal Proceedings</u> The Proper Officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Proper Officer considers that such action is necessary to protect the Council's interests</p>	<p><u>Legal Proceedings</u> The <u>Solicitor to the Council (being the person designated as such in the Council's Inter Authority Agreement with Mendip District Council and Taunton Deane Borough Council relating to the provision of a shared legal service)</u> is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the <u>Solicitor to the Council</u> considers that such action is necessary to protect the Council's interests</p>	<p>From the introduction of the Shared Legal Service on 1 April 2015, these responsibilities will pass to the Service and be discharged by the officer designated as the Solicitor to the Council within the IAA relating to the service</p>
99	Scheme of Delegations Table 3	<p><u>Job Title</u> Support Adviser – Legal <u>Service Area</u> Legal Services</p>	<p><u>Job Title</u> <u>Assistant Chief Executive (formerly Corporate Director)</u> <u>Service Area</u> Legal Services</p>	<p>From the introduction of the Shared Legal Service on 1 April 2015, there will be no specific role of "Support Adviser – Legal". Therefore it is necessary to reallocate this responsibility</p>
111	Scheme of Delegations Table 3	<p><u>Delegated Action</u> Authority to seal deeds on behalf of the Authority <u>Post delegated to undertake the action</u> Proper Officer; Legal/Support Officer</p>	<p><u>Delegated Action</u> Authority to seal deeds on behalf of the Authority <u>Post delegated to undertake the action</u> <u>The Chief Executive, the Assistant Chief Executive, any Director, or the Democratic Services Manager</u></p>	<p>From the introduction of the Shared Legal Service on 1 April 2015, there will be no specific role of "Legal/Support Officer". Therefore it is necessary to amend the arrangements relating to the sealing of documents (with the amendments also reflecting the new JMASS structure)</p>

(b) Localism Act 2011 – Pay Policy Statement

The Localism Act 2011 has made it a requirement for all Local Authorities to prepare a Pay Policy Statement each year for approval by Members.

The first Statement was prepared in 2012 and was considered by Scrutiny and the Executive before approval by Full Council. However, due to the fact that the document is largely unchanged for the fourth year, the 2015/2016 Statement has again been reported directly to Full Council.

The 2015/2016 Statement covers the 'joint working' arrangements with West Somerset Council, the creation of a single workforce and the approvals made by Council on 12 November 2013.

The Statement has to include policies on which remuneration of its Chief Officers and its lowest paid employees (and the relationship between them) are based.

The Statement is also required to:-

- Set out arrangements for the remuneration of Chief Officers on appointment;
- Set out arrangements for payments on termination of employment for Chief Officers even if covered by other approved policies;
- Set out arrangements for the re-employment of Chief Officers; and
- Be published on the Council's website.

Taunton Deane's latest Pay Policy Statement is attached to this recommendation as an Appendix and consultation on this has taken place with the local UNISON Branch.

UNISON comments are:-

The Council's UNISON branch has been consulted on the Pay Policy statement 2015/16 and has not provided any additional comments.

It is **recommended** that the Pay Policy Statement for 2015/2016 be approved.



Taunton Deane Borough Council

Full Council – 24 February 2015

Pay Policy Statement 2015/16

1. Executive Summary

This pay statement describes the pay arrangements and policies that relate to the pay of the workforce which serves the Joint Management and Shared Services (JMASS) Partnership between Taunton Deane Borough Council and West Somerset Council. This statement describes in particular the arrangements for the JMASS senior staff and its lowest paid employees.

The statement will be considered by elected members of the two councils at Full Council meetings.

2. Background

Section 38 (1) of the Localism Act 2011 requires local authorities to prepare and publish a pay policy statement for each financial year.

The pay statement is intended to bring together sufficient information about the different elements of the local authority's pay policies to enable local taxpayers to reach an informed view about local decisions on all aspects of pay and reward for employees. It also provides the context for the more detailed financial information that is already published by local authorities under the Code of Recommended Practice for Local Authorities on Data Transparency and by the Accounts and Audit (England) Regulations 2011.

3. The Joint Management and Shared Service partnership between Taunton Deane Borough Council and West Somerset Council

In November 2013 the two councils entered into an agreement by which services will be delivered by a single workforce across the two local authority areas.

In order to reduce costs and increase efficiency for the two councils the workforce is led by a single Chief Executive and team of senior staff which replaces the two separate management teams which served the two councils

before the agreement was approved. The two councils share the salary costs of senior employees set out in this statement.

This pay statement has been produced following a period of transition for the workforce. The transfer of staff into new posts in a reorganised single workforce has been completed and all staff, on behalf of the Partnership, are now employed by Taunton Deane Borough Council. Negotiations with UNISON on terms and conditions of employment for the whole of the shared workforce will commence shortly with a view to these new terms being in place by 1 April 2016.

Elected members, at respective Council meetings on 12 November 2013, considered and approved the details of senior salary packages for the Joint Management Team and a revised pay and grading scheme for the single workforce.

This pay statement represents the position on the pay structures and other elements of the remuneration package for staff as at 31 March 2015.

4. Policy statement

The Partnership is committed to ensuring transparent, fair and equitable pay and reward arrangements that provide value for money and enable the recruitment and retention of employees with the skills and motivation to deliver high quality services for Taunton Deane Borough Council and West Somerset Council and its communities. The policies that support these objectives are summarised in this document.

5. Scope

The pay statement describes the pay arrangements that apply to the Joint Management Team (the senior employees) and the lowest paid employees.

For the purpose of this pay statement **senior employees** are defined as those staff in the top three tiers of management; the Chief Executive, three Directors, the Assistant Chief Executive and seven Assistant Directors.

The pay and grading of employees, other than senior employees, are currently set using pay structures divided into grades within which there are spinal column points setting the pay rates. Posts are allocated to a pay grade through a process of job evaluation.

The current pay and grading structure for the workforce is set out in the attached Appendix B. As agreed by the two Councils, the Taunton Deane Borough Council pay and grading structure will be used when appointments are made to the workforce.

For the purpose of this statement **lowest paid employees** for the two councils are defined as follows:

- Those who receive a salary equivalent to Grade B on the councils' pay structure. This is because no employee of the councils is paid at a grade lower than Grade B (Point 11).

The Councils are required, for the purposes of this statement, to define 'its lowest paid employees' and also to explain why they have adopted this definition.

Other than the posts set out in above (senior management) and recognised apprentices, all posts within the councils have been subject to Job Evaluation to assess the value of the job content and then, subject to that value, have been placed in an agreed grade.

The councils will therefore define their lowest paid employees as those on the minimum pay points as these (apart from apprentices) are the lowest hourly rates paid to employees of the councils. The Councils have adopted this definition, as it can be easily understood.

It should, however, be pointed out that the Taunton Deane Borough Council pay scales were amended by Members to commence from the current 'Living Wage' (outside of London) in December 2013 and therefore the lowest hourly rate paid to employees is now in excess of the Living Wage.

6. Remuneration of senior employees

As part of the annual Pay Policy Statement each council must state:

- (a) The elements of remuneration for each senior employee and these are set out in Appendix A.
- (b) The policy for determining the remuneration of senior employees on recruitment.

The Joint Management Team are employed on fixed pay points for all posts within the top three tiers and therefore remuneration in terms of salary will be fixed on appointment if these remained unaltered.

Any other elements of remuneration, as set out in Appendix A, that are relevant at the point of recruitment are highlighted accordingly.

The Leaders will, after taking independent pay advice from South West Councils or similar, recommend the remuneration package on appointment to the above posts to Full Council prior to advertisement of any vacancy. The remuneration package will then be subject to the approval of Full Council.

- (c) How any increases and additions to remuneration for each senior employee are made?

Annual cost of living pay awards are negotiated nationally by the Local Government Employers organisation and, where a pay award is agreed, these will be applied to the fixed pay point of the employee.

The Councils have the ability to determine certain Local Government Pension Scheme discretions and the Discretions which have been adopted by each authority are attached in Appendices C (Taunton Deane Borough Council) and F (West Somerset Council).

The post of Chief Executive is employed on the Terms and Conditions of Employment agreed by the Joint Negotiating Committee (JNC) for Chief Executives and all other senior employees are covered by the Terms and Conditions of Employment agreed by the JNC for Chief Officers all of which are supplemented by local terms and conditions agreed by Taunton Deane Borough Council as the employer.

- (d) The use of performance-related pay for chief officers.

The councils do not operate Performance Related Pay schemes for any of its staff.

- (e) The use of bonuses for senior employee.

The councils do not operate Bonus Schemes or Bonus Payments for any of its staff.

- (f) The approach to the payment of senior employees on their ceasing to hold office under or to be employed by the authority

Any termination payments to senior employees on ceasing office will comply with the policies current at that time, which will have been approved by Full Council of the employing authority. No additional termination payments will be made without the approval of the Executive/Cabinet, this will include any Settlement Agreements, which may be subject to a confidentiality clause. The current joint redundancy policy is attached at Appendix F and retirement policies are attached as Appendices G (Taunton Deane Borough Council) and H (West Somerset Council).

That where severance payments for staff exceed £100,000 they will be reported to Full Council for approval and in presenting information to Full Council the components of the relevant severance package will be clearly set out. These components may include salary paid in lieu, redundancy compensation, pension entitlements, holiday pay and any bonuses, fees or allowances paid.

- (g) The remuneration of senior employees who return to Local Authority employment.

Where the senior employee:

- (i) Was a previously employed senior employee who left with a severance payment and applies to comeback as a senior employee.

Executive/Cabinet approval would be required to authorise re-employment within the authority of a previously employed senior employee who had left with a severance payment and is seeking re-employment.

- (ii) Was previously employed by the same authority and have comeback as a senior employee under a contract for services.

Executive/Cabinet will be required to approve any award of a 'contract for services' to a senior employee who has previously been employed by the authority.

- (iii) Is in receipt of a Local Government Pension Scheme Pension.

If an employee receiving a pension from the Local Government Pension Scheme becomes re-employed then their pension could be affected. If their pension plus the earnings from their new job is higher than the final pay their pension was calculated on, then their pension will be affected. For every pound that their earnings plus pension exceed previous pay, then their pension will reduce by a pound. This abatement will last for as long as the person exceeds their limit (so either when the new job ends or they reduce their hours so their earnings drop down below the acceptable level).

However, abatement is not applied where the member's pension is less than £3000 per annum.

The Chief Executive is the appointed Returning Officer for Taunton Deane whilst the Assistant Chief Executive is the appointed Returning Officer for West Somerset Council and both receive a fee for County, District and Parish Council and for Parliamentary Election duties. The fee for undertaking this role varies from year to year and is not subject to this policy since fee levels are set regionally and nationally.

7. Remuneration of other employees

As explained in paragraph 5 above, the pay structure for all other employees consists of grades and incremental points set out in the attached appendices. Grades are allocated to jobs through a process of job evaluation which establishes the relative value of different jobs within the workforce. Both councils previously operated the same job evaluation scheme (the Greater London Provincial Council Scheme) and both Councils have agreed to continue to use this Scheme for the shared workforce. Salaries for all employees (including senior employees) are subject to increases agreed under national pay award settlements.

The councils' pay structures create the basis of the relationship between the pay of all employees within the scope of the Pay Policy Statement.

The maximum salary for the post of Chief Executive is approximately 7.23:1 times the maximum salary of the lowest paid employee in the workforce. The maximum salary of the Directors is 5.37:1 times the maximum salary of the lowest paid employee. The maximum salary of the Assistant Directors is 4.02:1 times the lowest paid employee.

The maximum salary for the post of Chief Executive is approximately 4.23:1 times the mean FTE salary.

8. Transparency and Publication of Data

The councils will publish the Pay Policy Statement on the Taunton Deane Borough Council and West Somerset Council websites alongside other information relating to transparency/open government and this can be found on:

<https://www.westsomersetonline.gov.uk/transparency>

http://www.tauntondeane.gov.uk/irj/public/council/consultations/consultation?rid=/wpcccontent/Sites/TDBC/Web%20Pages/Council/Consultations/Transparency%20Open%20Data_0

9. Review

The Localism Act requires councils to prepare and publish a pay policy statement for each financial year. The next statement is due for publication before the end of March 2016.

Appendices

- Appendix A Remuneration to senior staff
- Appendix B Taunton Deane Borough Council Pay and Grading Structure
- Appendix C Taunton Deane Borough Council Local Government Pension Scheme Discretions
- Appendix D Taunton Deane Borough Council redundancy policy
- Appendix E Taunton Deane Borough Council Flexible Retirement Policy
- Appendix F West Somerset Council Local Government Pension Scheme Discretions

Appendix A – Remuneration to Senior Staff

The Level and Remuneration for each Chief Officer

Post	Statutory Role	Terms and Conditions and JE Status	Salary	Salary Progression	Bonus or Performance related pay	Other Benefits	Pension Enhancement in Year
Chief Executive	Head of Paid Service	JNC Chief Executives – Out of JE	£110,000	No	No	Lease Car Payment of Professional Subscription *Election payments – Returning Officer Payments relating to LGPS Employer Contributions	No
Strategic Director of Operations and Deputy Chief Executive	Section 151 Officer	JNC Chief Officers – Out of JE	£86,700	No	No	Lease Car Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No
Strategic Director of Housing and Communities		JNC Chief Officers – Out of JE	£81,600	No	No	Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No
Strategic Director Growth and Development		JNC Chief Officers – Out of JE	£81,600	No	No	Lease Car Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No

Post	Statutory Role	Terms and Conditions and JE Status	Salary	Salary Progression	Bonus or Performance related pay	Other Benefits	Pension Enhancement in Year
Assistant Chief Executive	Monitoring Officer	JNC Chief Officers – Out of JE	£64,770	No	No	Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No
Assistant Director Housing and Community Development		JNC Chief Officers – Out of JE	£61,200	No	No	Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No
Assistant Director Corporate Services		JNC Chief Officers – Out of JE	£61,200	No	No	Lease Car Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No
Assistant Director Planning and Environment		JNC Chief Officers – Out of JE	£61,200	No	No	Lease Car cash allowance Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No
Assistant Director Resources		JNC Chief Officers – Out of JE	£61,200	No.	No	Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No

Post	Statutory Role	Terms and Conditions and JE Status	Salary	Salary Progression	Bonus or Performance related pay	Other Benefits	Pension Enhancement in Year
Assistant Director Business Development		JNC Chief Officers – Out of JE	£61,200	No	No	Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No
Assistant Director Operational Delivery		JNC Chief Officers – Out of JE	£61,200	No	No	Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No
Assistant Director Property & Development		JNC Chief Officers – Out of JE	£61,200	No	No	Payment of Professional Subscription Payments relating to LGPS Employer Contributions	No

- * Additional payments are made by Central Government to officers carrying out additional duties at elections. These payments will only be received when elections take place and vary according to the responsibility undertaken.
- ** These thresholds relate to the publication of salary information as required under the Code of Recommended Practice for Local Authorities on Data Transparency (£58,200 is the minimum of the Senior Civil Service minimum pay band) and the Audit and Accounts Regulations (£50,000)
- *** JNC Chief Officers – Out of JE. The job evaluation scheme is not applicable to Chief Officer posts. The salaries of Chief Officer posts are evaluated against local market data provided by South West Councils. This data provides salary details for comparable Chief Officer posts within comparable district councils.

Appendix B Taunton Deane Borough Council Pay and Grading Structure
applicable from 1.01.2015

Grade	SCP				
A	N/A	N/A	N/A	N/A	N/A
B	N/A	N/A	N/A	N/A	11 £15,207
C	12 £15,523	13 £15,941	14 £16,231	15 £16,572	16 £16,969
D	17 £17,372	18 £17,714	19 £18,376	20 £19,048	21 £19,742
E	22 £20,253	23 £20,849	24 £21,530	25 £22,212	26 £22,937
F	27 £23,698	28 £24,472	29 £25,440	30 £26,293	31 £27,123
G	32 £27,924	33 £28,746	34 £29,558	35 £30,178	36 £30,978
H	37 £31,846	38 £32,778	39 £33,857	40 £34,746	41 £35,662
I	42 £36,571	43 £37,483	44 £38,405	45 £39,267	46 £40,217
J	47 £41,140	48 £42,053	49 £42,957	50 £43,881	51 £44,778
K	52 £45,690	53 £46,596	54 £47,508	55 £48,210	56 £48,915
L	57 £49,614	58 £50,319	59 £51,021	60 £51,723	61 £52,428

Appendix C - Written Statement on Local Government Pension Scheme Employers Discretions and Key Pensions Policy

Taunton Deane Borough Council

April 2015 to 31 March 2016

LGPS (Administration) Regulations 2008

Regulation B30 (2)

The Council will allow individual former employees leaving employment on or before 31 March 2014 the option to request early payment of benefits after on or after age 55 and before age 60 which will be considered on a case-by-case basis following the production of a business case. In these cases no additional compensation will be awarded.

Regulation B30 (5)

With regard to the early payment of benefits on or after age 55 and before age 60 made under B30 (2) above the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Regulation B30A (3)

The Council will allow the option to request an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60 which will be considered on a case-by-case including the production of evidential support. This applies to employees leaving service on or before 31 March 2014.

Regulation B30A (5)

With regard to an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60 made under B30A (3) above the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Local Government Pension Scheme Regulations 1997 (as amended) in relation to active councillor members and pre 1 April 2008 scheme leavers.

Regulation 31 (2)

The Council will allow a post 31 March 1998/pre 1 April 2008 leaver or from a councillor member the option to request early payment of benefits after on or after age 55 and before age 60 which will be considered on a case-by-case basis following the production of a business case. In these cases no additional compensation will be awarded.

Regulation 31 (5)

With regard to the early payment of benefits made in accordance with Regulation 31 (2) the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Regulation 31 (7A)

The Council will allow councillor optants out and pre 1 April 2008 employee optants out the option to request payment of benefits at normal retirement date and these will be considered on a case-by-case basis following the production of a business case.

The Local Government Pension Scheme Regulations 2013

Regulation 100 (6)

It is not Council policy to extend the 12-month limit on transfer of previous pension rights into the LGPS.

Regulation 9 (1) and 9 (3)

It is Council policy to allow employee contribution rates to be determined as changes occur during the financial year.

Regulation 16(2)(e) and 16(4)(d) Funding of Additional Pension

It is not the policy of the Council to fund additional pension and will not enter into a shared cost additional pension contributions arrangement.

Regulation 30(6) Flexible Retirement

The Council will allow benefits to be paid to a member of staff if they reduce their hours/grade (known as flexible retirement) and this is set out in the Council's Retirement Policy. Each case will be decided individually after the consideration of a detailed business case and only applies to those aged 55 and over.

Regulation 30(8)

With regard to flexible retirement and requests from staff aged 55 or over for retirement the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Regulation 31 Award of Additional Pension

It is not the policy of the Council to award Employer APC for active member leaving on redundancy/efficiency other than by allowing employees leaving on grounds of redundancy/efficiency to use compensation payments to fund additional pensions.

The Local Government (Early Termination of Employment) Discretionary Compensation Regulations 2006

As set out in the Redundancy Policy the Council do not limit redundancy payments to the statutory maximum weekly pay threshold and instead use actual weekly pay of the employee.

The Council does not offer a minimum payment with regard to redundancy. Benefits are calculated using actual weekly pay and the statutory number of weeks as calculated against continuous local government service (and service covered by the Modification Order).

The Council provides up to 60 weeks compensation, in addition to any redundancy payment as set out in both the Compensation Policy.

Where additional compensation is paid the employee has the option to augment pension benefits by using all of the additional compensation unless specific criteria are met.

Appendix D – Taunton Deane Borough Council and West Somerset Council Redundancy Policy



Implementation date of policy 13 November 2013

Review date April 2015

Redundancy and Redeployment (transition) Policy

Introduction

This policy covers any redundancy situations that may arise following the approval of the business case for joint management and shared services between Taunton Deane Borough Council and West Somerset Council (the Councils).

The Councils recognise a responsibility to safeguard the job security and prospects of their employees as far as possible. They also recognise that they must adapt to change and that this process of combining two sets of employees will inevitably affect the structure and size of the workforce.

Scope

The policy applies to the employees of both of the Councils and will cover the period following the approval at Full Council of the business case for joint management and shared services between the Councils.

The policy will be reviewed in April 2015 with UNISON to ensure its continued relevance and effectiveness. An extension may be applied with agreement of UNISON.

Aims

The aim of this policy is to set out one procedure that will be followed by both Councils throughout the transition period. In doing so, it ensures employees, managers and UNISON are clear of the procedure that is being followed through any redundancy process.

As far as possible, the Councils will seek to avoid or minimise the need for compulsory redundancies, this policy sets out the ways in which the Councils will do this.

Redundancy Procedure

Consultation

Where the possibility of redundancies is identified the Councils will inform and consult with the relevant trade union representatives as early as possible and before any formal decisions have been made. As part of the consultation the Council will provide the following information:

- the reasons for the proposed redundancies;
- the numbers and descriptions of employees it proposes to make redundant;
- the total number of employees of those descriptions employed at the establishment in question;
- the proposed method of selecting those who may be dismissed;
- the proposed method of carrying out the dismissals, including the period over which the dismissals are to take effect;
- the proposed method of calculating any redundancy payments;
- the number of agency workers working temporarily for, and under the supervision and direction of, the employer;
- the parts of the employer's business in which the agency workers work; and
- the type of work that the agency workers carry out.

Formal consultation shall be deemed to commence on the date when these details are given in a letter to the Branch Secretaries of both Branches.

Consultation timescales will depend upon the scale of potential redundancies and will be as follows:

- A minimum of 30 days before the first dismissal takes effect, where up to 99 employees are to be made redundant over a period of 90 days or less; or
- A minimum of 45 days before the first dismissal takes effect, where more than 100 employees are to be made redundant over a period of 90 days or less

Any consultation responses received in time will be included in any committee reports to be considered by the appropriate Committee.

Measures to avoid or minimise compulsory redundancies

The Councils will, in consultation with the appropriate trade union representatives explore any options to avoid or minimise the need for compulsory redundancies. Alternatives may include (not in order of priority):

- Reductions through natural staff turnover (ie not automatically replacing employees who leave);
- Seeking volunteers for redundancy;
- Redeployment, including retraining where appropriate;
- Stopping or reducing overtime other than contractual or emergency overtime;
- Restrictions on permanent and/or external recruitment;
- Termination of casual or agency worker arrangements;
- Flexible retirements/voluntary reduction in hours.

Employees 'at risk' of redundancy

Notification of 'at risk' status

As soon as practicable after the unions have been informed of the potential for redundancies, any individuals affected will be informed that they are 'at risk' of redundancy and that consultation has commenced. An individual will be identified as being 'at risk' of redundancy if their current post does not exist in a new structure or there will be a reduction in the number of the same post in a new structure. This will be confirmed in writing with an estimate of any redundancy payment and if applicable, pension payment due.

Throughout the consultation period, further meetings (usually mid consultation and at the end of the consultation period) will be arranged with individuals 'at risk' of redundancy to discuss any concerns, redeployment opportunities, any selection processes etc. Records of any discussions will be kept on the employee's personal file.

Rights of employees 'at risk'

Employees 'at risk' of redundancy have certain rights. The Councils will make every effort to redeploy the individuals within the Councils services.

Employees are entitled to reasonable paid time off to look for alternative employment. This may include time off to attend interviews or attend relevant training courses. A reasonable amount of time is considered to be up to two days per week (pro rata for part-time employees). Such time off must be arranged in advance with the line manager.

A central register of employees 'at risk' of redundancy will be held in HR and those employees put 'at risk' will be informed by HR of all relevant vacancies arising within the Councils. Efforts will be made to redeploy employees within the Councils to retain skills, knowledge and experience and reasonable training will be provided if necessary.

The Councils will make every effort to facilitate employees search for new employment, either through in-house support or, on occasions, outplacement specialists. Support may include; advice on writing application forms or preparing CVs, interview tips, coaching etc.

Selection for redundancy

Once a proposal for a restructure or reduction in headcount is approved and where compulsory redundancies are unavoidable, the ring fence arrangements and process of selection for redundancy will be agreed with UNISON. It may include some or all of the following criteria:

- Attendance records (other than absences covered by the Equality Act 2010);
- Disciplinary records ('live' warnings only);
- Skills and experience;
- Past performance records;
- A selection interview.

If a function or service is to be discontinued all employees directly related to the provision of that function will automatically be selected for redundancy.

If there is to be a reduction in the number of posts but the job descriptions remain largely unchanged, (i.e. duties are more than 80% the same). Selection will be based on agreed criteria and made by a selection panel that comprises of a higher level of management, at least one member of Corporate Management Team (CMT) and a representative from HR.

If a restructure involves the creation of new roles, selection for redundancy will be dependant on success at interview for those new roles. A new role is one where the duties are more than 20% different. A ring fence of employees that can apply for the new posts will be agreed with UNISON and will be based on job type, grade and/or salary levels. The appointment panel should consist of managers from a higher level of management, at least one member of CMT and a representative from HR.

This appointment process does not apply to posts named as Scheduled Posts on the constitution, (i.e. Joint Chief Executive, Strategic Directors, Corporate Directors, Theme Managers and Corporate Managers). As these appointments require an Appointments Committee, comprising of at least one member of each of the Councils Executive/Cabinet Committees.

The employee/s selected for redundancy will receive written notification of the reasons for their selection as well as their proper contractual notice in accordance with their contract of employment or statutory notice whichever is greater.

NB: The cost of redundancy is not a factor that will be taken into account when selection for redundancy is made.

Calculation of redundancy payments

Employees will be notified personally about their redundancy entitlements as soon as possible after they have been notified that they are 'at risk' of redundancy, including the compensation/severance payment in writing and details of any pension due where applicable.

The qualifying service in respect of redundancy payments is two years continuous local government service (in accordance with the Redundancy Payments (Local Government) Modification Order. Reckonable service is limited to the last 20 years before redundancy.

Statutory redundancy payments are made according to the following scale:

- (a) one and a half week's pay* for each year of employment during which the employee was aged 41 and over;
- (b) one week's pay* for each year of employment during which the employee was aged 22 to 40 inclusive;
- (c) half a week's pay* for each year of employment in which the employee was aged 21 and under.

* A week's pay is based on contractual pay and does not include occasional overtime or additional payments.

Appendix one includes a table with the number of statutory weeks entitlement according to age and continuous service.

If prior to the expiry of the employee's notice of dismissal an individual receives an offer of employment with a related employer (in accordance with the Redundancy Payments Continuity of Employment in Local Government Modification Order 1999) to start immediately or within four weeks of the end of the previous employment, a redundancy payment cannot be made by the Council.

Compensation/severance payments

The Councils operate a discretionary enhanced redundancy payment scheme under the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006, as compensation for the loss of employment on redundancy grounds. Details of the Council's schemes are available from the HR representatives.

Employees will be entitled to the discretionary compensation/severance payments in accordance with the existing policy of their employing Council.

Redundancy and compensation/severance payments will be made to employees within 4 weeks of the date of leaving employment.

Local Government Pension Scheme Payments

Employees that have been members of the LGPS for 3 month's or more and are aged 55 or over, are entitled to the immediate unreduced payment of their LGPS benefits if dismissed on the grounds of redundancy.

Redeployment Procedure

Wherever possible employees will be redeployed to avoid compulsory redundancy.

The Councils reserve the right in agreement with UNISON to apply a ring fence to new roles that are created as a result of any proposed restructures and offer them in the first instance to those employees at a similar job type grade/salary level within the existing structure and who have the relevant skills and experience that match the job description or person specification.

Where there is only one individual matched with the new position they will be slotted in.

Where there is more than one employee that matches the role or a group of employees to more than one role, a selection procedure panel will take place that involves a formal interview and other recruitment selection procedures.

All other vacancies arising within the Council where a suitable ring fence is not identified will be offered to employees 'at risk' of redundancy in the first instance.

Such vacancies will be sent initially to the HR Team who will check them against the 'at risk' register for any suitable candidates. Employees will be matched according to the essential criteria on the person specification, salary levels and preferred hours of work. Consideration must also be given to any reasonable appropriate training that will enable them to perform the duties of the role.

Any employees that meet the essential criteria will be made an offer of redeployment. Where more than one employee is matched to a vacancy a selection process will apply.

Any offer of redeployment will be made in writing and will include reference to a trial period, any training available, terms and conditions and protection arrangements if applicable.

Any employees that are redeployed into a new role will be given a 4 week trial period. This period may be extended by mutual agreement.

If the trial period is successful the employee will be sent written confirmation of any changes to terms and conditions. If the trial period is deemed unsuccessful by the manager, contractual notice will be reduced by the length of the trial period.

If an offer of redeployment is made by the Councils and the employee decides during the trial period that they wish to reject the offer, they must advise HR in writing within the trial period.

An employee who believes that a job offer is not suitable alternative employment may claim a redundancy payment. However, this will only be paid where the Councils agree that the job is unsuitable. The decision will be made by a Member of CMT, taking account of any changes to terms and conditions and the level of seniority.

Pay Protection and Trickle Down

As part of this policy there will be no protection for employees who are redeployed into another post.

Once agreed, ringfences will operate distinctly from one another without the ability to trickle down or across.

Appeals

If an employee is aggrieved about their selection for redundancy they have the right of appeal. The appeal must be received in writing by HR within 10 working days of the decision being made. Refer to Council Appeal Procedure.

If the selection for redundancy was made by the Joint Chief Executive the employee will have the right of appeal to be heard by an Appeal Committee comprising of at least one member of each of the Councils Executive/Cabinet Committee.

If the selection for redundancy was made by a Member of CMT other than the Joint Chief Executive the employee will have a right of appeal to be heard by the Joint Chief Executive.

All decisions made by the appeal panel are final.

Appendix one – Table to show entitlement to statutory weeks redundancy based on age and continuous service

		Years Service																		
		2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Age	18																			
	19																			
	20	1.0	1.0	1.0	1.0															
	21	1.0	1.5	1.5	1.5	1.5														
	22	1.0	1.5	2.0	2.0	2.0	2.0													
	23	1.5	2.0	2.5	3.0	3.0	3.0	3.0												
	24	2.0	2.5	3.0	3.5	4.0	4.0	4.0	4.0											
	25	2.0	3.0	3.5	4.0	4.5	5.0	5.0	5.0	5.0										
	26	2.0	3.0	4.0	4.5	5.0	5.5	6.0	6.0	6.0	6.0									
	27	2.0	3.0	4.0	5.0	5.5	6.0	6.5	7.0	7.0	7.0	7.0								
	28	2.0	3.0	4.0	5.0	6.0	6.5	7.0	7.5	8.0	8.0	8.0	8.0							
	29	2.0	3.0	4.0	5.0	6.0	7.0	7.5	8.0	8.5	9.0	9.0	9.0	9.0						
	30	2.0	3.0	4.0	5.0	6.0	7.0	8.0	8.5	9.0	9.5	10.0	10.0	10.0	10.0					
	31	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	9.5	10.0	10.5	11.0	11.0	11.0	11.0				
	32	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	10.5	11.0	11.5	12.0	12.0	12.0	12.0			
	33	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	11.5	12.0	12.5	13.0	13.0	13.0	13.0		
	34	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	12.5	13.0	13.5	14.0	14.0	14.0	14.0	
	35	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	13.5	14.0	14.5	15.0	15.0	15.0	15.0
	36	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	14.5	15.0	15.5	16.0	16.0	16.0
	37	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	15.5	16.0	16.5	17.0	17.0
38	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	16.5	17.0	17.5	18.0	
39	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	17.5	18.0	18.5	
40	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0	18.5	19.0	
41	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	19.5	
42	2.5	3.5	4.5	5.5	6.5	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	
43	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	20.0	21.0	

		Years Service																		
		2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Age	44	3.0	4.5	5.5	6.5	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5
	45	3.0	4.5	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	20.0	21.0	22.0
	46	3.0	4.5	6.0	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5
	47	3.0	4.5	6.0	7.5	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	20.0	21.0	22.0	23.0
	48	3.0	4.5	6.0	7.5	9.0	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5
	49	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	20.0	21.0	22.0	23.0	24.0
	50	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5	24.5
	51	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.0	17.0	18.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0
	52	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5	24.5	25.5
	53	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.0	20.0	21.0	22.0	23.0	24.0	25.0	26.0
	54	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	20.5	21.5	22.5	23.5	24.5	25.5	26.5
	55	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.0	23.0	24.0	25.0	26.0	27.0
	56	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	23.5	24.5	25.5	26.5	27.5
	57	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	24.0	25.0	26.0	27.0	28.0
	58	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	24.0	25.5	26.5	27.5	28.5
	59	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	24.0	25.5	27.0	28.0	29.0
	60	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	24.0	25.5	27.0	28.5	29.5
	61	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	24.0	25.5	27.0	28.5	30.0
	62	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	24.0	25.5	27.0	28.5	30.0
	63	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	24.0	25.5	27.0	28.5	30.0
	64	3.0	4.5	6.0	7.5	9.0	10.5	12.0	13.5	15.0	16.5	18.0	19.5	21.0	22.5	24.0	25.5	27.0	28.5	30.0

Appendix E – Taunton Deane Borough Council Flexible Retirement Policy

Taunton Deane Borough Council

Full or Partial Flexible Retirement Policy

1. Employees aged 55 (aged 50 up to 31 March 2010) who are members of the Local Government Pension Scheme are able to request payment of early retirement benefits whilst remaining in the Council's employment on reduced hours or a lower grade.
2. This right does not apply to employees who are in receipt of a redundancy payment and early pension benefits or who have taken early retirement in the interests of the efficiency of the service.
3. As a guide, a business case for flexible retirement where any reduction is minimal (e.g. less than 20% either in terms of reduced hours or lower grade) may be difficult to objectively justify.
4. Requests for flexible working may be instigated by employees who meet the criteria set out in 1. above at anytime but will only be able to make one request in any 12 month period.
5. An employee should, in the first instance, approach their line manager with a request for reduced hours, more flexible working patterns by putting their request in writing.
6. The line manager will notify the HR Advisory Team and a meeting will be arranged within 21 days to discuss the request from the employee.
7. At this point the HR Advisory Team will request an estimate of early retirement benefits from the Pension Section of Somerset County Council which will be provided to the employee and be used to complete the Flexible Retirement Approval Request Form.
8. The meeting between the employee, line manager and a member of the HR Advisory Team will discuss the request and business case and will only be referred for approval if it is operationally viable.
9. If the request is referred for approval this will be considered by the relevant Theme Manager/Service Unit Manager and the HR Manager.
10. It should be noted that employees who are retiring in this way before their normal retirement age will suffer an actuarial reduction in their benefits to reflect early payment. In exceptional compassionate circumstances the Council has the right to waive this actuarial reduction.
11. If the request is not referred for approval this will be confirmed to the employee in writing to the employee within 14 days of the meeting. The

employee would have the right of appeal against this decision which should be made in writing to the Retained HR Manager within 10 days of receipt of the reason for refusal of the request or refusal to waive the actuarial reduction on compassionate grounds where the request is approved.

12. Appeals will be heard by a Strategic Director advised by the Retained HR Manager.

Approved by Council – October 2009

Retirement in the Interest of Efficiency Pay – Ready Reckoner

Age	Complete Year's Service																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
18		1																		
19		1	1.5																	
20		1	1.5	2																
21		1	1.5	2	2.5															
22		1	1.5	2	2.5	3														
23		1.5	2	2.5	3	3.5	4													
24		2	2.5	3	3.5	4	4.5	5												
25		2	3	3.5	4	4.5	5	5.5	6											
26		2	3	4	4.5	5	5.5	6	6.5	7										
27		2	3	4	5	5.5	6	6.5	7	7.5	8									
28		2	3	4	5	6	6.5	7	7.5	8	8.5	9								
29		2	3	4	5	6	7	7.5	8	8.5	9	9.5	10							
30		2	3	4	5	6	7	8	8.5	9	9.5	10	10.5	11						
31		2	3	4	5	6	7	8	9	9.5	10	10.5	11	11.5	12					
32		2	3	4	5	6	7	8	9	10	10.5	11	11.5	12	12.5	13				
33		2	3	4	5	6	7	8	9	10	11	11.5	12	12.5	13	13.5	14			
34		2	3	4	5	6	7	8	9	10	11	12	12.5	13	13.5	14	14.5	15		
35		2	3	4	5	6	7	8	9	10	11	12	13	13.5	14	14.5	15	15.5	16	
36		2	3	4	5	6	7	8	9	10	11	12	13	14	14.5	15	15.5	16	16.5	17
37		2	3	4	5	6	7	8	9	10	11	12	13	14	15	15.5	16	16.5	17	17.5
38		2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16.5	17	17.5	18
39		2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	17.5	18	18.5
40		2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	18.5	19
41		2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	19.5
42		2.5	3.5	4.5	5.5	6.5	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5
43		3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
44		3	4.5	5.5	6.5	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5
45		3	4.5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
46		3	4.5	6	7.5	8.5	9.5	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5
47		3	4.5	6	7.5	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
48		3	4.5	6	7.5	9	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5
49		3	4.5	6	7.5	9	10.5	12	13	14	15	16	17	18	19	20	21	22	23	24
50		3	4.5	6	7.5	9	10.5	12	13.5	14.5	15.5	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5	24.5
51		3	4.5	6	7.5	9	10.5	12	13.5	15	16	17	18	19	20	21	22	23	24	25
52		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	17.5	18.5	19.5	20.5	21.5	22.5	23.5	24.5	25.5
53		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19	20	21	22	23	24	25	26
54		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	20.5	21.5	22.5	23.5	24.5	25.5	26.5
55		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22	23	24	25	26	27
56		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	23.5	24.5	25.5	26.5	27.5
57		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25	26	27	28
58		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	26.5	27.5	28.5
59		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28	29
60		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28.5	29.5
61 plus		3	4.5	6	7.5	9	10.5	12	13.5	15	16.5	18	19.5	21	22.5	24	25.5	27	28.5	30

APPENDIX F

WRITTEN STATEMENT ON LOCAL GOVERNMENT PENSION SCHEME EMPLOYERS DISCRETIONS AND KEY PENSIONS POLICY

WEST SOMERSET COUNCIL

April 2014 to 31 March 2015

LGPS (Administration) Regulations 2008

Regulation B30 (2)

The Council will allow individual former employees leaving employment on or before 31.03.14 the option to request early payment of benefits after on or after age 55 and before age 60 which will be considered on a case-by-case basis following the production of a business case. In these cases no additional compensation will be awarded.

Regulation B30 (5)

With regard to the early payment of benefits on or after age 55 and before age 60 made under B30 (2) above the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Regulation B30A (3)

The Council will allow the option to request an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60 which will be considered on a case-by-case including the production of evidential support. This applies to employees leaving service on or before 31 March 2014.

Regulation B30A (5)

With regard to an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60 made under B30A (3) above the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Local Government Pension Scheme Regulations 1997 (as amended) in relation to active councillor members and pre 1.4.08 scheme leavers.

Regulation 31 (2)

The Council will allow a post 31/3/98/pre 1/4/08 leaver the option to request early payment of benefits after on or after age 55 and before age 60 which will be considered on a case-by-case basis following the production of a business case. In these cases no additional compensation will be awarded.

Regulation 31 (5)

With regard to the early payment of benefits made in accordance with Regulation 31 (2) the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Regulation 31 (7A)

The Council will allow pre 1/4/08 employee optants out the option to request payment of benefits at normal retirement date and these will be considered on a case-by-case basis following the production of a business case.

The Local Government Pension Scheme Regulations 2013

Regulation 100 (6)

It is not Council policy to extend the 12-month limit on transfer of previous pension rights into the LGPS.

Regulation 9 (1) and 9 (3)

It is Council policy to allow employee contribution rates to be determined as changes occur during the financial year.

Regulation 16(2)(e) and 16(4)(d) Funding of Additional Pension

It is not the policy of the Council to fund additional pension and will not enter into a shared cost additional pension contributions arrangement..

Regulation 30(6) Flexible Retirement

The Council will allow benefits to be paid to a member of staff if they reduce their hours/grade (known as flexible retirement) and this is set out in the Council's Retirement Policy. Each case will be decided individually after the consideration of a detailed business case and only applies to those aged 55 and over.

Regulation 30(8)

With regard to flexible retirement and requests from staff aged 55 or over for retirement the Council retains the right to waive the actuarial reduction of benefits on exceptional compassionate grounds.

Regulation 31 Award of Additional Pension

It is not the policy of the Council to award Employer APC for active member leaving on redundancy/efficiency other than by allowing employees leaving on grounds of redundancy/efficiency to use compensation payments to fund additional pensions..

The Local Government (Early Termination of Employment) Discretionary Compensation Regulations 2006

As set out in the Redundancy Policy the Council do not limit redundancy payments to the statutory maximum weekly pay threshold and instead use actual weekly pay of the employee.

The Council does not offer a minimum payment with regard to redundancy. Benefits are calculated using actual weekly pay and the statutory number of weeks as calculated against continuous local government service (and service covered by the Modification Order).

The Council provides up to 30 weeks compensation, in addition to any redundancy payment as set out in both the Redundancy and Retirement Policies.

Where additional compensation is paid the employee has the option to augment pension benefits by using all of the additional compensation.