

Public Document Pack



Shadow Executive

Tuesday, 26th March, 2019, 3.00 pm

John Meikle Room (JMR), Deane House, Taunton, TA1 1HE

Members: J Williams (Chairman), A Trollope-Bellew (Vice-Chair), R Habgood, J Warmington, M Dewdney, A Hadley, S Pugsley and A Sully

Agenda

1. **Apologies.**
2. **Minutes of the previous meeting of the Shadow Executive held on 11 February 2019. (attached).** (Pages 3 - 14)
3. **Declarations of Interest.**

To receive and record any declarations of disclosable pecuniary interests or personal or prejudicial interests in respect of any matters included on the agenda for consideration at this meeting.
(The personal interests of Councillors and Clerks of Somerset County Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)
4. **Public Participation.**

The Chairman to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.
5. **Statutory Appointments to the New Council. Report of the Chief Executive (attached).** (Pages 15 - 20)
6. **Somerset Building Control Partnership IAA & Constitution** (Pages 21 - 100)

7. Revised Corporate Equalities Objectives for the new Council. Report of the Strategy Specialist (attached).

(Pages 101 - 108)

Shadow Executive - 11 February 2019

Present: Councillor J Williams (Chairman)

Councillors A Trollope-Bellew, R Habgood, J Warmington, M Dewdney, A Hadley, S Pugsley and A Sully

Officers: Brendan Cleere, Paul Fitzgerald, Chris Hall, James Hassett, Jo Humble, Andrew Randell, Andrew Stark and Rosie Walsh

Also Present: Councillors S Dowding and P Murphy

(The meeting commenced at 4.30 pm)

55. **Apologies.**

There were no apologies to note.

56. **Minutes of the previous meeting of the Shadow Executive held on 22 January 2019.**

The minutes of the meeting held on 22 January 2019 were affirmed as a correct record.

57. **Declarations of Interest.**

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

Name	Minute No.	Member of	Action Taken
Cllr A Trollope-Bellew	All	Crowcombe	Spoke and voted

58. **Public Participation.**

No member of the public requested to speak.

59. **Housing Revenue Accounts (HRA) Budget Estimates 2019/20. Report of The Interim Head of Financial Services and Deputy s151 Officer of Taunton Deane Borough Council and West Somerset Council.**

The purpose of the report was to consider the HRA Budget Estimates. The Highlight report was introduced by Councillor Williams with the item presented by Andrew Stark.

A 1% reduction was proposed in the average weekly rent in 2019/20, in line with national policy. This would reduce the average weekly rent, from £81.69 per week to £80.87 per week in 2019/20.

The proposals included in the report would enable the Council to set a balanced budget for 2019/20.

During the discussion of this item the following comments were made and questions asked.

- Reference was made to the Scrutiny comments and an update to the timetable of asbestos works. Full responses would be circulated to Shadow Scrutiny and Executive. A breakdown of non-standard homes was also requested for Councillors.
- Many of the housing stock had been refurbished to the decent homes standard, these had an expected lifespan of 30-40 years. £5.8 million had been spent to ensure the decent homes standard with around a third of rental income spent to maintain the existing housing stock

RESOLVED that Shadow Executive recommended the draft HRA Revenue Budget, Capital Programme and proposed average weekly rent of £80.87 for 2019/20, to Shadow Council.

60. **Draft General Fund Revenue Budget and Capital Estimates 2019/20. Report of The The Interim Head of Financial Services and Deputy s151 Officer of Taunton Deane Borough Council and West Somerset Council.**

The purpose of the report was to consider the Draft General Fund Revenue Budget and Capital Estimates 2019/20.

The report set out the first revenue and capital budget proposals for the new Somerset West and Taunton Council. It combined the previous budgets of Taunton Deane and West Somerset Councils for the services they provide with updated assumptions in regard of the finance settlement for 2019/20 and other financial projections.

This report also set out the draft revenue and capital budget proposals for 2019/20 including an updated Medium Term Financial Plan (MTFP) and the proposed council tax for the first year of the new council.

The final funding settlement was issued by Government at the end of January, and included details regarding general revenue grant funding, New Homes Bonus, and business rates retention baseline and tariff. Overall the funding available to deliver services has increased in 2019/20:

- a) General funding, Revenue Support Grant had reduced by £443,641 to only £6,340 whilst Rural Services Delivery Grant has been kept at the same level of £241,506.
- b) New Home Bonus funding had reduced by £151,768 (4%).
- c) Retained business rates had increased by £972,599 reflecting business rates pooling and the 75% Business Rates Retention pilot scheme (18%).
- d) Share of National Levy Account Surplus of £59,037.
- e) An announcement of additional funding of £35,000 for each district council (covering 2018/19 and 2019/20) towards Brexit preparations.

Shadow Executive was minded to set a uniform annual Band D council tax rate of £157.88 which together with an increased tax base provided additional council tax income of £405,662 compared to 2018/19.

Shadow Executive was also minded to retain the annual council tax rate at £3.02 for a Band D for the Unparished Area of Taunton which would raise an additional £1,449 due to the tax base increase.

The 2019/20 draft budget also included a prior year net Collection Fund surplus of £1,448,216 (£1,331,905 business rates surplus, £116,311 council tax surplus).

Shadow Executive was also minded to transfer £1,331,905 to the business rates smoothing reserve in 2019/20 in respect of the business rates collection fund surplus, reflecting the need to mitigate funding volatility and risk under the business rates funding system.

During the discussion of this item the following comments were made and questions asked:-

- The finance team were commended on the detailed and comprehensive report.
- Harmonisation of Council Tax was considered positive news, this would maximize efficiency.
- The area setting out CIL in the report would be updated in the Full Council report.
- Members were requested to note the intent that there would likely be a budget update with a request for funding to be provided for service delivery. A Councillor briefing would be held before Council papers were sent out.
- The robustness of the budget was positive news for the new financial year. There were still significant risks and uncertainty, from funding settlements and the fair funding review.

RESOLVED that:-

- 1) Shadow Executive noted the forecast Medium Term Financial Plan and Reserves position, and notes the S151 Officer's Robustness Statement as set out in sections 21 to 23 of this report.
- 2) Shadow Executive recommends the 2019/20 Draft Budget to Shadow Council for approval.
- 3) Shadow Executive recommends to Shadow Council a basic band D council tax of £159.63, comprising £157.88 for services and £1.75 on behalf of the Somerset Rivers Authority.
- 4) Shadow Executive recommends Shadow Council approves the minimum reserves level at £2.4m.
- 5) Shadow Executive recommends to Shadow Council to approve the additions to the General Fund Capital Programme Budget of £10.274m for 2019/20, including the overall allocation of £13.864m in respect of the New Homes Bonus Growth Programme as set out in Table 10 and the £15.5m allocations for Community Infrastructure Projects as set out in Table 11, as amended with £1m moved from public transport to Education provision.

61. **Draft Capital Strategy 2019/20. Report of The Interim Head of Financial Services and Deputy s151 Officer of Taunton Deane Borough Council and West Somerset Council.**

The purpose of the report was to consider the Draft Capital Strategy 2019/20.

This capital strategy was a new report for 2019/20, giving a high-level overview of how capital expenditure, capital financing, and treasury management activities contributed to the provision of local public services along with an overview of how associated risk is managed and the implications for future financial sustainability.

For comparison purposes the tables set out in the report show the combined position for Taunton Deane Borough Council and West Somerset Council for the years up to and including 2018/19.

Through Capital Expenditure, the Council spends money on assets, such as property or vehicles, which would be used for more than one year. In local government this includes spending on assets owned by other bodies, and loans and grants to other bodies enabling them to buy assets. The Council has limited discretion on what counts as capital expenditure, for example assets costing below £10k are not capitalised and are charged to revenue in the year.

In 2019/20, the Council was planning capital expenditure of £20.309m as set out below:

Table 1: Prudential Indicator: Estimates of Capital Expenditure

	2017/18 Actual £m	2018/19 Forecast £m	2019/20 Budget £m	2020/21 Budget £m	2021/22 Actual £m
General Fund	5.998	11.726	10.722	13.194	12.692
HRA	10.126	8.973	9.587	9.699	7.632
Total	16.124	20.699	20.309	22.893	20.324

The main General Fund capital projects also included £16.6m for growth projects.

The Housing Revenue Account (HRA), being a ring-fenced account which ensured that council housing does not subsidise, or is itself subsidised, by other local services. HRA capital expenditure was, therefore, recorded separately.

Service managers bid annually in September to include projects in the Council's Capital Programme. Bids are collated by Finance and the final Capital Programme is then presented to Scrutiny, the Executive and to Full Council in February each year.

Full details of the Council's capital programme was contained in the Draft General Fund Revenue Budget and Capital Estimates 2019/20 and the Housing Revenue Account (HRA) Budget Estimates 2019/20.

All capital expenditure must be financed, either from external sources (government grants and other contributions), the Council's own resources

(revenue, reserves and capital receipts) or debt (borrowing, leasing and Private Financing Initiative). The planned financing of the above capital expenditure was set out:

Table 2: Capital Financing

	2017/18 Actual £m	2018/19 Forecast £m	2019/20 Budget £m	Budget 2020/21 £m	Budget 2021/22 £m
External Sources	1.952	3.887	7.695	4.510	5.095
Own Resources	9.291	12.527	12.614	18.383	15.229
Debt	4.881	4.285	0	0	0
Total	16.124	20.699	20.309	22.893	20.324

Debt was a temporary source of finance, due to loans and leases needing to be repaid this is, therefore, replaced over time by other financing, usually from revenue which is known as minimum revenue provision (MRP). Alternatively, proceeds from selling capital assets (known as capital receipts) could be used to replace debt finance. Planned MRP repayments and the use of capital receipts were set out as follows:

Table 3: Replacement of Debt Finance

	2017/18 Actual £m	2018/19 Forecast £m	2019/20 Budget £m	Budget 2020/21 £m	Budget 2021/22 £m
MRP	2.632	2.364	2.276	2.326	2.326

The Council's MRP policy was available as Appendix A.

The Council's cumulative amount of debt finance is measured by the Capital Financing Requirement (CFR). This increased with new debt-financed capital expenditure and reduced with MRP repayments and capital receipts used to replace debt. Based on the above figures for expenditure and financing the Council's estimated CFR was as followed:-

	2017/18 Actual £m	2018/19 Forecast £m	2019/20 Budget £m	Budget 2020/21 £m	Budget 2021/22 £m
General Fund	14.402	13.859	13.404	12.899	12.394
HRA	104.848	100.729	103.355	101.534	99.713
Total	119.250	114.588	116.759	114.433	112.107

During the discussion of this item Members made comments and statements and asked questions, and the following main points were raised:

- New Investments would go through the Democratic path.
- The project risk due to the lack of commercial expertise was considered

RESOLVED that The Shadow Executive:-

- 1) Recommend the draft 2019/20 Capital Strategy for approval by Shadow Council.
- 2) Recommends the Council's Minimum Revenue Provision policy for approval, as set out in Appendix A for approval by Shadow Council.

62. **Draft Treasury Management Strategy Statement 2019/20. Report of The Interim Head of Financial Services and Deputy s151 Officer of Taunton Deane Borough Council and West Somerset Council.**

The purpose of the report was to consider the Draft Treasury Management Strategy Statement 2019/20.

The purpose of the report was to inform members of the recommended strategy for managing the Council's cash resources including the approach to borrowing and investments. This strategy had been prepared taking into account professional advice and information from the Council's treasury management advisor Arlingclose.

This strategy continued the previous approach adopted by Taunton Deane Borough Council and West Somerset Council of prioritising security and liquidity of cash over investment returns.

The Council had invested substantial sums of money and is, therefore, exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of financial risk are, therefore, central to the Council's prudent financial management.

Treasury risk management at the Council is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice 2017 Edition (the CIPFA Code) which requires the Council to approve a treasury management strategy before the start of each financial year. This report fulfilled the Council's legal obligation under the Local Government Act 2003 to have regard to the CIPFA Code.

During the discussion of this item Members made comments and statements and asked questions, and the following main points were raised:

- The impact of Brexit had been taken into account by the Councils treasury advisors. Future advice would be taken forward from treasury management activities.
- Appendix C detailing the debt position and treasury investments was considered a good position to be in.

RESOLVED that The Shadow Executive recommended the draft Treasury Management Strategy Statement for 2019/20 as included within the report for approval by Shadow Council.

63. **Draft Investment Strategy 2019/20. Report of the Interim Head of Financial Services and Deputy s151 Officer of Taunton Deane Borough Council and**

West Somerset Council.

The purpose of the report was to consider the draft Investment Strategy 2019/20.

The investment strategy was a new report for 2019/20, meeting the requirements of statutory guidance issued by the government in January 2018.

For comparison purposes the tables in the report set out the combined position for Taunton Deane Borough Council and West Somerset Council for the years up to and including 2018/19.

The Council invests its money for three broad purposes:

- Surplus cash as a result of its day-to-day activities, for example when income is received in advance of expenditure (known as treasury management investments),
- to support local public services by lending to other organisations (service investments), and
- to earn investment income (known as commercial investments where this is the main purpose).

The strategy focused on the second and third of these categories.

The Council typically received its income in cash (e.g. from taxes and grants) before it pays for its expenditure in cash (e.g. though payroll and invoices). It also holds reserves for future expenditure and collects local taxes on behalf of other local authorities and central government. These activities, plus the timing of borrowing decisions, lead to a cash surplus which is invested in accordance with guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA). The balance of treasury management investments is expected to fluctuate between £50m and £90m during the 2019/20 financial year.

The contribution that these investments make to the objectives of the Council is to support effective treasury management activities. Full details of the Council's policies and its plans for the 2019/20 treasury management investments are covered in a separate document, the treasury management strategy.

The Council lends money to local businesses, local charities and employees to support local public services and stimulate local economic growth.

The main risk when making service loans is that the borrower will be unable to repay the principal lent and/or the interest due. In order to minimise this risk and ensure that total exposure to service loans remains proportionate to the size of the Council, upper limits on the outstanding loans to each category of borrower have been set as follows:

Table 1: Loans for Service Purposes

Category of Borrower	31.03.18 Actual			2019/20
	Balance	Loss	Net Figure	Approved

	Owing £m	Allowance £m	in Accounts £m	Limit £m
Local Businesses	2.043	(0.022)	2.021	20.000
Local Charities	0.902	(0.001)	0.901	3.000
Total	2.945	(0.023)	2.922	23.000

Accounting standards require the Council to set aside a loss allowance for loans, reflecting the likelihood of non-payment. The figures for loans in the Council's statement of accounts from 2018/19 onwards will be shown net of this loss allowance. However, the Council makes every reasonable effort to collect the full sum lent and has appropriate credit control arrangements in place to recover overdue payments.

During the discussion of this item Members made comments and statements and asked questions, and the following main points were raised:

- This was supported by Scrutiny, the scale of investment activity had increased.
- Any investment decision for future projects would be backed by the business case.
- An agreed Governance Framework would be set up, the correct people were involved in creating this.
- Funding raised relating to commercial investments would be undertaken being fully aware of the risks and growing expertise in skills and knowledge in this area.
- Further guidance would be provided in the coming months, investments would be proportionate to the scale suited to the authority with risks mitigated with an investment risk reserve.
- Government guidance was still to be provided in relation to this, there had been some questionable decisions made by some local authorities; taking advantage of opportunities was a main focus of the new authority including increasing the business rate base.

RESOLVED that the Shadow Executive recommends the draft Investment Strategy for 2019/20 as included within this report, for approval by Shadow Council.

64. **New Council Implementation Plan. Report of The Strategy Specialist and Senior Transformation Project Lead**

In May 2018 the order to create a new, single district-level council for Somerset West and Taunton were signed into law by the Secretary of State for Housing, Communities and Local Government confirming that the new Council would be created on 1 April 2019 and elections to the new Council would take place on 2 May 2019.

The order that created the new Somerset West and Taunton Council provided for the establishment of a Shadow Authority and Shadow Executive to operate

before Somerset West and Taunton Council takes on full responsibility on 1 April 2019.

Regulation 11 of The Somerset West and Taunton (Local Government Changes) Order 2018 provides that the Shadow Authority must prepare, keep under review, and revise as necessary an Implementation Plan. The Implementation Plan must include such plans, timetables and budgets as the Authority considers necessary to facilitate the economic, effective, efficient and timely discharge, on or after 1 April 2019, of the functions that, before that date, are the District Councils' functions.

The Shadow Authority must approve the Implementation Plan and delegate the functions conferred on it by Regulation 11 of the Changes Order to the Shadow Executive. Therefore, the Shadow Executive is responsible for keeping the Implementation Plan under review, and revising it, as necessary.

The focus of the Implementation Plan was to ensure the new council is legal, safe and functioning from 1 April 2019.

The Plan sought to identify all of the actions necessary to meet these objectives.

Due to the legislative path that is being followed to create the new council, there is no precedent regarding the individual elements that an Implementation Plan should include nor what form the Plan should take.

Officers have shared the initial draft with MHCLG officials and have also looked at the approach being adopted by other councils currently in the process of creating new councils who are following the same legislative path as ourselves, in order to help shape the content of our Plan.

At a high level, the Plan focuses on ensuring Somerset West and Taunton Council:-

- has the staff and contracts in place to deliver services to our community;
- can make lawful decisions (constitution, strategies, plans and policies);
- holds the necessary insurances, licences and permits to operate;
- has the necessary governance arrangements in place (statutory officers, auditors, committees);
- can order necessary goods and services;
- can pay its suppliers, members and staff;
- can set, bill and collect income.

During the discussion of this item Members made comments and statements and asked questions, and the following main points were raised:

- There were considered to be no new risks with the implementation plan still meeting the existing timetable.
- Representation on outside bodies was still to be finalised in documentation, This would be followed up with Christine Fraser and an update provided to Councillors.

- In light of the current transition in the Council an update was requested relating to the Transformation Programme and Programme Management within the Council.

RESOLVED that: the Shadow Executive noted the progress of the New Council Implementation Plan.

65. **Exclusion of Press and Public**

Resolved that the press and public be excluded during consideration of item 9 on the grounds that, if the press and public were present during the item, there would be likely to be a disclosure to them of exempt information of the class specified in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended as follows: The item contained information that could release confidential information that related to the financial or business affairs of any particular person (including the authority holding that information). It was therefore agreed that after consideration of all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

66. **Watchet East Quay Development. Report of The Localities Manager (attached).**

The Watchet East Quay Development was introduced Councillor Dewdney and presented by Chris Hall

This report updated Members on the recent progress made with The Onion Collective and sought approval of the lease on part of the land at Easy Quay, Watchet, and approval of a loan to bridge their reducing funding gap.

Each of these aspects supported The Onion Collective in their bid to the Coastal Communities Fund (CCF) for a portion of the overall development cost.

This report follows on from an all Member update briefing on the proposed development and bid for grant funding that took place on 12th December 2018.

- The proposals were considered key to the regeneration of Watchet.
- Councillors congratulated the Onion Collective and supported the work done.
- This was considered important for the New Council that the development was pursued in this area.
- It was understood that due to the timescales that this meant it couldn't be added to the Scrutiny agenda.
- Concerns were expressed over the confidential appendices and availability of information relating to the loan.
- An All Councillor briefing would be arranged for West Somerset Councillors before the Full Council meeting to be held on 20 February

RESOLVED that:-

The Shadow Executive committee is recommended to support to West Somerset Full Council:

- 1) The award of the lease under the terms set out in the report upon resolution of the conditions in the confidential appendixes, with delegated authority to Head of Localities in consultation with the Leader of the Council to negotiate the final terms.
- 2) The principle of capital financing loan to The Onion Collective for the sum of up to £1.5m with delegated authority to the Head of Localities & S151 officer in consultation with the Leader of the Council to negotiate the final terms. Provision for such a loan to be included in the Capital Programme for 2019/20.

67. **North Taunton Woolaway Project. Report of The Lead Specialist - Place.**

The North Taunton Woolaway Project was introduced by Jo Humble and supported by Rosie Walsh.

- There were five phases to the project to mitigate risk.
- Some residents were to return to the properties although some were due to settle elsewhere. The tenure mix and unit sizes were to be improved.
- The affordability of the units were checked before letting.
- Units were built to the energy efficiency of building regulations. Electric charging points were considered a possibility.
- The future risk of non-compliance was considered, this would be reported back at a further update.
- Residents were being worked with closely, consultation had been undertaken with residents informed and reassured.
- Councillors commended officers on all the hard work undertaken.

RESOLVED that the Shadow Executive recommended

- 1) The Council approve the project and the progression of the scheme. Council delegates the decisions to progress matters for the scheme to be determined by the Head of Commercial, Investment and Change in consultation with the relevant Portfolio Holder.
- 2) The Council approves the proposed funding of the scheme utilising a combination of capital receipts, Social Housing Development Fund revenue contribution, and capital borrowing. Council delegates the final funding arrangement to be determined by the S151 Officer in line with the Council's capital and treasury strategies, prioritising affordability for the Housing Revenue Account.
- 3) The Council approves a supplementary budget of £7,200,000 within the HRA Capital Programme for Phase A of the North Taunton Woolaway Project.
- 4) Approval is granted to serve Initial and Final Demolition Notices, and for the demolition of properties to enable site clearance to facilitate new development for the whole scheme.

- 5) The Council approves the principle to utilise Compulsory Purchase Powers using section 17 of the Housing Act 1985, should Vacant Possession not progress to acquire properties under the regeneration initiative detailed in this report, and to delegate such decision making to the Executive.

68. **Forward Plan**

The purpose of this item was to approve the Forward Plan.

RESOLVED that the Shadow Executive's Forward Plan be circulated to Members of the Shadow Executive after the meeting.

69. **Future Meeting Dates**

The next meeting date had been agreed:-

- Shadow Executive – 26 March 2019 at 3.00pm, (The John Meikle Room).

(The Meeting ended at 6.25 pm)

Somerset West and Taunton Shadow Council

Shadow Executive Meeting – 26th March 2019

Appointment of Statutory Officers and Director

This matter is the responsibility of the Leader of the Shadow Council

Report Author : James Hassett – Chief Executive

1 Executive Summary / Purpose of the Report

1.1 This report asks Members to make appointments to the two professional Statutory Officers and note the position in relation to the Director.

2 Recommendations

2.1 Members are asked to:

- a) appoint Paul Fitzgerald as the Statutory Chief Finance Officer; and
- b) appoint Amy Tregellas as the Monitoring Officer; and
- c) note the appointment of Shirlene Adam as the Council’s Executive Director and Deputy Chief Executive.

3. Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
The new Council does not have a fit for purpose Constitution in place by 1 st April, 2019	3	4	12
<i>The mitigations for this are the proposed actions as set out in the report</i>	2	4	8

Risk

Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full Details of the Report

4.1 The Somerset West and Taunton (Local Government Changes) Order 2018 required the Shadow Council to appoint, on an interim basis, a number of Officers to carry out the statutory roles of:

- Head of Paid Services;
- Monitoring Officer;
- Chief Finance Officer.

4.2 In accordance with this, the Shadow Council, at its first meeting in June 2018, made the required appointment on an 'interim' basis. The Council subsequently, at its meeting in December 2018, made a permanent appointment to the Chief Executive role.

4.3 To ensure stability and continuity, the Council is now asked to make the appointments to the two additional professional Statutory Officers and also confirm the position of the Director.

4.4 Members will recall that at the Shadow Council meeting held on 12th

September, the Council agreed to amend the Terms of Reference for a Shadow Executive to include responsibility for dealing with the recruitment of Statutory and Non-Statutory Officers and any personnel issues in relation to them.

5 Appointment of the Officers

a) Chief Finance Officer

The Shadow Council currently has Paul Fitzgerald as its Interim Section 151 Officer. He is also the Chief Finance Officer for the two separate existing Councils. It is proposed that the Council confirms the appointment of Paul Fitzgerald as the substantive Chief Finance Officer for the new Council.

b) Monitoring Officer

The Shadow Council currently has Bruce Lang as the Interim Monitoring Officer. He is also the Monitoring Officer for the two individual existing authorities. However, as Bruce Lang is due to retire from the Council in May 2019, it would be sensible to now appoint a new Officer to carry out the functions of the Monitoring Officer. The Council has recently appointed Amy Tregellas to the Governance Manager role, who has previously carried out the role of a Monitoring Officer. It is proposed that Amy Tregellas is appointed the Council's Monitoring Officer until such time as the Chief Executive has an opportunity to review the arrangements. As Amy Tregellas is not a qualified lawyer, it is expected that proper support will be required from Shape Legal Services. Accordingly, temporary arrangements will be put in place to ensure this is available to her. In the long term, it is expected that this will be incorporated in the review of the contract with Shape Legal Services subject to the review of arrangements in relation to the Monitoring Officer. It is proposed that this arrangement starts on 1 April 2019.

c) Executive Director and Deputy Chief Executive

The Council will be aware that originally the previous Chief Executive devised a structure to implement the transformation process and the merging of the two Councils. This included a Corporate Management Team made up of the Chief Executive and six Heads of Function. However, since the appointment of the new Chief Executive, it has become clear that due to the volume of workload that is currently taking place in the Council, there is a requirement for additional capacity. Indeed, as part of the recruitment exercise for the new Chief Executive, it was made clear in the recruitment material that, once appointed, the Chief Executive would review capacity issues. Members should note that this has taken place by the Chief Executive, following consultations with the Leaders of the two existing Councils and with the Heads of Function, and the previous Director has been asked to stay on in the role of Executive Director and Deputy Chief Executive. This role will have overall responsibility for, among other things, Transformation, Information Communication Technology and Finance. This role will be crucial in sustaining the Transformation programme as well as assisting the Chief Executive in the transition of the two Councils into one.

6 Finance / Resource Implications

6.1 The funding for these posts is within existing budgets.

7 Legal Implications

7.1 Contained within the body of the report.

8 Environmental Impact Implications

8.1 None.

9 Safeguarding and/or Community Safety Implications

9.1 None.

10 Equality and Diversity Implications

10.1 None.

11 Social Value Implications

11.1 None.

12 Partnership Implications

12.1 None.

13 Health and Wellbeing Implications

13.1 None.

14 Asset Management Implications (if any)

14.1 None.

15 Consultation Implications (if any)

15.1 The relevant Officers affected by these proposals have been appropriately consulted.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – Yes**
- **Full Council – No**

Reporting Frequency : N/A

Contact Officers

Name	James Hassett	Name	
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Name		Name	
Direct Dial		Direct Dial	
Email		Email	

Somerset West and Taunton Shadow Council

Shadow Executive Committee 26 Mar 2019

Somerset Building Control Partnership Constitution and Membership 2019/20

Report of Client Officer Natalie Green

(This matter is the responsibility of Councillors Patrick Berry and Mark Edwards for Taunton Deane and Councillors Martin Dewdney and Brenda Maitland-Walker for West Somerset)

1. Executive Summary

The report highlights proposed revisions to the Somerset Building Control Partnership's membership for 2019/20 as a result of the dissolution of Taunton Deane Borough Council and West Somerset Council to create the new Somerset West and Taunton local authority.

Although there is no proposed changes to the IAA or constitution, the board membership will require an amendment.

1. Background

1.1. Since 2014 the Somerset Building Control Partnership has improved working arrangements in building control across most of the County. In 2014, the partner authorities (comprising Mendip District Council, Sedgemoor District Council, Taunton Deane Borough Council and West Somerset Council) agreed to establish the Somerset Building Control Partnership as a Joint Committee with an Administering Authority. The Partner Authorities delegated responsibilities to the Joint Committee.

1.2. The legal powers to constitute a Joint Committee and discharge the Partner Authorities' statutory building control functions. A Joint Committee does not have a separate legal personality and as such is not able to hold contracts or employ staff. In this instance a well-established solution is that one of the authorities becomes the 'administering authority' for the purpose of holding contracts and employing staff.

1.3. The Partnership has a Constitution and there is also an Inter-Authority Agreement, which sets out how the partners work together and how costs are shared amongst partners.

1.4. The Constitution sets out the membership of the Partnership for each authority, its functions and voting arrangements. Each of the four Partner Authorities is represented on the Board by two Elected Members, one of whom is the Portfolio Holder for Waste and/or Environment functions. There are 8 elected members on the Board and they are supported by officers from the Administering Authority (Sedgemoor District Council) and from partners.

Recommendations:

The Shadow Executive is requested to note:

2.1. That with effect from 1 April 2019 the current Board and its membership (comprising four partner authorities) will comprise of three partner authorities.

2.2. Delegation of authority to the Partnership's Treasurer in consultation with the Administering Authority's Monitoring Officer to update the Inter-Authority Agreement (IAA), as set out in Schedule 2 and Schedule 3, to reflect the various changes agreed previously by the Board.

2.3. Delegation of authority to the Monitoring Officer of the Administering Authority to take forward the above actions in conjunction with the partner authorities.

3. Future constitutional matters for the Board

3.1. Following the approval to the Structural Change Order, the Constitution and Inter Authority Agreement (IAA) has been reviewed; Legal Services have advised that an Addendum to the Partnership's Inter-Authority agreement and Constitution will is not required, as the IAA contains details in respect of membership to the Committee and Board.

3.2. The key revisions as a result of the creation of the new authority are:

3.2.1. A revised membership of the Board to replace references to Taunton Deane and West Somerset councils with the new authority.

3.2.2. The new authority will be entitled to two representatives.

3.2.3. The Board membership will reduce from 8 members to 6 members (still reflecting two members per partner authority)

3.2.4. Revise the quorum requirements from four members to three members, with the requirement for at least one member from each of three (currently four) different Partner Authorities.

Democratic Path:

- **Scrutiny - No**
- **Executive – Yes**
- **Full Council – No**

Reporting Frequency: One off

Contact Officer:

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4. Background Paper:

4.1 Somerset Building Control Partnership Inter-Authority Agreement

DATED

2016

**MENDIP DISTRICT COUNCIL (1)
SEDGEMOOR DISTRICT COUNCIL (2)
TAUNTON DEANE DISTRICT COUNCIL (3)
WEST SOMERSET DISTRICT COUNCIL (4)**

INTER-AUTHORITY AGREEMENT

Relating to

BUILDING CONTROL PARTNERSHIP

SHAPE Partnership Services (Law and Governance)
Mendip District Council
Council Offices
Cannards Grave Road
Shepton Mallet
Somerset
BA4 5BT

THIS DEED is made the day of **2016**

BETWEEN

- (1) **MENDIP DISTRICT COUNCIL** of Cannards Grave Road, Shepton Mallet, BA4 5BT (“Mendip”)
- (2) **SEDGEMOOR DISTRICT COUNCIL** of Bridgwater House, Kings Square, Bridgwater, Somerset, TA6 3AR (“Sedgemoor”)
- (3) **TAUNTON DEANE BOROUGH COUNCIL** of The Deane House Belvedere Road Taunton TA1 1HE (“Taunton Deane”) and
- (4) **WEST SOMERSET COUNCIL** of West Somerset House, Killick Way, Williton, Somerset TA4 4QA (“West Somerset”)

Collectively known as the “Constituent Authorities”

WHEREAS

- [A] By virtue of Section 91 of the Building Act 1984 each of the Constituent Authorities is a Local Authority with duties and obligations to provide Building Control Services within their geographical areas and to undertake any enforcement action as laid down in the Building Act 1984
- [B] The Constituent Authorities (a) hereby establish a Joint Committee in accordance with the powers available to each Constituent Authority to enable strategic decisions concerning the scope, shape and direction of the Building Control Service as defined by this Agreement to be made, and (b) have agreed the administrative requirements that shall apply to the operation of the Joint Committee
- [C] The Constituent Authorities enter into this Agreement to confirm their endorsement of the partnering principles, funding and liabilities associated with the creation and management of the Building Control Services to be hosted by Sedgemoor District Council subject to and in accordance with the terms and conditions of this Agreement

IT IS AGREED AS FOLLOWS

1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement the following definitions shall have the following meanings:

Action Plan	means the annual plan relating to each Financial Year of operation of the Partnership
Additional Contributions	means all other expenditure howsoever occurring or arising that cannot be paid from the Income derived from the Building Control Service or from the Constituent Authority Contributions
Agreement	means this Agreement and the Schedules described herein
Annual Budget	means the annual budget for the Building Control Service as approved by each Constituent Authority

Annual Budget Meeting	means the meeting to be held by the Joint Committee prior to 30 November in any Financial Year
Annual General Meeting	means the annual general meeting to be held by the Joint Committee in May of any year
Approved Budget	means the Annual Budget as approved by the Joint Committee
Back Office Support Services	are as described in Appendix B of Schedule 7 of this Agreement
Board	means the Strategy Board of the Joint Committee
Board Decisions	means decisions that shall be taken by the Strategy Board in relation to an Agreed Function in accordance with Schedule 3
Building Control Functions	means the functions listed in Schedule 1
Building Control Service	means the building control services provided by the Joint Committee and delivered to each of the Constituent Authorities in accordance with (i) Statutory Requirements and obligations under the Building Act 1984 and the Charging Regulations and (2) the Other Services that the Joint Committee shall provide all as set out in Schedule 1 and includes the Chargeable and Non-Chargeable Functions
Building Act	means the Building Act 1984 as the same may be amended from time to time
Business Plan	means the business plan approved by the Joint Committee pursuant clause 35
Chargeable Functions	means those functions set out in Schedules 1 and 7 that relate to the five main building control functions relating to building regulations – namely, checking plans, carrying out inspections of building work in connection with plans, and checking and inspecting work covered by building notices, reversion and regularisation applications
Charging Regulations	means the Building (Local Authority Charges) Regulations 2010 as the same may be amended from time to time
Charging Schedule	means the agreed and published charges that the Joint Committee may approve in accordance with the Charging Regulations
Charging Schedule Income	means income received from Clients by the Building Control Service in accordance with the Charging Schedule
Clerk	means the person appointed by Mendip District Council to act as the Clerk to the Joint Committee
Client	means (i) members of the public and (ii) other local authorities and public bodies within the meaning of the Local Authorities (Goods and Services) Act 1970 who require the Building Control Services but not the Constituent Authorities

Commencement Date	means the date of this Agreement
Constitution	means the Constitution of the Joint Committee as set out in Schedule 2
Constitutional Arrangements	means the arrangements as set out in the Constitution
Constituent Authority and Constituent Authorities	means the local authorities named as the parties to this agreement and includes their successors or assigns and any New Member
Constituent Authority Contributions	means the financial contributions to be paid by each Constituent Authority for the provision by the Host Authority of Back Office Support Services and all other expenses relating to the Joint Committee and the Building Control Service that (i) cannot be recovered by the Host Authority from the receipts generated by the Charging Schedule (ii) do not form part of the Transfer Contributions payable by each Constituent Authority, including without limitation all redundancy and other employee related payments howsoever arising and (iii) cannot be otherwise recovered from any policy of insurance that the Host Authority is obliged to provide by reason of the establishment of the Joint Committee
Contract of Employment	means the terms of employment between (i) the Host Authority and (ii) an Employee
Data Sharing Agreement	means the agreement to be entered into by the Constituent Authorities in order to regulate data sharing within the Partnership.
Data Sharing Protocol	means the protocol contained in Schedule 10 of this agreement also referred to as the Inter-Agency Data Sharing Protocol and the Information Sharing Protocol
Deductions	means any deductions from the Salary of the Employee by reason of the Employee's contract of employment or engagement with the Host Authority (other than the Statutory Payments)
Discharge of Functions Regulations	means the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, including without limitation section 11 thereof, that enables local authorities to make use of joint arrangements with other authorities and to delegate functions to other local authorities [provided that any Member to whom functions are delegated is a member of the Executive of their respective local authority and (provided that the Officers have appropriate delegated authority) as the same may be amended from time to time
DPA	means the Data Protection Act 1998 as the same may be amended from time to time
Draft Budget	means the budget that the Joint Committee shall recommend for approval by each Constituent Authority at the Annual Budget Meeting as necessary expenditure to discharge their functions in respect of this Agreement for the immediately

	next following Financial Year
Employee	means persons employed by the Host Authority following the Transfer of Staff to it
Employer	means the Host Authority
Financial Year	means the period from 1 April in one year to 31 March in the immediately following year
Host Authority	means Sedgemoor District Council
Intellectual Property Rights	means any and all patents trademarks service marks copyright database rights moral rights in 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
Joint Committee	means the joint committee established under section 101 Local Government Act 1972 to be known as the "Somerset Building Control Partnership"
Joint Committee Decision	means decisions that are required to be taken by the Joint Committee in accordance with the Constitution of the Joint Committee
Local Authority	means a local authority as defined in the Local Government Act 1972
Losses	means all liabilities, costs, expenses (including legal expenses and specialist/expert costs), claims, actions, proceedings, damages, fines, penalties, loss of profit and Consequential Loss
New Member	a Local Authority that joins the Partnership in accordance with Clause 23 and Schedule 12
Non Chargeable Functions	means those functions set out in Schedule 1 which are not chargeable in accordance with the requirements of the Charging Regulations
Operating Account	means the designated cost centre to be created and held by the Host Authority into which all Charging Schedule Income is to be deposited
Other Services	means any building control services that are neither Chargeable Functions or Non-Chargeable Functions that the Joint Committee may from time to time include in the Charging Schedule
Partnership	means the partnership established under section 101 Local Government Act 1972 to be known as the "Somerset Building Control Partnership"
Primary Objectives	means the objectives listed in Clause 5.7 of this Agreement

Reserve Account	means an earmarked reserve cost centre through a 3 year rolling account for the use of surpluses or deficits to offset future building regulation charges or reinvestment in service improvements
Reserved Decisions	means any decisions that are to be made by each Constituent Authority and which have not been delegated to the Joint Committee in accordance with the Constitution of the Joint Committee
Retained Functions	means the matters referred to in Schedule 5 that remain decisions that are to be made by each Constituent Authority
Salary	means the gross salary of all Employees and all other payments or allowances payable to or on behalf of the Employee in accordance with the Contract of Employment, Deductions, Statutory Payments and Statutory Requirements
“Service” and “Services”	means the Building Control Service and the services included therein as defined more particularly in Schedule 1
Statutory Payments	means (to the extent that they apply) any and all payments to be made by the Employer to the Employee including without limitation, Salary, national insurance, superannuation, tax, holiday, pay, maternity pay, sick pay, travelling and subsistence expenses, car allowances, recruitment and retention allowances, training, professional subscriptions, redundancy costs, termination costs, and the associated payroll administration
Statutory Requirements	means requirements arising from: (a) Acts of Parliament and any statutory instruments rules orders regulations notices directions bye-laws and permissions for the time being made under or deriving validity from an Act of Parliament (b) European directives or regulations and rules having the force of law in the United Kingdom; and (c) regulations orders bye-laws or codes of practice of any local or statutory authority
Staff	means those members of staff previously engaged by a Constituent Authority other than the Host Authority
Transfer	means the transfer of Staff in accordance with TUPE and Schedule 6
Transfer Contributions Account	means the cost centre into which the Transfer Contributions shall be paid
Transfer Date	means the date or dates on which TUPE transfers shall be made to the Host Authority
Transfer Costs	means all costs, charges, expenses or liabilities relating to Staff that have been transferred to the Host Authority by reason of the creation of the Joint Committee
TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings

	(Protection of Employment) (Amendment) Regulations 2014
Winding Down Costs	includes Employee costs, termination of contract payments etc.

- 1.2. Any reference to a “Constituent Authority” or Constituent Authorities” includes reference to any successors or assigns.
- 1.3. Words importing one gender include all other genders and words importing the singular include the plural and vice versa.
- 1.4. A reference in this Agreement to any clause, paragraph or Schedule is, except where it is expressly stated to the contrary, a reference to a clause or paragraph of or Schedule to this Agreement.
- 1.5. References to any statute or statutory provision (including any EU Instrument) shall, unless the context otherwise requires, be construed as including references to any subsequent corresponding statute or statutory provision, and will include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision.
- 1.6. Any reference to this Agreement or to any other document unless otherwise specified shall include any variation, amendment or supplements to such document expressly permitted by this Agreement or otherwise agreed in writing between the relevant Constituent Authorities.
- 1.7. Words preceding “include”, “includes”, “including” and “included” shall be construed without limitation by the words which follow those words unless inconsistent with the context, and the rule of interpretation known as ejusdem generis shall not apply;

2. AMBIT OF AGREEMENT

- 2.1 This Agreement sets out all the terms and conditions which the Constituent Authorities have agreed regarding the provision of the Joint Committee and Services and save as otherwise provided by Clause 2.3 below or Clause 13 (Liability and Indemnities) supersedes any representations documents negotiations or understandings whether oral or written made or carried out or entered into before the date of this Agreement
- 2.2 The Joint Committee is established to serve and administer the financial needs and strategic direction of the Building Control Service in each of the administrative areas of the Constituent Authorities. In furtherance of these purposes the Joint Committee appoints a Board whose role shall be to advise the Joint Committee in the discharge of its purposes.
- 2.3 The Constituent Authorities have satisfied themselves in relation to any matters or information on which they are relying upon in deciding to enter into this Agreement save where the Constituent Authorities have given warranties in respect of matters as specifically referred to in this Agreement

3. COMMENCEMENT & DURATION OF AGREEMENT

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

4. PARTNERSHIP PRINCIPLES AND CO-OPERATION

- 4.1. For the purpose of enabling each Constituent Authority to fully and properly support the Joint Committee, each Constituent Authority agrees to be bound by this Agreement and shall:

4.1.1.Devote sufficient resource and expertise to the Joint Committee in a competent and timely manner:

4.1.2.Ensure the relationship and all dealings between each Constituent Authority are undertaken promptly, openly and transparently and that disputes and differences are identified and resolved as soon as reasonably practicable:

4.1.3.Promptly and openly discuss, through meetings and effective communication, any and all issues that do or may affect or influence the Joint Committee, the Building Control Service, the Back Office Support Services and/or the Business Plan:

4.1.4.Have regard to each other's objectives, needs, capabilities, responsibilities and constraints:

- 4.1.5. Seek to achieve best value for money without compromising the Building Control Service, the Action Plan or the Business Plan:

- 4.1.6. Monitor performance to identify weaknesses and strengths and mutually agree strategies, as contemplated by the Action Plan and/or the Business Plan:
- 4.1.7. Share and exchange experience, knowledge, strategies, objectives and any relevant technical and policy information relating to the Joint Committee:
- 4.1.8. Seek, where practical, to identify common approaches to the restrictions and requirements of the Joint Committee and all its workings, including without limitation, those relating to liability, confidentiality and data protection:
- 4.1.9. Promote prompt and timely joint working, commitment, good communication and co-operation between all of the Constituent Authorities:
- 4.1.10. Ensure that the administration of the Joint Committee operates effectively through the provision of assistance and support to the Board and Host Authority as required:
- 4.1.11. Seek all internal approvals as may be reasonably required from time to time to support the functioning and lawfulness of the Joint Committee.
- 4.2. Each Constituent Authority agrees for the benefit of each of them that it shall do all things and take such action or desist from taking such action as is reasonably required in order to enable the Host Authority to fulfil its obligations in relation to the Joint Committee, the Building Control Services, the Back Office Support Services and the Business Plan. Each Constituent Authority shall make available to the extent reasonably required in order to fulfil their obligations under this Agreement data, equipment, office accommodation and access to IT systems and manual records from the date of this Agreement
- 4.3. In entering into this Agreement each Constituent Authority recognises that it is impractical to make provision for every contingency that may arise and accordingly each Constituent Authority hereby declares it to be their intention that this Agreement shall operate between them with fairness and without detriment to the interests of any of them and if in the course of this Agreement unfairness to any Constituent Authority is disclosed or anticipated the Joint Committee shall, acting reasonably, endeavour to agree upon such action as may be necessary and equitable to remove the cause or causes of the same.
- 4.4. Nothing in this Agreement shall require any Constituent Authority to act out with the confines of its constitution or to otherwise act or make decisions in any unlawful manner

5. ESTABLISHMENT OF JOINT COMMITTEE & VIRES

- 5.1. By virtue of section 91 of the Building Act 1984, each of the Constituent Authorities is a local authority with duties and obligations to provide Building Control Services within their geographical

area and to undertake any necessary and expedient enforcement action in accordance with the Building Act 1984.

5.2. Each of the Constituent Authorities is a local authority and a best value authority for the purposes of the Local Government Act 1999 and is under a duty to secure continuous improvement in the way in which it delivers services having regard to a combination of economy, efficiency and effectiveness.

5.3. Each Constituent Authority is empowered to and has delegated its Building Control Functions to the Joint Committee in accordance with:

5.3.1. Section 101 Local Government Act 1972:

5.3.2. Section 19 Local Government Act 2000.

5.4. Each Constituent Authority is empowered to create and participate in a Joint Committee in accordance with and subject to compliance with:

5.4.1. Section 102 Local Government Act 1972; and

5.4.2. Section 20 Local Government Act 2000; and

5.4.3. The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000.

5.5. In exercise of their powers under section 102 of the Local Government Act 1972, section 20 Local Government Act 2000, and all other enabling powers the Constituent Authorities have established a joint committee to be known as the Joint Committee – Somerset Building Control Partnership (and within this Agreement (also referred to as “the Joint Committee”) with effect from the Commencement Date.

5.6. The Joint Committee shall operate in accordance with the provisions of Schedule 2

5.7. The Joint Committee in exercising the functions conferred on it shall have regard to the Primary Objectives, namely to:

5.7.1. Make strategic decisions relating to the Joint Committee:

5.7.2. Demonstrate saving efficiencies without increasing the financial burden of the Host Authority;

5.7.3. Provide high quality Services:

5.7.4. Adopt a systematic approach to partnership working and problem resolution based on the achievement of solutions for the benefit of Clients, the achievement of best value for each Constituent Authority and the achievement of mutually beneficial outcomes.

- 5.8. The Joint Committee may arrange for the discharge of any of the functions conferred on it by a sub-committee of it, the Host Authority, the Board or by an officer of any of the Constituent Authorities in accordance with the provisions of this Agreement
- 5.9. Each Constituent Authority warrants and undertakes to each of the other Constituent Authorities that:
- 5.9.1. It has validly and lawfully delegated its Building Control Functions to the Joint Committee in accordance with section 101 Local Government Act 1972 and section 19 Local Government Act 2000
- 5.9.2. It has obtained all relevant consents, approvals and permissions to enter into these joint arrangements
- 5.9.3. It is validly existing and has full power to enter into and perform this Agreement, that the execution of this Agreement by each Constituent Authority has been validly authorised and that the obligations assumed by each Constituent Authority under this Agreement constitute valid legal and binding obligations that are enforceable in accordance with their terms.
- 5.9.4. Neither the execution of this Agreement nor the performance or observation of any of its obligations under it will:
- 5.9.4.1. Conflict with or result in any breach of any law or enactment or any deed, agreement or other instrument, obligation or duty to which any Constituent Authority is bound; or
- 5.9.4.2. Cause any limitation on any of the powers whatsoever of each Constituent Authority or on the right or ability of each Constituent Authority to exercise such powers; or
- 5.9.4.3. Result in any Constituent Authority acting outside its powers.
- 5.9.5. All Consents required in connection with the execution, delivery, issue, validity and enforceability of this Agreement have been obtained and have not been withdrawn.
- 5.9.6. No amalgamation, reconstitution, restructuring or reclassification of any Constituent Authority may in any way operate to negate, terminate or vary the contractual obligations made by that Constituent Authority and for the avoidance of any doubt, the successors or assigns or reconstituted, restructured or reclassified organisation incorporating any Constituent Authority to this Agreement, shall step into the shoes of that Constituent Authority and shall continue to be bound by, comply with and perform any and all of the obligations set out in this Agreement.
- 5.9.7. No civil or criminal litigation or administrative or arbitration proceeding before any court, tribunal, Government authority or arbitrator is presently taking place, pending or (to the

reasonable knowledge, information and belief of the Constituent Authority) threatened against, or against any of the assets of, each Constituent Authority which might have a material adverse effect on its ability to perform its obligations under this Agreement.

5.9.8. Each Constituent Authority is not aware, after due diligence and careful enquiry, of anything which materially threatens the implementation of the Joint Committee.

5.10. The administrative costs of the setting up and conducting of the meetings of the Joint Committee shall be met from Constituent Authority Contributions

6. DELEGATIONS

6.1. Each of the Constituent Authorities hereby delegates to and empowers the Joint Committee to discharge on their behalf the Agreed Functions or any of them to be discharged by the Joint Committee

6.2. Each Constituent Authority confirms by its execution hereof that it has obtained all necessary approvals required to delegate the discharge of their Building Control Functions to the Joint Committee in accordance with Section 101 Local Government Act 1972 and Section 19 Local Government Act 2000

6.3. The Joint Committee shall operate in accordance with the Constitution (Schedule 2) and shall retain direct responsibility for the financing of both the Joint Committee and the Building Control Service and for determining the strategic direction of the Building Control Service

6.4. The Joint Committee shall establish a strategy board, ("the Board") that shall be responsible for strategic review and recommendations to the Joint Committee in accordance with the terms of reference of the Board as set out at Schedule 3

6.5. In accordance with Schedule 4 of this Agreement the Joint Committee shall be supported by the Advisory Team to undertake the responsibilities set out therein

6.6. The Joint Committee delegates the day to day management and control of the Building Control Service to the Somerset Building Control Partnership based within the Host Authority

7. THE BUILDING CONTROL SERVICE

7.1. The Building Control Service shall, as more particularly defined in Schedule 1 comprise:

7.1.1.1. Building Regulations Chargeable Activities:

7.1.1.2. Building Regulations Non Chargeable Activities:

7.1.1.3. Statutory Functions.

- 7.2. Subject to the provisions of Clause 8.2 and 8.3 the Constitution of the Host Authority shall apply to the Building Control Service
- 7.3. The business of the Joint Committee shall not extend to the Retained Functions of each Constituent Authority as described in Schedule 5 to this Agreement

8. POLICIES AND CONSTITUTIONAL ARRANGEMENTS

- 8.1. Except where stated otherwise in this Agreement the policies of the Host Authority shall be deemed to have been adopted by the Joint Committee in relation to the creation and operation of the Building Control Service.
- 8.2. The Joint Committee shall operate in accordance with Article 8 of the Constitution of Mendip District Council in relation to the arrangement and conduct of meetings of the Joint Committee
- 8.3. Except in relation to the operation of the Joint Committee under Clause 8.2 (where the Constitution of Mendip District Council shall apply in all instances) in the event of conflict between the provisions of the Constitution of Sedgemoor District Council and the Constitution of Mendip District Council, the provisions of the Constitution of Sedgemoor District Council shall prevail

9. RESPONSIBILITIES OF HOST AUTHORITY AND OTHER AUTHORITIES

- 9.1. The responsibilities of each Constituent Authority to the Joint Committee are as set out in Schedule 4
- 9.2. Each of the Constituent Authorities hereby individually empowers and authorises the Host Authority to undertake the management of the financial, IT and HR aspects of the Building Control Service in consideration of the receipt by it of the Constituent Authority Contributions
- 9.3. The Host Authority hereby agrees to discharge the matters set out in the Constitution and in this agreement as being the responsibilities of the Host Authority in consideration of its receipt of the Constituent Authority Contributions
- 9.4. Sedgemoor District Council shall accept the transfer of Staff to it for the purposes of providing a centralised Building Control Service to Clients in the administrative areas served by each Constituent Authority on or before the Commencement Date in accordance with Schedule 6.
- 9.5. Each Constituent Authority shall provide suitable office space and facilities within each of its offices to enable a presence at each of the offices of the Constituent Authorities in order to provide a high quality Building Control Service to Clients within the administrative area of each Constituent Authority in accordance with Clause 16
- 9.6. The Joint Committee shall indemnify the Host Authority against all claims demands costs and expenses arising out of the giving of professional advice or its actions as Host Authority save that arising from any negligent act or omission of the Host Authority or its employees.

- 9.7. Mendip District Council hereby agrees to discharge the management of the administrative and democratic affairs of the Joint Committee in accordance with the provisions of Schedule 4 in consideration of the reimbursement of the cost of the provision of such services from the other Constituent Authorities
- 9.8. Each of the Constituent Authorities hereby empowers and authorises Mendip District Council to undertake the management of the administrative and democratic affairs of the Joint Committee in consideration of the receipt by Mendip District Council of the reimbursement of the cost of the provision of such services
- 9.9. The Joint Committee shall indemnify Mendip District Council against all claims demands costs and expenses arising out of the management of the administrative and democratic affairs of the Joint Committee save that arising from any negligent act or omission of Mendip or its employees.
- 9.10. The Board shall report and make recommendations to the Joint Committee in accordance with the provisions of Schedule 3 in consideration of reimbursement of the cost of the provision of such services from the other Constituent Authorities
- 9.11. The Joint Committee shall indemnify the Board against all claims demands costs and expenses arising out of the activities of the Board.
- 9.12. The terms of appointment of each specific responsibility identified above may be varied at any time by written agreement between the Joint Committee and the person or body identified in this Clause 9 in accordance with the Constitution of the Joint Committee.

10. FINANCIAL AND LEGAL ARRANGEMENTS

- 10.1. The Financial Arrangements for the Partnership are set out in Schedule 7.
- 10.2. The financial affairs of the Joint Committee shall be managed by the Host Authority
- 10.3. Each Constituent Authority shall retain responsibility for its legal affairs relating to the Retained Functions
- 10.4. The legal services relating to the Building Control Service and the Joint Committee shall be provided by Mendip District Council through SHAPE Partnership Services

11. PROCUREMENT

- 11.1. The Contract Procedure Rules and the Financial Regulations of the Host Authority are adopted by the Joint Committee
- 11.2. In order to minimise the need for formal Joint Committee meetings, the Constituent Authorities and the Joint Committee hereby adopt the Procurement Responsibilities Document as set out in Schedule 8

12. INSURANCE

- 12.1. The Constituent Authorities hereby undertake that they will maintain in full force and effect the insurance policies required
 - 12.1.1. To enable Building Control Officers to work from the respective premises of the Constituent Authorities either on a temporary or a permanent basis as required:
 - 12.1.2. To enable officers and members as required to participate in the working of the Board and the Joint Committee.
- 12.2. The Host Authority undertakes that it will maintain in full force and effect such insurance policies which shall include appropriate public liability insurance, employer's liability insurance and professional indemnity insurance or other insurance that the Constituent Authorities shall agree or other provision which is required by applicable law in relation to the Building Control Service and this Agreement
- 12.3. Each of the Constituent Authorities (including the Host Authority with specific reference to its responsibilities under Clause 12.2) undertakes to the others that it shall, if required, provide to the others on the Commencement Date and thereafter upon reasonable demand sight of all insurance documentation relevant to the Building Control Services and this Agreement including policies cover notes premium receipts and any other documents.
- 12.4. In the event that the Building Control Service provides negligent advice to the extent that the Host Authority is unable to recover (fully or partly) losses from a policy of Professional Indemnity Insurance or such other policy or policies of insurance that the Constituent Authorities agree upon then in such an event the amount by which such losses are not recoverable thereunder shall be deemed to be a cost to the Partnership.

13. LIABILITIES AND INDEMNITIES

- 13.1. In accordance with Schedule 7 paragraph 4 (c) Additional Contributions may from time to time be required to meet any financial shortfall or to discharge any liability or other requirement of the Joint

Committee and/or payment for Back Office Support Services necessarily incurred that cannot be met from (i) Charging Schedule Income, and/or (ii) Constituent Authority Contributions, such Additional Contributions to be approved by each Constituent Authority and shared by the Constituent Authorities and paid within 14 days of presentation of an invoice from the Host Authority

13.2. The principles underpinning liability and indemnity are as follows:

13.2.1. TUPE: Each Constituent Authority hereby indemnifies the Host Authority from and against all Losses in the event of a TUPE related claim including harmonisation of terms and conditions and in relation to the matters set out in Schedule 6:

13.2.2. Personal Injury or death in the Administrative Areas served by the Partnership– The Host Authority hereby indemnifies the Constituent Authorities from and against all Losses arising from or related to the personal injury or death of any Employee during the course of their duties unless directly caused by the wilful default, omission or negligence of another Constituent Authority:

13.2.3. Personal Injury or death in another Constituent Authority owned or occupied buildings – Each Constituent Authority hereby indemnifies the other Constituent Authorities from and against all Losses arising from or related to the personal injury or death of any Employee directly caused by the wilful default, omission or negligence of another Constituent Authority

13.2.4. Members of JC and Board - Each Constituent Authority hereby indemnifies the others from and against all Losses arising from the failure of a Member or senior officer appointed by the relevant Constituent Authority to undertake their duties lawfully and in such event the provisions of Clause 13.3 below shall apply:

13.2.5 Data Protection Act or breach of Data Sharing Protocol or Data Sharing Agreement: Each Constituent Authority hereby indemnifies the others from and against all Losses arising from a failure to observe or comply with the Data Protection Act or breach of Data Sharing Protocol or Data Sharing Agreement

13.3. **Member and Officer Liabilities**

13.3.1. When working as a member of a Joint Committee, each elected member appointed by each Constituent Authority shall be deemed to be working on behalf of their own Constituent Authority even where the particular matter under consideration relates to the Joint Committee.

13.3.2. When working on behalf of the Joint Committee, the senior officers appointed to the Board shall be deemed to be working on behalf of all the employing Constituent Authorities, in accordance with Section 113 of the Local Government Act 1972.

13.3.3. In consequence of the above, both members and officers shall be treated as falling within the statutory immunity provided by Section 265 of the Public Health Act 1875, as amended and as extended by sections 39 and 44(1) of the Local Government (Miscellaneous Provisions) Act 1976, in respect of the Joint Committee provided that they are acting in pursuance of a statutory function or power of the authority and they are acting in good faith.

13.3.4. Each Constituent Authority in accordance with section 111(1) of the Local Government Act 1972 and the Local Authorities (Indemnities for Members and Officers) Order 2004 grant their Members and Officers appointed to the Joint Committee indemnities in relation to the discharge of the business of the Joint Committee.

13.4. General

Save as otherwise provided for by this Agreement, all Losses, claims, expenses, actions, demands, costs and liability incurred by the Joint Committee shall be shared by the Constituent Authorities equally.

14. BEST VALUE

14.1. Each Constituent Authority hereby undertakes that it will seek to achieve continuous improvement in economy efficiency and effectiveness (including productivity of the Staff) in carrying out its obligations under this Agreement and will seek to deliver outcomes in less time and at less cost while maintaining quality

14.2. The Constituent Authorities other than the Host Authority undertake that they will use their reasonable endeavours to assist the Host Authority in achieving its obligations under Clause 14.1 on the basis that the improvements will benefit the communities of all the Constituent Authorities

15. NOTICES

15.1. All notices to be given under this Agreement shall be in writing and shall either be delivered personally to the authorised representatives of the Constituent Authorities or sent by first class mail or by email transaction and shall be deemed duly served

15.1.1. in the case of a notice delivered personally, at the time of delivery;

15.1.2. in the case of a notice sent by first class pre-paid post, three business days after the date of dispatch; or

15.1.3. in the case of email transaction, if sent during normal business hours on a normal business day then at the time of transmission and if sent outside normal business hours on a normal business day then on the next following.

16. ACCOMMODATION

16.1. The Constituent Authorities agree that the Services shall be hosted at the Host Authority's offices and shall be provided at each Constituent Authority's offices and accordingly each Constituent Authority, but not the host authority, undertakes to make available at their own cost such accommodation working space and associated facilities and services including telephone and IT services and meeting rooms as shall be necessary to provide the Services unless otherwise agreed between the Constituent Authorities

16.2. For the avoidance of doubt, nothing in this Agreement shall operate to create a lease licence or other property rights in favour of any Constituent Authority over the property of any other Constituent Authority

17. EQUIPMENT AND IT

17.1. The Constituent Authorities with the exception of the Host Authority hereby undertake to licence free of charge (insofar as they are legally and contractually able to do so) the Staff as reasonably necessary in order to enable the Staff to access their respective data systems records IT systems computer systems telephone and other systems as may be necessary from time to time to deliver the Services and to allow and facilitate free of charge (insofar as they are legally and contractually able to do so) the transfer of necessary data records and information as may be held by the Constituent Authorities for the delivery of the Services

17.2. Any equipment held by each the Constituent Authorities for the discharge of the Building Control Services shall be made available free of charge for use by the Joint Committee during the period of this Agreement

18. INTELLECTUAL PROPERTY

19.1 Nothing in this Agreement is intended to transfer to any other Constituent Authority any Intellectual Property Rights held by any Constituent Authority

19.2 All and any Intellectual Property Rights in materials developed for or on behalf of the Services during the duration of this Agreement shall (as between the Constituent Authorities) vest in the Host Authority

19. AUDIT AND PROVISION OF INFORMATION

19.1. The Joint Committee, the Board and/or the Host Authority or any of them may require each or any of the Constituent Authorities to provide any information reasonably requested for purposes connected with or relating to the Joint Committee and each Constituent Authority shall comply with such requests within 10 working days of such written request being made or such other period of time as is reasonably requested

19.2. Any one or more Constituent Authorities may at any time require the Joint Committee, the Board and/or the Host Authority to provide any information reasonably requested by it for purposes connected with or relating to the Joint Committee, and the Joint Committee, the Board and/or the Host Authority shall comply with such requests within 10 working days of such written request being made.

19.3. The Host Authority shall be responsible for arranging internal and external audits as required

20. CONFIDENTIALITY AND FREEDOM OF INFORMATION

Confidentiality

20.1. Subject to their respective obligations under the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004 (as the same may be amended from time to time) each Constituent Authority shall use its best endeavours to keep confidential the terms of this Agreement and any and all confidential information that it may acquire in relation to the business or affairs of the other Constituent Authorities. No Constituent Authority shall use this confidential information for any purpose other than to perform its obligations under this Agreement and to comply with any statutory or regulatory requirements and each Constituent Authority shall ensure that its officers and employees comply with this clause at all times.

20.2. The obligations set out in clause 20.1 above shall not apply to any information which is publicly available or becomes publicly available through no act or omission of either Constituent Authority or any information which a Constituent Authority is required to disclose by order of a court of competent jurisdiction.

Freedom of Information Act (“FOIA”) And Environmental Information Regulations (“EIR”) requests for information

20.3. To the extent possible each Constituent Authority agrees that:

20.3.1. In relation to requests for information that relate to the provision of Building Control Services prior to the establishment of the Joint Committee that each relevant Constituent Authority shall respond to the request:

20.3.2. In relation to requests for information that relate to the provision of Building Control Services following to the establishment of the Joint Committee that the Host Authority shall respond to the request on behalf of the Joint Committee.

20.4. The Constituent Authorities shall co-operate with each other so as to ensure compliance with the FOIA and EIR. In the event that any Constituent Authority is required to provide information to any person as a result of a request made to it under FOIA or EIR (“the Requesting Council”) and another Constituent Authority holds information which, within the meaning of FOIA, is under the control of that Council (“the Receiving Council”):

20.4.1. The Receiving Council shall respond in a timely manner (time being of the essence) to a request from the Requesting Council for such information; and

20.4.2. subject to the operation of the exemptions specified in FOIA or EIR the Requesting Council shall have the right to disclose information relating to this Agreement and to the Joint Committee;

20.4.3. without prejudice to the generality of the above each Constituent Authority shall co-operate with enquiries by the Scrutiny Committee or equivalent or similar Committee of any local authority, the Local Government Ombudsman and any other legally constituted regulatory body for the provision of information or other assistance whether or not raised pursuant to the FOIA or EIR

20.5. All Constituent Authorities, shall where possible, use their best endeavours to assist the other Constituent Authority in complying with any statutory obligations and duties and shall make available to the other Constituent Authorities such facilities and assistance as that Constituent Authority may reasonably request provided that reasonable notice of the request has been given and provided further that this does not put the Constituent Authority providing the assistance to what they consider an unreasonable cost.

21. DATA AND DATA SHARING

- 21.1. The Constituent Authorities each acknowledge their respective and collective duties and obligations under the provisions of the Data Sharing Protocol (Schedule 10) and the Data Protection Act 1998 (as amended) and shall comply in all respects with it and all regulations made under that Act and the Constituent Authorities each respectively warrant that they are individually properly registered as a data controller and data processor for the purposes of the Data Protection Act 1998 (“DPA”).
- 21.2. The Constituent Authorities shall at all times comply with all relevant provisions of the DPA and do nothing which causes, or may cause, any other Constituent Authority to be in breach of their obligations under the DPA. In particular, to the extent that one Constituent Authority / Host Authority acts as either a data controller or a data processor in respect of any personal data (as defined in the DPA) pursuant to the Agreement that Constituent Authority shall only retain and process such personal data as is necessary to enable it to fulfil its obligations under this Agreement.
- 21.3. The Constituent Authorities collectively warrant to each other that they have appropriate technical and organisational measures in place to protect any personal data they are processing on behalf of another Constituent Authority against any unauthorised or unlawful processing and against any accidental loss, destruction or damage and undertakes to maintain such measures during the course of this Agreement.
- 21.4. In order to realise the requirements of the Data Sharing Protocol (Schedule 10) each of the Constituent Authorities:
 - 21.4.1. Agrees to enter into the Data Sharing Agreement:
 - 21.4.2. Endorses the vital importance of the sharing of data between the organisations to support the provision of effective and efficient services to the populations of the local area:
 - 21.4.3. Is committed to working in partnership on this and future data sharing activities and recognise that without such sharing the increasing amount of initiatives requiring a multi-agency approach cannot be fully achieved:
 - 21.4.4. Accepts and supports the principles and processes identified in the Data Sharing Protocol:
 - 21.4.5. Is committed to ensuring that their organisations have in place the appropriate policies, procedures and training to maintain the security and confidentiality of shared data:
 - 21.4.6. Is committed to the monitoring and review of the data sharing processes arising from the Data Sharing Protocol and the Data Sharing Agreement:
- 21.5. Each Constituent Authority shall ensure that the Data Sharing Protocol and the Data Sharing Agreement are fully implemented and all relevant Employees are trained in the principles and legal requirements set out therein
- 21.6. Each Constituent Authority:
 - 21.6.1. acknowledges that it has no rights of ownership to the data held by any other Constituent Authority:

- 21.6.2. shall not delete or remove any copyright notices contained within the data of any other Constituent Authority;
- 21.6.3. shall not use the data of any other Constituent Authority, except as may be required to provide the Service or as instructed by the relevant Constituent Authority
- 21.6.4. shall not disclose the data of a Constituent Authority to any third party except with the prior written consent of the relevant Constituent Authority or as required by law;
- 21.6.5. shall undertake the obligations set out in this Agreement in such a manner as to preserve so far as possible the integrity and prevent any loss, disclosure, theft, manipulation or interception of the data of any Constituent Authority
- 21.7. Each Constituent Authority shall ensure that back- ups of all data relating to the Joint Committee, the Building Control Service and Clients are regularly made. In the event that the data of a Constituent Authority is corrupted or lost that Constituent Authority shall at its own expense, restore (or procure the restoration of) the data using the back-up copy.
- 21.8. Otherwise than required by law each of the Constituent Authorities shall keep confidential all information relating to the Joint Committee, the Building Control Service and the Clients which it may gain as a result of carrying out the Building Control Service
- 21.9. For the purposes of ensuring that data can be transferred between the Constituent Authorities, each Constituent Authority shall observe the requirements of the Data Protection Protocol and shall use such information technology platforms and comply with such other reasonable requirements as the IT department of the Host Authority shall reasonably recommend from time to time.

22. DISPUTE RESOLUTION

- 22.1. The Constituent Authorities undertake and agree to pursue a positive approach towards dispute resolution which seeks (in the context of this joint working arrangement) to identify a solution at the lowest operational cost that is appropriate to the subject of the dispute and which avoids legal proceedings and maintains a strong working relationship between the Constituent Authorities.
- 22.2. In the first instance any Dispute which may arise between the Constituent Authorities concerning this Agreement shall be referred to a specially convened meeting of the Board who shall endeavour to resolve the Dispute as reasonably and as speedily as possible, and in any event within 20 working days of the dispute being referred to them PROVIDED THAT nothing in this Clause 22.2 shall empower or authorise the Board to exceed its authority or powers.
- 22.3. In the event that the Board are unable to resolve the Dispute or where the Board do not consider that it has the power or the ability to resolve the Dispute, the Board shall escalate the dispute to the Chief Executive of each relevant Constituent Authority who shall, acting in good faith, reasonably endeavour to resolve the Dispute within a further 20 days.
- 22.4. In the event that the Chief Executives of the relevant Constituent Authorities are unable to resolve the Dispute or where the Chief Executives do not consider that they have the power or the ability to

resolve the Dispute, the Chief Executives shall escalate the dispute to the Joint Committee who shall, acting in good faith, reasonably endeavour to resolve the Dispute within a further 20 days

- 22.5. In the event of any dispute or difference between the Constituent Authorities relating to this Agreement which it has not been possible to resolve through the decision making processes of the Joint Committee (whether this may be a matter of contractual interpretation or otherwise) and where any matter is expressed as having to be agreed by the Constituent Authorities from time to time and such agreement cannot be reached, the matter shall be referred for determination to the dispute resolution procedure in accordance with Clause 22.6
- 22.6. If at any time any dispute or difference shall arise between the Constituent Authorities or any of them respecting any matters which fall to be determined in accordance with section 103 of the Local Government Act 1972 then the same may be referred to and settled by a single arbitrator to be appointed by agreement by the Constituent Authorities or in default of agreement nominated on the application of any of the Constituent Authorities by the President of the Law Society of England and Wales.
- 22.7. Section 103 of the Local Government Act 1972 provides that the expenses incurred by a joint committee shall be defrayed by those authorities in such proportions as they may agree in the Inter-Authority Agreement and in the absence of agreement by the arbitrator.
- 22.8. No Constituent Authority to a dispute shall be entitled to commence or pursue legal proceedings under the jurisdiction of the Courts in connection with any such dispute, nor will any Constituent Authority to a dispute be entitled to suspend or withhold performance or its obligations under this Agreement, until 5 Business Days after the Dispute Resolution Procedure is deemed to be exhausted in respect of such dispute. PROVIDED THAT nothing in this Clause 22 shall prevent a Constituent Authority from commencing proceedings in order to preserve its position in relation to the expiry of any limitation period or to protect life or property in an emergency situation.
- 22.9. Subject to compliance with Clause 22.2 above, nothing in this Clause 22 shall prevent a Constituent Authority from commencing proceedings in any court of competent jurisdiction to obtain an order (whether interlocutory, interim or final) restraining the other part from doing any act or compelling any other Constituent Authority to do an act.

23. NEW MEMBERS

- 23.1. In respect of any Local Authority who joins these arrangements after the Commencement Date their participation in this Agreement shall come into effect on the date that Authority signs or executes the Memorandum of Participation appearing as Schedule 12 .
- 23.2. In the case of any Local Authority which is, or which becomes, a Constituent Authority to the arrangements set out in this Deed and which has not, at the date it becomes a Constituent Authority, adopted executive arrangements within the meaning of Part II of the Local Government Act 2000 the

following provisions in clause 23.3 shall apply:

- 23.3. On adopting executive arrangements that Local Authority acting in accordance with law and its own constitutional arrangements shall be entitled to rejoin the Joint Committee and become a Constituent Authority to these arrangements Provided that so long as the Local Authority becomes a Constituent Authority to these arrangements immediately upon adopting executive arrangements, it shall be subject to the same rights and liabilities as if it had not ceased to be a Constituent Authority.

24. DEPARTING MEMBERS – WITHDRAWAL

- 24.1. Any Constituent Authority may withdraw from the Joint Committee in accordance with the following procedure.
- 24.2. Any Constituent Authority that wishes to withdraw from the Joint Committee shall give not less than 15 months' notice to the other Constituent Authorities and to the Clerk to the Joint Committee of its intention to do.
- 24.3. The Board shall consult the Constituent Authority that has served the notice to establish the consequences of potential withdrawal by it giving due consideration to:
- 24.3.1. Any loss of funding which may arise from such withdrawal to include any non-payment, clawback or repayment of such funding;
- 24.3.2. Any other loss, liability, damage, claim or expense arising directly from the withdrawal, including any on-going increase in costs from the carrying out of functions within the Joint Committee which would be incurred by the remaining Constituent Authority's.
- 24.4. Any Constituent Authority wishing to withdraw from the Joint Committee undertakes as a condition of such withdrawal to make within 3 months of the start of the notice period such reasonable payment or payments which fairly reflect the actual costs, claims, Losses, liabilities or expenses caused by or anticipated as a result of the withdrawal as shall be determined by the Joint Committee pursuant to clause 24.3 above acting reasonably and no notice under this clause 24 shall take effect unless and until such payment has been made. Failure to make such reasonable payment within 3 months (unless such failure is as a result of mediation) shall be treated as a withdrawal of that notice.
- 24.5. The Constituent Authority that has given notice of withdrawal from the Joint Committee may unilaterally withdraw the notice at any point prior to the payment of the additional costs referred to in clause 24.4, but can only withdraw it after the clause 24.4 payment has been made with the consent of the Joint Committee.

- 24.6. For the avoidance of doubt, Clause 22 (Dispute Resolution Procedure) shall apply in the event that agreement is not reached on the amount payable under this Clause 24.
- 24.7. Withdrawal by a Constituent Authority shall not affect any liabilities arising incurred or entered into prior to the effective date of withdrawal nor unless otherwise agreed by the Joint Committee shall the withdrawal entitle the relevant Constituent Authority to any repayment of any financial contributions made by it.
- 24.8. Subject to the remainder of this Clause 24, the withdrawal from these arrangements by a Constituent Authority shall not affect the validity or the continuation of this agreement and the operation of the Joint Committee between the remaining Constituent Authorities.
- 24.9. Where by reason of the submission of notices of termination only one Constituent Authority has elected not to withdraw from the Joint Committee, the Joint Committee shall be wound down and this Agreement shall terminate and the provisions of clause 26 (Termination of Joint Committee) shall apply.

25. CESSATION OF HOST AUTHORITY APPOINTMENT

- 25.1. The appointment of the Host Authority shall remain in full force and effect until such time as the Host Authority informs the Joint Committee on giving not less than 12 months notice in writing to take effect on 1 April (following the expiry of the notice period) or such other period as may be agreed between the Host Authority and the Joint Committee and the Joint Committee shall as expeditiously as possible appoint a successor Host Authority.
- 25.2. The appointment of the Host Authority may be terminated by the Joint Committee by the giving to the Host Authority not less than 12 months notice in writing such notice to take effect on 1 April (following the expiry of the notice period) or such other period as may be agreed between the Host Authority and the Joint Committee and the Joint Committee shall as expeditiously as possible appoint a successor Host Authority or alternatively identify an entity which is not a Local Authority to fulfil the responsibilities of the Host Authority under this Agreement
- 25.3. Prior to the termination of the appointment of the existing Host Authority the departing and the successor Constituent Authorities shall take such measures as are necessary to ensure the efficient and expeditious transition of responsibility (including transfer of Employees) between them.
- 25.4. In the event of cessation of the appointment of the Host Authority for any reason:

25.4.1. Each Constituent Authority shall indemnify the departing Host Authority from and against all Losses, costs charges and expenses including without limitation employment and/or Transfer costs relating to the Employees, that the Host Authority may, acting reasonably incur in winding down the Joint Committee or transferring the responsibility of Host Authority to another Constituent Authority:

25.4.2. The departing Host Authority shall indemnify the replacement Host Authority from and against any Losses, costs charges and expenses directly resulting from the sole negligence and/or willful default or omission of the departing Host Authority:

The departing Host Authority shall fully and promptly cooperate with the successor Host Authority in providing all books, documents, records, equipment and any other property of whatever nature or description and whether tangible or intangible relating to or belonging to the Joint Committee

26. TERMINATION OF AGREEMENT

26.1. The Constituent Authorities may agree that the Joint Committee and this Agreement may be determined in which event such termination shall take effect on the date as so agreed by the Constituent Authorities PROVIDED THAT agreement in the context of this clause 26.1 shall require unanimity on the part of the Constituent Authorities

26.2. In the event of termination of this Agreement:

26.2.1. Any Constituent Authority shall supply to any other Constituent Authority when requested any information which the other Constituent Authority requires for the continuing provision by that other Constituent Authority of a building control service.

26.2.2. Any Intellectual Property Rights but not the Host Authority Intellectual Property Rights created or used by the Joint Committee shall be deemed to be in the ownership of each Constituent Authority who shall be entitled to use or adapt the same for its own purposes ; and

26.2.3. Each of the Constituent Authorities shall pay the **Winding Down Costs** of the Host Authority and the Joint Committee in equal shares.

26.3. In the event of termination of this Agreement, all assets held by the Host Authority for the purposes of this Agreement shall be retained by the Host Authority unless the Host Authority, in its sole discretion agrees that the assets:

26.3.1. Where reasonably practicable are to be divided between the Constituent Authorities equitably; or

26.3.2. Be sold for the best consideration possible and the proceeds of sale divided between the Constituent Authorities equally; or

26.3.3. Be retained by any one Constituent Authority for its own use and purposes subject to an equitable financial settlement to the other Council as agreed between the relevant Constituent Authority's;

26.3.4. Be dealt with as otherwise agreed between the Constituent Authorities; or

26.3.5. In the absence of agreement, in accordance with the dispute resolution procedure (Clause 22).

It shall be the duty of all of the Constituent Authorities to minimise any losses arising from the determination of the Joint Committee and this Agreement.

27. ASSIGNMENT

27.1. Each Constituent Authority may only assign or transfer this Agreement or any of their rights under this Agreement to a successor local authority with similar powers and obligations and upon giving written notice to the Clerk to the Joint Committee, such notice to be given not less than 28 days prior to assignment or transfer.

28. FORCE MAJEURE

28.1. All Constituent Authorities shall be released from their respective obligations in the event of national emergency war prohibitive government regulation or if any other cause beyond the reasonable control of the Constituent Authorities or either of them renders the performance of this Agreement not reasonably practical.

29. SEVERABILITY

29.1. In case any one or more of the provisions in this Agreement should be invalid, illegal or unenforceable in any respect under any law applicable in any relevant jurisdiction, the validity, legality and enforceability of the remaining provisions in this Agreement shall not in any way be affected or impaired.

30. WAIVER

30.1. No failure or delay on the Joint Committee's or any Constituent Authority's part to exercise any power or right under this Agreement shall operate as a waiver, nor shall any single or partial exercise by the Joint Committee or a Constituent Authority of any power or right under this Agreement

preclude any other or further exercise of those rights or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

31. VARIATION

31.1. Any term of this agreement may at any time be varied or amended by deed executed by all the Constituent Authorities from time to time and in this event all Constituent Authorities will execute an addendum to this Agreement in order to record those amendments

32. THIRD PARTY RIGHTS

32.1. The Constituent Authorities confirm their intent not to confer any rights on any third party by virtue of this Agreement and the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

33. EXECUTION

33.1. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original and all the counterparts together shall constitute one and the same instrument.

34. LAW

34.1. This Agreement shall be governed by and construed in accordance with English Law

35. ACTION PLAN AND BUSINESS PLAN

35.1. For the Financial Year commencing 1 April 2017 and annually thereafter the Board shall prepare for review by the Joint Committee at the Annual Budget Review Meeting the draft Action Plan and the draft Business Plan.

35.2. The Joint Committee shall adopt the Action Plan and the Business Plan at its Annual General Meeting.

35.3. In the event that any one or more Constituent Authorities fails to approve the proposed Constituent Authority Contribution for the immediately following Financial Year:

35.3.1. The Board shall revise the draft accounts and draft Action Plan and Business Plan to ensure that projected income is equal to projected expenditure:

35.3.2. The Joint Committee shall adopt the revised draft accounts, draft Action Plan and revised Business Plan promptly either at the Annual General Meeting or an Extra-Ordinary Meeting convened for such purpose:

35.3.3. The Constituent Authority or Authorities that were unable to agree the level of the proposed Constituent Authority Contribution for the next following year shall additionally pay all

reasonable costs, charges and expenses incurred by the Host Authority in revising the documents and arranging additional meetings.

35.4. The Board is empowered to act within the parameters set by the Action Plan and the Business Plan and to exercise any discretion given to it to meet the objectives laid down for it in the Business Plan unless the Joint Committee determine otherwise.

36. LOCAL AUTHORITIES (GOODS AND SERVICES) ACT 1970

36.1. Each Constituent Authority authorises the Host Authority to arrange for the provision of the Services to other local authorities and public bodies within the meaning of the Local Authorities (Goods and Services) Act 1970 on such terms as the Joint Committee may from time to time determine. PROVIDED THAT this authorisation shall not extend beyond the period of this Agreement

SIGNED as a Deed)
(but not delivered until dated) by)
SEDGEMOOR DISTRICT COUNCIL)
corporate seal hereto affixed)
authenticated by:)
)

Authorised Signatory

SIGNED as a Deed)
(but not delivered until dated) by)
TAUNTON DEANE BOROUGH COUNCIL)
corporate seal hereto affixed)
authenticated by:)
)

Authorised Signatory

SIGNED as a Deed)
(but not delivered until dated) by)
MENDIP DISTRICT COUNCIL)
corporate seal hereto affixed)
authenticated by:)
)

Authorised Signatory

SIGNED as a Deed)
(but not delivered until dated) by)
WEST SOMERSET COUNCIL)
corporate seal hereto affixed)
authenticated by:)
)

Authorised Signatory

SCHEDULE 1

BUILDING CONTROL SERVICE

For the avoidance of doubt the Building Control Service shall include:

- a. Appointment and/or authorisation of officers to exercise statutory functions.
- b. Undertaking of inspections, investigations, interviews, service of notices, notifications, consultation responses, and legal proceedings under the legislation applicable thereto set out below, and to exercise all other relevant powers, including powers of entry provided under such legislation.
- c. Determination of applications, service of notice, exercises of powers in default and recovery of expenses.
- d. Subject to the provisions of Schedule 5 (Retained Functions) - In consultation with a solicitor the institution of legal proceedings
- e. Exercise of powers of entry.

Chargeable & Non-chargeable Activities			
Ref	Building Regulations and Building Control Activities	Statutory requirement for undertaking	Activity Based Priority
	Establishing the building regulations chargeable costs (Local Authority Building Control Accounting Guidance for England and Wales) revised second edition 2010 <i>Source: CIPFA's Local authority building control accounting - fully revised second edition 2010</i>	<ul style="list-style-type: none"> • The Building Regulations 2010 • Sustainable and Secure Building Act 2004 • The Building (Local Authority Charges) Regulations 2010 • Building Control Performance Standards 2008 • The Regulatory Reform (Fire Safety) Order 2005 	
1	Chargeable Building Regulations Tactical Level Activities		
1.1	Passing or rejecting plans of proposed building work deposited in accordance with section 16 of the Building Act 1984.	The Building Regulations 2010 sec 14, Building Act 1984 Sec 16, The Building (Local Authority Charges) Regulations 2010	P1
1.2	Site inspections in connection with work for which a building notice has been given to the local authority in accordance with the Building Regulations 2000.	The Building Regulations 2010 sec 13, Building Act 1984 Sec 16, The Building (Local Authority Charges) Regulations 2010	P1
1.3	Consideration of building work reverting to local authority control from an approved inspector, and the inspection of that work.	The Building Regulations 2010 sec 24, Building Act 1984 sec 49, The Building (Local Authority Charges) Regulations 2010	P1
1.4	Consideration of an application for regularisation certificates for work carried out without the benefit of an approval under regulations 21 of the Building Regulations 2000, and the inspection of any building work to which that application applied.	The Building Regulations 2000 sec 21, The Building (Local Authority Charges) Regulations 2010	P1
1.5	Giving substantive pre-building regulation application advice on specific chargeable functions regarding the requirements of the building regulations – over the first hour.	The Building Regulations 2010 sec 12, The Building (Local Authority Charges) Regulations 2010	P3

1.6	Strategic and Operational Management of Building Control Service(chargeable activities)	The Building Regulations 2010 sec 12, The Building (Local Authority Charges) Regulations 2010	P2
1.7	Technical and administrative support of Building Control (chargeable activities)	The Building Regulations 2010 sec 12, The Building (Local Authority Charges) Regulations 2010	P2
2	Non Chargeable Building Regulations Tactical Level Activities		
2.1	Liaison with the fire authority and other statutory authorities in accordance with other legislation.	The Building Regulations 2010 (Regulation B5), The Regulatory Reform (Fire Safety) Order 2005, Building Act 1984 Sec 22	P1
2.2	Carrying out building regulation functions in relation to work which is aimed to provide facilities designed to secure the greater health, safety, welfare or convenience for disabled people in accordance with regulation 4 of the Building (Local Authority Charges) Regulations 2010.	The Building Regulations 2010, The Building (Local Authority Charges) Regulations 2010, The Disability Discrimination Act 1995	P1
2.3	The enforcement of those national and local acts relating to the duties the partnership undertakes (i.e. building regulations that approved inspectors cannot undertake).	Building Act 1984 Sec 89 & 90	P1
2.4	Inspections carried out to identify unauthorised building work, (excluding regularisation applications) either on specific properties or on a geographical basis.	The Building Regulations 2010 sec 15, Building Act 1984 sec 35	P4
2.5	The first hour of officer's time in giving pre-building regulation application advice on specific building regulations and associated legislation.	The Building Regulations 2010	P4
2.6	Giving general advice on council matters to Constituent Authorities of the public, their representatives and other council departments on any matters regarding the Building Regulations 2000, Building Act 1984, Building Control Register, sustainable building, health & safety or any other legislation. and CON29	The Building Regulations 2010, Building Act 1984, Sustainable and Secure Building Act 2004, Freedom of Information Act 2000	P4
2.7	Building Control Registration, the processing of Cavity Fill, Unvented Hot Water Systems and Competent persons registrations.	Building Act 1984 sec 4, Building (Amendment) Regulations 2001	P1
2.8	Building Act section 32 Notices and enforcement.	Building Act 1984 sec 32	P1
2.9	Management of Building Control service (non-chargeable activities).	The Building Regulations 2010 sec 12, The Building (Local Authority Charges) Regulations 2010	P2
2.10	Technical and administrative support of Building Control (non-chargeable activities)	The Building Regulations 2010 sec 12, The Building (Local Authority Charges) Regulations 2010	P2

3	Other Building Control Tactical Level Activities		
3.1	Dealing with Dangerous Buildings and structures	Building Act 1984 sec 77 & 78	P1
3.2	The administration of the approved inspectors regulations (excluding work resulting from reversions).	The Building Regulations 2010 sec 20, Building Act 1984 sec 47	P1
3.3	The issuing conditions and administration relating to the demolition of buildings.	Building Act 1984 sec 81 & 82	P1
3.4	Street naming and numbering. (not undertaken in the partnership)	Public Health Act 1925	P1
3.5	Providing advice to other council departments regarding the suitability of grant payments	Housing Grants, Construction and Regeneration Act 1996	P4
3.6	Carrying out audits in relation to fire, energy, access for disabled people or public safety issues.	The Disability Discrimination Act 1995, The Regulatory Reform (Fire Safety) Order 2005	P4
3.7	Administration/enforcement of safety at sports grounds legislations, temporary structures and means of escape.	The Fire Safety and Safety of Places of Sports Act 1987, Safety of Places of Sport Regulations 1988	P1
3.8	Work associated with the administration and enforcement of a competent persons scheme	Building Act 1984 Sec 89 & 90	P2
3.9	Providing information for private searches and solicitors enquiries.	Standard Enquiries of Local Authorities (2007 Edition) CON29, The Environmental and Safety Information Act 1988, Freedom of Information Act 2000	P3
3.1.	Monitoring of planning conditions.	Planning Act 2008	P4
3.11	The enforcement of local or national legislation.	Building Act 1984, Local Government (Miscellaneous Provisions) Act 2001, Any local Acts	P3
3.12	Providing a service under the provisions of the Construction (Design and Management) Regulations 2007.	Construction (Design and Management) Regulations 2007, Health & Safety Legislation	P3
3.13	The administration of overlapping duties with other council services e.g. development control, highways, environment health, trading standards.	Building Act 1984, Local Government (Miscellaneous Provisions) Act 2001, Customer First	P3
3.14	Carrying out administrative procedures required (by statute) of local authorities i.e. providing guidance, information and data for local charge searches	Standard Enquiries of Local Authorities (2007 Edition) CON29, The Environmental and Safety Information Act 1988, Freedom of Information Act 2000	P3
3.15	Work to satisfy the Citizens Charter expectations and other quality management systems.	ISO 9001: 2008, Building Control Performance Standards 2008	P3
3.16	Responding to ombudsman requirements and recommendations in relation to the administrations building control activities, including liaison with other professional disciplines within the authority to	Customer First, CLG - Future of Building Control, Freedom of Information Act 2000	P2

	respond to public expectation of a greater all-encompassing service.		
3.17	The preparation of committee reports and liaison with councillors	Sections 101; 102; 103; 111 and 113 of the Local Government Act 1972 and Section 20 of the Local Government Act 2000	P3
3.18	Responding to the requirements and recommendations of the Audit Commission and CLG returns	Building Control Performance Standards 2008, CLG - Housing Monitoring Returns	P4
3.19	Providing information as part of local land charge searches.	Standard Enquiries of Local Authorities (2007 Edition) CON29, The Environmental and Safety Information Act 1988, Freedom of Information Act 2000	P3
3.20	Consultancy or service charge for project	Professional services undertaken for a service charge – income generation	P5

SCHEDULE 2

CONSTITUTION OF THE JOINT COMMITTEE

General Arrangements

1. The Joint Committee shall act as the decision making body in respect of any joint decision required to be taken other than:

1.1 Decisions that each Constituent Authority is required to make in accordance with its own Constitution as provided for by Article 39 of this Constitution("a "Reserved Decision"):and

1.2 Any decision relating to the management and operation of the Building Control Service which shall be the responsibility of the Host Authority, namely Sedgemoor District Council in accordance with its own Constitution (a "Host Authority Decision").

2. In making decisions, the Joint Committee shall have regard to all relevant legislation including without limitation: any regulations, orders, bylaws and other subsidiary legislation made under the following enactments.

- The Building Act 1984 and regulations made there under
- The Building Regulations 2010
- The Sustainable and Secure Buildings Act 2004
- The Party Wall Act 1996
- The Building (Local Authority Charges) Regulations 2010
- The Local Government (Miscellaneous Provisions) Act 1982.
- Planning Act 2008
- The Public Health Act 1925.
- Regulatory Reform (Fire Safety) Order 2005

3. The meetings of the Joint Committee shall operate in accordance with Article 8 of the Constitution of Mendip District Council

4. To the extent not otherwise provided for in this Constitution of the Joint Committee, the provisions of the Constitution of Mendip District Council (as the same may be amended from time to time) shall apply

5. In the event of conflict between the provisions of this Constitution and the Constitution of Mendip District Council, the provisions of the Constitution of Sedgemoor District Council shall prevail

Membership of Joint Committee

6. The Joint Committee shall comprise eight members as follows

7. Each of the Constituent Authorities shall appoint two nominated Members (both of whom shall be current elected Members of the Constituent Authority) as Members of the Joint Committee

8. Each Member shall be appointed by its relevant Constituent Authority annually but a Member shall cease to be a Member of the Joint Committee if he or she ceases to be a member of the Constituent Authority appointing him or her

9. Where any Constituent Authority has an Executive Committee then the Constituent Authority shall observe the requirements of the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2000 as the same may be amended from time to time

10. In the event of a new member authority becoming a member of the Joint Committee, it shall observe the requirements of this Constitution
11. Any casual vacancies howsoever arising shall be filled by the Constituent Authority from which the vacancy arises by informing by notice each of the other Constituent Authorities and the Clerk
12. The Joint Committee shall appoint one of its Members as Chair and one as Deputy Chair at each Annual Meeting with such appointees holding office until the following Annual Meeting but such office shall be deemed to be vacated if the appointment as a representative on the Joint Committee is terminated by their Constitutional Authority or if they cease to be eligible to be a Member of the Joint Committee under the constitutional arrangements applicable to the relevant Constituent Authority

Clerk

13. The Joint Committee shall appoint a Clerk from the Democratic Services Department of Mendip District Council

Meetings and Agenda

14. The Joint Committee shall have a minimum of two Scheduled Meetings per Financial Year
15. Special/emergency meetings may be additionally be summoned as required.
16. A meeting of the Joint Committee may be called
 - a. at such date, time and place at the instance of the Chairman; or
 - b. by a requisition, signed by not less than one half of the representatives of the Joint Committee delivered to the Clerk at least ten working days before the date of the meeting;
 - c. at the instance of the Clerk, if required for emergency, urgent or legislative reasons
17. The Clerk may call additional meetings by providing at least 5 clear days' notice to Members of the Joint Committee, for the purposes of resolving urgent matters that cannot be considered at any Scheduled Meeting.
18. The summons to any meeting shall set out the business to be transacted thereat, and no business other than that set out in the summons shall be considered at the meeting unless by reason of special circumstances, which shall be specified in the minutes. The Chairman of the meeting must be of the opinion that the item should be considered at the meeting as a matter of urgency.
19. A meeting of the Joint Committee shall require a quorum of four Members, one from each Constituent Authority. No business can be transacted at any meeting unless a quorum is present.
20. At every meeting of the Joint Committee, the Chairman, if present, shall preside. If the Chairman is absent the Deputy-Chairman, if present, shall preside. If both the Chairman and Deputy Chairman are absent the meeting shall elect a chairman from one of its representatives.
21. Any Constituent Authority acting through its representative on the Joint Committee may give written notice of an item to be placed on the Agenda of the Joint Committee. All notices of items for agendas must be received by the Clerk not less than fifteen working days prior to the meeting to which the agenda relates.
22. Each of the Constituent Authorities shall be entitled to receive a copy of the Agenda, papers and minutes of the proceedings of the Joint Committee
23. The Clerk shall not less than five clear working days before the intended meeting of the Joint Committee:
 - a. Circulate a notice of meeting to each Member of the Joint Committee, accompanied by a notice of the business to be transacted.
 - b. Publish notice thereof as may be necessarily required by reason of legislation.
24. The Clerk may cancel or postpone any meeting in consultation with the Chairman prior to the issue of the agenda or subsequently if there is no business to be transacted, or in other exceptional circumstances.
25. Meetings of the Joint Committee shall be held on a rotational basis at the offices of the respective Constituent Authorities

26. At every meeting each representative attending shall record such presence on the attendance sheet or other form of record provided by the Clerk.
27. Each Constituent Authority Member shall have one vote on each question to be decided.
28. Subject to the provisions of any enactment and as set out below, all questions coming before or arising at the Joint Committee shall be determined by a show of hands and shall be the subject of a unanimous decision PROVIDED THAT in a situation involving a decision other than a "Major Decision" it shall be possible for the matter to then be referred to a subsequent meeting of the Joint Committee at which the said matter may be determined by simple majority AND PROVIDED FURTHER THAT in this paragraph 28 the term "Major Decision" shall include any decision relating to (i) a change of Host Authority or (ii) a variation to the Inter-Authority Agreement relating to the Building Control Partnership, (iii) a change to the Constitution, (iv) the setting of the budget, (v) the acceptance of new constituent partners, (vi) the termination of the partnership
29. In the case of an equality of votes in the case of a matter which pursuant to the proviso in paragraph 28 is to be determined by simple majority, the Chairman shall have a second or casting vote.

Business At Meetings

30. The order of business at every meeting shall be:
- a. To approve as a correct record the minutes of the last meeting;
 - b. To dispose of business (if any) remaining from the last meeting;
 - c. To receive and consider reports prepared for the Joint Committee
31. The Chairman shall have discretion to alter the order in which business is taken at the meeting.
32. The Standing Items of Business shall be

Item	Timescale
Appointment of Chair and Deputy Chair	At Annual General Meeting in May each year
Receipt and adoption of the Annual Action Plan and Business Plan	At Annual General Meeting in May each year
Receipt of the six monthly operational performance statistics of the Building Control Service; and Six monthly reviews of the income and expenditure of the Building Control Service	To be reported to each of the Joint Committee meetings each May and November
Receipt and adoption of the Annual Report	At Annual General Meeting in May each year
Confirmation of the Annual Budget set by Constituent Authorities	At Annual General Meeting in May each year
To sign off the Audited Accounts for the previous Financial Year	At Annual General Meeting in May each year
Receipt review and recommendation of the Draft Budget	By 30 November
Review approval and adoption of the Charging Schedule	By 30 November, or if not a working day on the next following working day

Minutes

33. Minutes of every meeting of the Joint Committee or any sub-committee shall be submitted to and signed at the next following meeting of the body concerned with the next meeting of the Joint Committee being their next following meeting. The Chairman shall put the question that the minutes submitted be approved as a correct record of the meeting in question.
34. No other motion or discussion shall take place upon the Minutes except upon their accuracy. If no such question is raised or if it is raised, then as soon as it has been disposed of, the Chairman shall sign the Minutes.
35. The names of the Members present shall be recorded.
36. The proceedings of the Joint Committee shall not be invalidated by any vacancy among their number or by any defect in the election or qualifications of any Member appointed to the Joint Committee.

Sub Committees

37. The Joint Committee shall be entitled to appoint such sub-committees as it thinks fit.

Referred Decisions

38. Any three or more members of the Board may require any matter, to be referred to the Joint Committee for further consideration and decision, in the event that three or more members of the Board, acting reasonably consider that a decision made by the Board either unfairly prejudices any Constituent Authority or exceeds any delegation to the Board.

Reserved Decisions

39. Reserved Decisions must be referred back to the Constituent Authorities for decision within such timescales as the Joint Committee may by written resolution determine or in the absence of the same, within fifteen weeks
40. The Constituent Authorities acknowledge that any decisions which are inconsistent with any Constituent Authority's budget and/or policy frameworks (without limitation) are Reserved Decisions
41. Any decision of the Joint Committee in relation to a Reserved Decision will not take effect or be deemed to take effect at any time unless and until it has been approved and ratified by all the Constituent Authorities

Attendance by the Public

42. Meetings of the Joint Committee will be open to the public except to the extent that they are excluded under paragraph 43.
43. The public may be excluded from a meeting of the Joint Committee during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during that item, confidential information as defined in s.100A(3) of the Local Government Act 1972 or exempt information as defined in s.100I of the Local Government Act 1972 would be disclosed to them.
44. The public may attend the meetings of the Joint Committee subject to compliance with Mendip District Council's public speaking procedures as set out in Mendip District Council's Constitution.
45. The Joint Committee may, from time to time, invite other groups or individuals (including any representatives of the Partner Councils including elected members and any members of Staff) to attend meetings and such invitees shall have no voting rights.

Review

46. The procedural rules of the Joint Committee shall be reviewed annually and may be amended by the Constituent Authorities by simple majority from time to time.

Legal Advisor and Section 151 Officer

47. Save as otherwise provided, the Solicitor to Mendip District Council and the Section 151 Officer of Sedgemoor District Council shall extend their respective functions and responsibilities to the Joint Committee.

Contract Procedure Rules

48. The Joint Committee adopt the Procurement Responsibilities Document and the Contract Procedure Rules of Sedgemoor District Council, as the same may be amended from time to time and authorise the Board to enter into contracts and other arrangements in accordance with the Contract Procedure Rules of Sedgemoor District Council

Financial Regulations

49. The Joint Committee adopt the Financial Regulations of Sedgemoor District Council, as the same may be amended from time to time and authorise the Board to undertake financial transactions, virements and other arrangements in accordance with the Financial Regulations of Sedgemoor District Council

Access to Information

50. The Access to Information Rules in the Constitution of Mendip District Council shall apply to meetings of the Joint Committee.

Contracting Out

51. The Host Authority (for functions which are not Executive functions) or the Joint Committee (in the exercise of Executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

SCHEDULE 3

THE STRATEGY BOARD (“THE BOARD”)

1. The Board shall comprise:

- a. The Building Control Partnership Manager as the Chair of the Board
- b. One senior representative from each Constituent Authority
- c. The Section 151 Officer (or their authorised deputy) of the Host Authority

2. The purposes for which the Board is established are the preparation of the following reports, recommendations and revisions for the consideration of the Joint Committee:

- 2.1. Six monthly operational performance statistics and activity of the Building Control Service:
- 2.2 Six monthly reviews of the income and expenditure of the Building Control Service:
- 2.3 The Business Plan
- 2.4 The Annual Action Plan:
- 2.5 The Annual Report
- 2.6 The Annual Budget
- 2.7 The Draft Budget
- 2.8 The Charging Schedule and Charging Policy

3. The Board will meet at least quarterly

4.. The quorum of the Board shall be one officer representative appointed by each Constituent Authority.

5. Each officer representative appointed shall have one vote. In the absence of that officer representative, it shall be exercised by the named substitute

6. The Chairman of the Board shall be the Building Control Partnership Manager or his or her deputy

7. The decisions and recommendations of the Board shall be determined by simple majority. In the case of an equality of votes the Chairman shall have a second or casting vote.

8. All recommendations and decisions of the Board shall be recorded in writing and a copy of the record provided to each Board Member

9. The Board shall exercise the responsibilities set out in the Procurement Responsibilities Document in accordance with agreed budgets and in accordance with the Contract Procedure Rules and the Financial Regulations of Sedgemoor District Council:

10. For the avoidance of any doubt the functions of the Board shall not extend to:

10.1 The day to day management, organisation and control of Staff that shall be managed internally by the Host Authority's Group Manager:

10.2 The discharge of the Building Control Service including the issuing of decisions, notices, appeals and enforcement that shall be managed by the Host Authority's Group Manager in consultation with and subject to

the wishes of the relevant Constituent Authority in whose administrative area proposed building enforcement procedures are proposed:

10.3 The appointment of additional staff on a temporary or permanent basis and the termination of contracts of employment that shall be managed internally by the Host Authority's Group Manager:

10.4 The purchase/acquisition of supplies and consumables required unless the Monitoring Officer of the Host Authority in consultation with the Monitoring Officer of Mendip District Council shall otherwise agree:

10.6 Marketing strategies in consultation with the Building Control Partnership Manager and in accordance with Agreed Budgets :

10.7 Client Complaints that shall be managed internally by the Host Authority's Group Manager.

SCHEDULE 4 - DISCHARGE OF RESPONSIBILITIES BY THE HOST AUTHORITY AND BY CONSTITUENT AUTHORITIES

1 APPOINTMENT & DELEGATION

- 1.1 The Joint Committee shall be supported in its functions by the Constituent Authorities and delegate to the Constituent Authorities the functions and responsibilities set out in this Schedule 4 for the benefit of the Joint Committee in consideration of receipt by it of agreed proportions of the Constituent Authority Contributions

2 ADVISORY TEAM

- 2.1 The Advisory Team shall directly support the Joint Committee
- 2.2 The Advisory Team shall comprise of the following officers:
- 2.2.1 The Building Control Partnership Manager being the person appointed to that role by Sedgemoor District Council and whose responsibilities to the Joint Committee are as set out in Clause 4 below ;
- 2.2.2 The Clerk to the Joint Committee being the person appointed to that role by Mendip District Council and whose responsibilities to the Joint Committee are as set out in Clause 5 below;
- 2.2.3 The Financial Adviser to the Joint Committee being the Section 151 Officer of Sedgemoor District Council and whose responsibilities to the Joint Committee are as set out in Clause 6 below;
- 2.2.4 The Legal Adviser to the Joint Committee being the Solicitor to the Council of Mendip District Council and whose responsibilities to the Joint Committee are as set out in Clause 7 below;
- 2.2.5 Such other officers of the Host Authority as may from time to time be required to support the operations of the Joint Committee
- 2.3 Each of the persons referred to in Clause 2.2 above may delegate all or part of their responsibilities from time to time to another officer employed by the Host Authority and may appoint a substitute to attend meetings from time to time.
- 2.4 The Advisory Team or any of them shall meet at such times, dates and places as may be required either as:
- 2.4.1 Agreed by the Advisory Team; and/or
- 2.4.2 In case of emergency or urgent business as notified to the members of the Advisory Team by the Clerk to the Joint Committee

3 FUNCTIONS AND RESPONSIBILITIES OF THE ADVISORY TEAM

3.1 The Advisory Team shall:

3.1.1 Make such recommendations to the Board or the Joint Committee as may be necessary from time to time:

3.1.2 Undertake all such other matters as shall be reasonably required to support the full and proper performance and operation of the Joint Committee:

4 RESPONSIBILITIES OF THE BUILDING CONTROL PARTNERSHIP MANAGER

4.1 The Building Control Partnership Manager shall act as the Chairman of the Board and shall ensure that the actions set out in the Board's Terms of Reference (Schedule 3) are undertaken

4.2 The Building Control Partnership Manager shall be responsible for the day to day management of the Partnership and for making recommendations on strategic direction to the strategy board.

4.3 In the performance of the above responsibilities the Building Control Partnership Manager shall be supported by the Advisory Team as required

5 THE CLERK TO THE JOINT COMMITTEE

5.1 The Clerk to the Joint Committee shall be appointed from the Democratic Services department of Mendip District Council

5.2 It shall be the responsibility of the Clerk to the Joint Committee:

5.2.1 To maintain a record of membership of the Joint Committee.

5.2.2 To summon meetings of the Joint Committee:

5.2.3 To prepare and send out the agenda for meetings of the Joint Committee in consultation with the Chairman and the Vice Chairman of the Joint Committee and the Building Control Partnership Manager

5.2.4 To prepare and send out the agenda for the Annual Budget Meeting, the Annual General Meeting and such other meetings of the Joint Committee from time to time required.

5.2.5 To keep a record of the proceedings of the Joint Committee:

5.2.6 To take such administrative action as may be necessary to give effect to decisions of the Joint Committee:

5.3 For the avoidance of doubt, the Clerk to the Joint Committee shall not be required to undertake the above duties in relation to meetings of the Board

6 THE FINANCIAL ADVISER TO THE JOINT COMMITTEE

- 6.1 The Financial Advisor to the Joint Committee shall be the Section 151 Officer of the Host Authority (or her authorised deputy) who shall undertake her duties and obligations in accordance with the Constitution.
- 6.2 The financial affairs of the Joint Committee shall be managed by the Host Authority, acting through the Section 151 Officer and her staff and shall include without limitation:
- 6.2.1 The provision of financial advice to the Joint Committee:
 - 6.2.2 The undertaking of the functions which would be discharged by the Chief Financial Officer under Section 151 Of the Local Government Act 1972 and Section 6 of the Local Government and Housing Act 1989 in respect of the proper financial administration of the Joint Committee:
 - 6.2.3 The preparation of and submission to the Joint Committee for approval estimates for the Joint Committee's expenditure on the Project in future years:
 - 6.2.4 The maintenance of a record of the Joint Committee's expenditure:
 - 6.2.5 The monitoring and implementation of financial allocation mechanism:
 - 6.2.6 The preparation of Interim, Annual and five yearly rolling forecasts and budgets for the Joint Committee including without limitation, the preparation and submission of the draft Annual Budget to the Board by 30 November in each Financial Year:
 - 6.2.7 The creation and management of a specific budget and coding structure for the Building Control Service, ring fenced, as required, by the Host Authority in accordance with guidance from CIPFA Code of Practice on Local Authority Accounting, Local Authority Building Control Accounting (Revised Second Edition 2010) and The Building (Local Authority Charges) Regulations 2010, including without limitation:
 - (a) A cost centre will be set up into which each Constituent Authorities Transfer Contribution shall be paid:
 - (b) A cost centre will be set up into which all Charging Schedule Income, Constituent Authority Contributions and Additional Contributions shall be paid:
 - (c) A Reserve Fund Cost Centre into which, following the expiry of 31 March 2016 and at the end of each successive Financial Year, all surpluses remaining in the Operating Account after discharging the liabilities of the Joint Committee that relate to the immediately preceding Financial Year shall be transferred.

- 6.2.8 The preparation of Interim and Annual Accounts showing income received expenditure and any balance remaining in the relevant Building Control Cost Centre for each Financial Year to be presented to the Joint Committee for approval during May each year
- 6.2.9 The preparation of all other required financial books of accounts including the preparation of draft accounts of the Joint Committee to be submitted to a meeting of the Joint Committee for approval not later than nine months after the end of each Financial Year and to send a copy of the same to each of the Constituent Authority's as soon as reasonably practicable:
- 6.2.10 The monitoring of all budgets:
- 6.2.11 The procuring and arranging of all internal and external audits as required in accordance with the Host Authority's governance and administration procedures and thereafter make the same available for public inspection.:
- 6.2.12 The implementation of all financial controls to be undertaken in accordance with the advice and recommendations of the Section 151 Officer of the Host Authority and the Financial Procedure Rules of the Host Authority:
- 6.2.13 The discharge of all payments and financial returns required:
- 6.2.14 Virement of funds between the accounts designated for the benefit of the Joint Committee:
- 6.2.15 To procurement in its name of all policies of insurance and professional certificates that the Joint Committee may from time to time require:
- 6.2.16 Liaison with the section 151 Officers of each Constituent Authority as required:
- 6.2.17 Attendance at meetings as required:
- 6.2.18 The taking of such financial action as may be necessary to give effect to decisions of the Joint Committee:
- 6.2.19 Such other functions as may be determined by the Joint Committee.

7 THE LEGAL ADVISOR TO THE JOINT COMMITTEE

- 7.1 The Legal Advisor to the Joint Committee shall be the Solicitor to Mendip District Council whose role, for the avoidance of doubt shall not extend to the Retained Services

8 HOST AUTHORITY'S RESPONSIBILITIES AS EMPLOYER

- 8.1 The Host Authority shall be the Employer of the Employees.
- 8.2 The Host Authority shall issue, enforce, amend as required and comply with the terms of the Contract of Employment
- 8.3 The Host Authority will be responsible for payment of the Salary and making the Statutory Payments and Deductions in respect of the Employee.
- 8.4 The Host Authority shall continue to pay sick pay, holiday pay and any other absence entitlements to which the Employee is entitled under the Contract of Employment.
- 8.5 The Host Authority shall be responsible for approving all holiday requests from the Employee.
- 8.6 The Host Authority will require the Employee to report any absence (other than holiday) to the Employer (in accordance with the Contract of Employment)
- 8.7 The Host Authority will reimburse the Employee for all expenses reasonably incurred by the Employee in the performance of the Services under this Agreement.
- 8.8 The Host Authority shall provide reasonable desk space, filing space, equipment and access to utility supplies as is reasonably required for the Employee to perform the Services.
- 8.9 The Host Authority will comply in all respects with all Statutory Requirements to which the Host Authority is ordinarily subject in respect of its own employees including, in particular, the provision of adequate employer's and public liability insurance to cover the Employees.

SCHEDULE 5 – RETAINED FUNCTIONS OF EACH CONSTITUENT AUTHORITY

1 EMPLOYMENT

- 1.1 The Host Authority is to be the Employer of all Staff by reason of a written contract of employment between each member of Staff and Sedgemoor District Council and the Host Authority shall retain direct responsibility for managing and determining all employee related matters

2 BUILDING CONTROL ENFORCEMENT ACTION

- 2.1 Each Constituent Authority shall remain responsible for the decision as to whether building enforcement area is to be commenced in relation to its own administrative area PROVIDED THAT any legal service required in supported of such matters shall be provided by Mendip District Council via SHAPE Partnership Services

3 FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS

- 3.1 Each Constituent Authority shall retain the right to respond to Freedom of Information and Environmental Information Requests in accordance with Clause 20 of the Agreement

4 MEMBER STANDARDS AND CONDUCT

- 4.1 The respective Monitoring Officers for each of the Constituent Authorities shall retain overall responsibility for any issues connected with Member conduct or Member standards.

5. SCRUTINY

- 5.1 Each constituent authority shall retain responsibility for the operation of the scrutiny function in relation to its participation in the Partnership

6. DATA PROTECTION

- 6.1 Each Constituent Authority shall remain responsible for complying with the requirements of the DPA in accordance with clause 21.2 of the agreement

SCHEDULE 6

STAFFING ARRANGEMENTS

1. Each Constituent Authority has approved the Transfer of Staff to the Host Authority in accordance with:
 - a. The Local Government Act 1972 (s 112) that enables local authorities to appoint officers as they think necessary to enable them to discharge their own functions and any functions they carry out for another local authority:
 - b. The Local Government Act 1972 (s 113) that enables a local authority to enter into an agreement with another authority to place its officers at the disposal of the other authority, subject to consultation with the Staff concerned and negotiation about any changes in terms and conditions.
 - c. The Local Authority (Goods and Services Act) 1970 that enables one local authority to enter into an agreement to provide another local authority with the services of any of its Staff provided it first has regard to whether doing so will be likely to promote or improve the well-being of either their area or persons within that area:
 - d. TUPE and Cabinet Office's Statement of Practice *Staff Transfers in the Public Sector*, (revised December 2013):
2. The relevant transferring Staff are

Trevor Henry	Assistant Building Control Surveyor	Mendip
Samuel Tully	Trainee Building Control Surveyor	Mendip
Donna Tring	Senior Building Control Officer	Mendip
Jayne Hall	Building Control Manager	Mendip
Darren Rowbotham	Building Control Manager	Taunton Deane
Michael Amor	Senior Building Control Officer	Taunton Deane
Edwin Norton	Senior Building Control Officer	Taunton Deane
Barbara Robinson	Administrator	Taunton Deane
Wayne Carter	Building Control Surveyor	Taunton Deane

3. Notwithstanding the provisions of the Acquired Rights Directive and TUPE that confirm that the transfer of administrative functions between public administrative authorities, is not to be regarded as a relevant transfer within the meaning of the legislation referred to above, each Constituent Authority has:

- a. Agreed to comply with the Cabinet Office's Statement of Practice *Staff Transfers in the Public Sector*, (revised December 2013) which provides for TUPE - equivalent protection to be given to transferring employees:
 - b. Negotiated with the Host Authority reasonable terms and conditions under which Staff employed by each Constituent Authority are to transfer to the Host Authority.
 - c. Agreed that the Transfer will be regarded as a relevant transfer for the purposes of TUPE, from the Transfer Date or such other date as the Constituent Authorities shall jointly agree and that the Transfer will not operate so as to terminate the contracts of employment of any of the Employees.
4. In relation to each relevant member of Staff engaged by each Constituent Authority, each Constituent Authority indemnifies and shall keep indemnified, the Host Authority from and against all and any Losses which the Host Authority may suffer, sustain, incur, pay or be put to by reason of or in connection with:
- a. the employment, or termination of employment or suspension, of any Staff at any time during the period up to and including the Transfer Date;
 - b. the employment or engagement, or suspension or termination of employment or engagement, by the relevant Constituent Authority of any other person connected with the Building Control Service after the Transfer Date provided that the reason for termination or suspension relates to either a disciplinary matter that arose or related circumstances which were in existence prior to the Transfer Date or suspension or termination of employment that is related to the Transfer;
 - c. action by any trade union, employee representative or body of employees or their representatives in respect of any member of Staff, whose employment transfers to the Host Authority;
 - d. any act or omission on the part of each Constituent Authority prior to the Transfer Date in relation to an Staff which by virtue of Transfer is deemed to be an act or omission of the Host Authority or in relation to which liability transfers to the Host Authority;
 - e. any provision of inaccurate, misleading or incomplete information provided by any Constituent Authority in connection with the Transfer or any failure to comply with its assumed obligations as set out in Regulations 11, 13 and/or 14 of TUPE
5. If any individual who is not Staff becomes employed by the Host Authority (or claims to be so employed) by virtue of TUPE or the Cabinet Office's Statement of Practice *Staff Transfers in the Public Sector*, (revised December 2013):
- a. The Host Authority shall notify the relevant Constituent Authority in writing of such fact as soon as reasonably practicable and in any event not less than 14 days before taking any step to terminate any such individual's contract of employment or engagement;
 - b. The Relevant Constituent Authority must, if requested to do so in writing by the Host Authority, make an offer of employment or engagement to each such individual on substantially similar terms and conditions in all respects as that person was previously employed by the Relevant

Constituent Authority or may, in its sole discretion, negotiate to re-engage each such individual or otherwise reach settlement with him or her so long as any offer of employment or settlement is conditional on the individual entering into a settlement agreement (at the expense of the Relevant Constituent Authority) waiving his or her claims against the Host Authority

- c. If such offer is not made by the Host Authority, or is not accepted by the individual concerned within 30 days of being made, the Host Authority will be entitled, without further reference to the relevant Constituent Authority, to dismiss that individual observing any relevant contractual and/or statutory procedures in so doing; and
 - d. The Relevant Constituent Authority indemnifies and keep indemnified the Host Authority from and against all and any Losses resulting from or connected with the termination of employment of such individual.
6. Any changes to the terms and conditions of any Staff will only be made with the agreement of the relevant Constituent Authority following appropriate consultation with the relevant Staff and their representatives.

SCHEDULE 7
FINANCIAL ARRANGEMENTS

1. Each Constituent Authority shall contribute such one off sums in relation to the establishment of the Building Control Service to include any staffing and IT costs agreed by the Joint Committee in such proportions as previously agreed. Future investment decisions will be presented to the Joint Committee for consideration and the funding source will be identified either from each CA agreeing additional funding or if appropriate from the reserve fund
2. Each Constituent Authority shall pay to the Host Authority its contribution based on the agreed Cost Sharing Agreement as illustrated in Appendix A to this Schedule 7
3. Each Constituent Authority recognises that the ability of the Joint Committee to charge the public for the Building Control Service is constrained by prevailing legislation including without limitation the scope of the Charging Regulations and acknowledges that the basic principle behind the introduction of the Charging Regulations is to ensure that Clients only pay for the Building Control Services received by them.
4. Each Constituent Authority therefore agrees that the Joint Committee shall be financed as follows:
 - a. Charging Schedule Income received in accordance with (i) the provisions of paragraph 17 (Charging Schedule Income Derived From The Building Control Service) below and (ii) the Charging Schedule adopted by the Joint Committee, that shall comply with the Chartered Institute of Public Finance and Accountancy – Local Authority Building Control Accounting – Guidance for England and Wales 2010, as the same may be amended from time to time:
 - b. Constituent Authority Contributions, payable in advance of the commencement of each Financial Year, that represent such additional funding which is necessary to facilitate the delivery of the Building Control Service and the Back Office Support Service: as detailed in appendix B to this Schedule 7
 - c. Additional Contributions that shall from time to time be required meet any financial shortfall or to discharge any liability or other requirement of the Joint Committee and/or payment for Back Office Support Services necessarily incurred that cannot be met from (i) Charging Schedule Income, and/or (ii) Constituent Authority Contributions, such Additional Contributions to be approved by each Constituent Authority and shared by the Constituent Authorities based on the Cost Sharing Agreement in appendix A and paid within 14 days of presentation of an invoice from the Host Authority
5. The Joint Committee shall consider and recommend revisions, if required, to the Charging Schedule and the Constituent Authority Contributions at the Annual Budget Meeting and the Annual General Meeting, and may adopt amendments to the Charging Schedule as part of its Approved Budget for the immediately following Financial Year.

Joint Committee Costs and Expenses

6. The administrative costs of the setting up and conducting of the meetings of the Joint Committee shall be met by the Constituent Authorities based on the Cost Sharing Agreement.
7. For the avoidance of doubt the prior agreement of all Constituent Authorities shall be required to change the basis on which costs are apportioned between the Constituent Authorities.

The Annual Budget

8. The Joint Committee shall agree a draft Annual Budget for the following Financial Year which, in its opinion and based on (i) the preceding year's actual expenditure and (ii) the Action Plan for the immediately following Financial Year, that it reasonably requires to achieve its objectives.
9. Each Annual Budget shall be prepared by the Host Authority for consideration by the Joint Committee on or before 30 November each year.
10. The Joint Committee shall consider the draft Annual Budget and adopt a Draft Annual Budget at its November Meeting
11. The Draft Annual Budget shall be sent for comment by the Executive of each Constituent Authority who shall respond to the Joint Committee by 31 December in the year immediately preceding the Financial Year to which the Draft Budget relates save that where 31 January is not a working day then a response shall be provided by the next working day.
12. The Joint Committee shall receive and consider the comments of each of the Constituent Authorities and shall finalise and agree the Draft Annual Budget, and the Action Plan in accordance with the Constitution.
13. Should a Draft Annual Budget not be adopted by the Joint Committee, the previous year's Annual Budget, uplifted by September CPI, shall be deemed to have been agreed and shall constitute the Approved Annual Budget for the following Financial Year until agreed otherwise by the Joint Committee.
14. The Annual Budget (including use of reserve fund) shall not be exceeded without the prior written approval of each of the Constituent Authorities that shall be provided to the Clerk to the Joint Committee.
15. Each of the Constituent Authorities shall irrevocably make available to the Joint Committee their Constituent Authority Contribution within 30 days of receipt of an invoice to them for the same.
16. The Host Authority shall be the accountable body for the Annual Budget and shall prepare and keep accounts and shall make all accounts records and other documents available for inspection by any Constituent Authority on request.

Charging Income Derived from the Building Control Service

17. The Joint Committee shall annually review the Charging Schedule and may following consultation with the Section 151 Officer of the Host Authority amend the Charging Schedule as required from time to time in accordance with the Charging Regulations and all other prevailing legislation where the Chargeable Schedule Income in any Financial Year has produced an unacceptable level of either surplus or deficit. The Joint Committee shall have regard to the Annual Budget, the Business Plan and the Action Plan prior to making any such decision.
18. All Charging Schedule Income received by the Building Control Service shall be placed in the fee earning account cost centre with classification codes for each Constituent Authority , held and administered by the Host Authority:
19. At the end of each Financial Year, all surpluses/deficits from the fee earning Building Control cost centre after discharging the liabilities of the Joint Committee shall be transferred to or met from the Reserve Fund Cost Centre PROVIDED THAT in any situation in which the funds within the reserve fund cost centre are insufficient to met any deficit then the unmet deficit will be met in accordance with the cost sharing agreement at financial year end.

Transfer Contributions

20. Each Constituent Authority shall pay the following Constituent Authority Contributions to the Host Authority for 2016/17 based on 2016/17 budgets and the Cost Sharing Agreement
 - a. Mendip District Council - £59,451;
 - b. Taunton Deane Borough Council - £59,451;
 - c. West Somerset Council - £19,817;
21. In addition the Constituent Authority Contributions will contribute towards:
 - a. Any identified potential employee costs of whatever nature including redundancy costs that each Constituent Authority might otherwise, but for the transfer of its Staff to the Host Authority, have incurred in relation to its Staff that either predates or post dates the Transfer Date
 - b. Any increase in Salary, contributions and/or benefits caused by reason of the Transfer:
 - c. Any additional pension costs that the Host Authority is required to meet by reason of the Transfer:
 - d. Any requirement for the recruitment of new/replacement Employees:
 - e. The projected costs that the Host Authority, acting reasonably, consider will be incurred by it in the first year of the operation of the Joint Committee.
22. The Building Control Partnership will start in 2016/17 with a zero balance in the reserve fund. Any existing balances will be retained by Consituent Authorities after one off set up costs have been paid.

23. To the extent not covered by the Transfer Contribution, each Constituent Authority hereby indemnifies the Host Authority from and against all liability, cost, expense or outgoing of whatever nature relating to any of its former Staff and the provision of the Building Control Service in respect of any matter arising prior to transfer.
24. In the event of any shortfall in the Transfer Contribution of each Constituent Authority, the Host Authority shall be entitled to raise an invoice detailing such costs and the relevant Constituent Authority shall pay the same within 30 days.
25. For the avoidance of doubt, all liability, cost, expense or outgoing of whatever nature relating to any of its employees that are not transferred to the Host Authority shall remain the responsibility of the relevant Constituent Authority.

Constituent Authority Contributions

26. Each Constituent Authority shall obtain all required internal approvals to enable it to pay to the Host Authority the Constituent Authority Contribution within 30 days of receipt of an invoice for the same.
27. For the Financial Year 2016-2017 and for all subsequent Financial Years, the Joint Committee shall consider and recommend revisions, if required, to the Constituent Authority Contributions at the November Meeting and shall if approved incorporate the revised contributions as part of its agreed budget of estimated income and expenditure for the immediately following Financial Year.
28. The amounts of the respective Constituent Authority Contributions may be varied in accordance with the Constitution of the Joint Committee
29. All surpluses shall be applied in accordance with the provisions of the Business Plan or, if the Joint Committee agree to the reduction of the Constituent Authority Contributions for subsequent Financial Years provided that such proposed decision shall not adversely and materially affect the aims and ambitions agreed in the Action Plan or the Business Plan.

Financial Management

30. The financial affairs of the Joint Committee shall be managed by the Host Authority and reported quarterly to the Strategy Board.
31. The Cost Sharing Agreement has been approved by each Constituent Authority and is detailed in Appendix A to this Schedule 7 using 2016/17 budgets. The Cost Sharing Agreement is based on fee income and for 2016/17 is Mendip, Taunton Deane and Sedgemoor at 30% with West Somerset at 10%. The calculations within the Cost Sharing Agreement are based on the fee earning and non fee earning split being 80:20
32. In addition to the Annual Contributions each Constituent Authority will be required to contribute to the one off set up costs for staffing issues and IT. The split for redundancy has been agreed as Mendip, Taunton

Deane and Sedgemoor 3/11 each with West Somerset at 2/11, this is based on the multiplier for each authority.

33. All invoices will be raised in the Host Authority's name.

34. The Partnership's Bank Account will be that of the Host Authority.

APPENDIX A TO SCHEDULE 7 – COST SHARING AGREEMENT

BUILDING CONTROL PARTNERSHIP BUDGET						
COST SHARING AGREEMENT						
FEE EARNING SPLIT 80% NON-FEE EARNING SPLIT 20%						
		2016/17	2016/17			
		£	£			
Expenditure						
Staffing		637,900	637,900			
Premises		0	0			
Transport		50,670	50,670			
Supplies & services		94,370	94,370			
Support services		207,910	207,910			
Total cost		990,850	990,850			
Income						
Contributions to the general fund			198,170			
Internal recharges to the general fund		45,000	45,000			note: this income is for SDC land charges
Other income		8,090	8,090			
Fee income		757,560	757,560			
Total income		810,650	1,008,820			
Net (surplus)/deficit		180,200	(17,970)			
Fund						
Opening balance			0			
contributions			(17,970)			
Transfers to meet expenditure			0			
Closing balance			(17,970)			
Contributions calculations						
Fee earning	80%		792,680			
Non fee earning	20%		198,170			
	100%		990,850			
Authority & agreed %						
MDC	30%		59,451			
SDC	30%		59,451			
TDBC	30%		59,451			
WSDC	10%		19,817			
	100%		198,170			
Table: financial impact						
		MDC	SDC	TDBC	WSDC	Total
		£	£	£	£	£
Original cost		213,040	69,870	71,490	152,920	507,320 A
Adjusted for internal recharges		0	45,000	76,000	20,000	141,000 B1
Capitalised pendion cost removed if applicable		(20,520)	0	0	0	(20,520) B2
Revised original cost		192,520	114,870	147,490	172,920	648,320 A+B1+B2=C
New cost		59,451	59,451	59,451	19,817	198,170 D
Cost reduction		(133,069)	(55,419)	(88,039)	(153,103)	(429,630) D-C=E
Loss of support services, per tax set		167,650	82,040	110,260	88,100	448,050 F
add support services SLA		(9,200)	(114,312)	n/a	n/a	(123,512) G
Net loss support services		158,450	(32,272)	110,260	88,100	324,538 F+G=H
IT costs provided direct by partners		(4,330)	0	(32,990)	(20,240)	(57,560) I
Office accommodation		(5,214)	0	(13,716)	(7,908)	(26,838) J
Impact		15,837	(87,691)	(24,485)	(93,151)	(189,490) E+H+I+J=K
NOTES						
Salaries based on best available information as at 9.3.2016; posts still to go through JE;tupe; appointments etc.						
The above figures do not include administration costs for 'interim' period of transition						
All figures based on tax set returns other than items referred to in the notes						
Each partner authority is responsible for establishing their BC client cost centre						
In year 2016/17 IT costs added in as follows: MDC £4,327; TDBC £32,990 & WSDC £20,240; these costs per the August meeting will be removed from 2017/18						
Income strategy is essential						

APPENDIX B TO SCHEDULE 7 – SUPPORT SERVICE COSTS

BUILDING CONTROL PARTNERSHIP BUDGET		
HOST AUTHORITY ESTIMATED SUPPORT SERVICES CHARGES		
SUPPORT SERVICE	NEW BUDGET £	COST BASIS
EXPENDITURE		
Design & Print	nil	in supplies & services
Office Accommodation	45,650	Based on number of people @ SDC & budgets at MDC, TDBC & WSDC
Sedgemoor Direct/customer services	nil	
Finance		
Accountancy	13,190	Accountancy time; cost of general ledger
Audit	nil	In each authority's client cost centre
Income Collection	7,210	Number of invoices & banking costs
Payroll	3,330	Cost per person
Creditors	1,210	Number of invoices
Human Resources	17,270	No of people
IT		
IS Services***	49,350	Staff support £35,965 & specific components £12,898
Telephones	3,940	Call volume
Legal & Democratic	nil	Provided by MDC
GROSS EXPENDITURE	£ 141,150	
***Will require increase for partners IT support for existing systems; agreed for 2016/17 removed in 2017/18		
In year 2016/17 IT costs added in as follows: MDC £4,327; TDBC £32,990 & WSDC £20,240; these costs per the August meeting will be removed from 2017/18		
Support provided by Mendip District Council		
Legal & Democratic	9,200	Provided by MDC
	150,350	
IT extra costs for 2016/17 only		
MDC (rounded)	4,330	
TDBC	32,990	
WSDC	20,240	
Total in cost sharing model	207,910	

SCHEDULE 8

PROCUREMENT RESPONSIBILITIES DOCUMENT

MILESTONE KEY PROCUREMENT FUNCTION	BUILDING CONTROL PARTNERSHIP MANAGER (BCPM) OR MONITORING OFFICER (MO OF SDC) MATTER	BOARD MATTER	JOINT COMMITTEE MATTER
			Yes *
1. Decision to procure external advisers or contractors in accordance with Approved Budget and approved Annual Action Plan	BCPM		
2. Decision to procure external advisers or contractors not in accordance with Approved Budget and approved Annual Action Plan but were contingency sums to cover the proposed procurement exist		Yes	
3. Decision to procure external advisers or contractors not in accordance with Approved Budget and approved Annual Action Plan and were no or insufficient contingency sums to cover the proposed procurement exist			Yes*
4. Procurement Route to be adopted in accordance with the Constitution of the Host Authority	BCPM /MO		
5. Drafting and issuing Prior Indicative Notice, if required	MO		
6. Evaluation Panel for contracts with estimated value of contract below £250,000	BCPM	Invited to be part of panel but inclusion not compulsory	Invited to be part of panel but inclusion not compulsory
7. Evaluation Panel for contracts with estimated value of contract at or above £250,000	BCPM	Invited to be part of panel but inclusion not compulsory	Invited to be part of panel but inclusion not compulsory
8. Preparation of all Quotation/Tender Documents including Evaluation Criteria	BCPM /MO		
9. Issue of Quotation/Tender Documents	MO		
9 Organising open days/interview prior to return of PQQ's and Expressions of Interest, if appropriate	BCPM	Invited but attendance not compulsory	Invited but attendance not compulsory
10 Attendance at open days/interview prior to return of PQQ's and Expressions of Interest, if appropriate	BCPM	Invited but attendance not compulsory	Invited but attendance not compulsory
11 Opening of Tenders	MO	Invited but attendance not compulsory	Invited but attendance not compulsory

MILESTONE KEY PROCUREMENT FUNCTION	BUILDING CONTROL PARTNERSHIP MANAGER (BCPM) OR MONITORING OFFICER (MO OF SDC) MATTER	BOARD MATTER	JOINT COMMITTEE MATTER
12 Evaluation, if estimated value of contract is below £250,000	BCPM	Attendance compulsory if Officer has agreed to be on Evaluation Panel	Attendance compulsory if Officer has agreed to be on Evaluation Panel
13 Evaluation, if estimated value of contract is at £250,000 or above	BCPM	Attendance compulsory if Officer has agreed to be on Evaluation Panel	Attendance compulsory if Officer has agreed to be on Evaluation Panel
14 Organising clarification meetings	MO	Attendance compulsory if Officer has agreed to be on Evaluation Panel	Attendance compulsory if Officer has agreed to be on Evaluation Panel
15 Evaluation Meeting and agreement to selection of Preferred Bidder	BCPM	Attendance compulsory if Officer has agreed to be on Evaluation Panel	Attendance compulsory if Officer has agreed to be on Evaluation Panel
10. Decision to appoint <u>in accordance with</u> Approved Budget and approved Annual Action Plan	BCPM		
11. Decision to appoint not in accordance with Approved Budget and approved Annual Action Plan but were contingency sums to cover the proposed procurement exist		Yes	
12. Decision to appoint not in accordance with Approved Budget and approved Annual Action Plan and were no or insufficient contingency sums to cover the proposed procurement exist			Yes*
16 Dispatch of award letters to successful and unsuccessful bidders	MO		
17 Contract finalisation & execution of Agreement	MO		
18 Collation of information and provision of information in respect of Agreement award procedures required under Public Contracts Regulations	MO		
19 Waivers and Contract Variation	MO		

Notes:

(a) Only the Meetings marked * are to be regarded as meetings of the Joint Committee at which the Secretary must be in attendance

(b) Wherever a responsibility is assigned to the Building Control Partnership Manager the Senior Building Control Officer shall discharge the same in consultation with the Monitoring Officer, the Section 151 Officer and their staff

SCHEDULE 9

Not used

SCHEDULE 10

INTER-AGENCY DATA SHARING PROTOCOL

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Glossary of Terms:

Organisations - Used in the context of this document to relate to the organisations that are parties to this Protocol.

Anonymised Data - This is data which does not identify an individual directly, and which cannot reasonably be used to determine identity. Anonymisation requires the removal of name, address, full postcode and any other detail or combination of details that might support identification.

Data - Within this Protocol data could include personal and/or sensitive personal data

Disclosure - This is the divulging or provision of access to data.

Explicit Consent - This means articulated agreement and relates to a clear and voluntary indication of preference of choice, usually given orally or in writing and freely given in circumstances where the available options and the consequences have been made clear.

Implied Consent - This means agreement that has been signalled by the behaviour of an individual with whom a discussion has been held about the issues and therefore understands the implications of the disclosure of data.

Information Sharing Protocol - The protocol is the high level document setting out the general reasons and principles for sharing data. The protocol will show that all participating organisations are committed to maintaining agreed standards on handling data and will publish a list of senior signatories. It should be underpinned by data sharing agreements between the organisations who are actually sharing the data.

Information Sharing Agreement - The agreement is a more detailed document the intention of which is to spell out how the organisations involved will operate the approach to data sharing. Agreements will be produced where organisations specifically identify a purpose to share data across organisational boundaries. The agreement should state whether partners are obliged to, or are merely enabled to, share data.

PCD- Personal Confidential Data - "Personal confidential data" is defined in the Caldicott 2 Report as "Personal information about identified or identifiable individuals, which should be kept private or secret". It also includes information about the deceased.

Pseudonymisation - Pseudonymisation is a procedure by which the most identifying fields within a data record are replaced by one or more artificial identifiers. There can be a single pseudonym for a collection of replaced fields or a pseudonym per replaced field

INTER-AGENCY INFORMATION SHARING PROTOCOL

1. Purpose of the Protocol

Local organisations are increasingly working together. To work together effectively organisations need to be able to share data about the services they provide and the people they provide these services to.

This protocol covers the sharing of person-identifiable confidential data, with the individual's express consent, unless a legal or statutory requirement applies for the following purposes:

- Provision of Building Control Services
- Provision of Land charges and Planning services
- Improving the health of the population
- Protecting people and communities
- Supporting legal and statutory requirements
- Developing inter-agency strategies
- Performance management and audit
- Investigating complaints or serious incidents
- Reducing risk to individuals, service providers and the public as a whole
- Staff management and protection
- The prevention of disorder or crime
- To fulfil responsibilities in law such as; Data Protection Act (1998), Human Rights Act (1998), Common Law, Crime and Disorder Act (1998), This is not intended to be an exhaustive list. If, as a result of policy changes or other developments, additional data sharing requirements arise these will be added to the protocol.

This protocol does not give carte blanche licence for the wholesale sharing of data. Data sharing must take place within the constraints of the law and relevant guidance and service specific requirements.

This protocol will be underpinned by service specific operational agreements that are designed to meet the specific data sharing needs of that service.

The purpose of this protocol is:

- To provide the basis for an agreement, to facilitate and govern the effective and efficient sharing of data. Such data sharing is necessary to ensure that individuals, and the population as a whole, can and do receive the services, protection and support they may require.
- To identify the purposes for which data may be shared. This document is supported by local operational policies and procedures within each organisation that underpin the secure and confidential sharing of such data
- To promote and establish a consistent approach between the organisations to the development and implementation of data sharing agreements and procedures.
- A further purpose of the protocol is to establish arrangements for the sharing of large datasets between organisations. Following the recent publication by the ICO of the Data Sharing Checklists and the Data Sharing Code of Practice (http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/data_sharing.aspx) and as part of the Service Transformation Plans, a cross-government programme has been established with the aim of overcoming barriers to data sharing within the public sector.

In mitigating this risk, all partners need to balance adherence to its legal responsibilities as a Data Controller under the Data Protection Act (1998) with the Caldicott principles.

The key areas where data sharing could be beneficial include:

1. Sharing for the purposes of law enforcement and public protection
2. Sharing to provide or improve services in the public, private and voluntary sectors
3. Sharing to facilitate statistical analysis and research.

A Data Sharing Agreement would cover the purposes, accountability, restrictions imposed and secure transfer arrangements where data has been shared and each occasion of data sharing of this type will need its own Data Sharing Agreement.

Requests to share datasets must relate to one or more of the three key areas identified above and should contain only demographic details, such as a geographical reference, age, gender and possible ethnicity data.

As such this document:

- Informs about the reasons why data may need to be shared and how this sharing will be managed and controlled by the organisations concerned.
- Identifies the local organisations that are party to this protocol.
- Sets out the principles that underpin the exchange of data between organisations.
- Defines the purposes for which organisations have agreed to share data.
- Describes the policies and procedures that support the sharing of data between organisations and will ensure that such sharing is in line with legal, statutory and common law responsibilities.
- Promotes a standard approach to the development of data sharing agreements and procedures.
- Sets out the process for the implementation, monitoring and review of the protocol.

2. Background

2.1 Legislative context and national guidance documentation

All organisations are subject to a variety of legal, statutory and other guidance in relation to the sharing of person- identifiable or anonymised data.

For all organisations the key legislation and guidance affecting the sharing and disclosure of data includes (but is not necessarily an exhaustive list): -

Legislation:

- Access to Health Records 1990
- Data Protection Act 1998
- Crime and Disorder Act 1998
- Human Rights Act 1998
- Freedom of Information Act 2000
- The Children Act 2004
- Safeguarding Vulnerable Groups Act 2006
- Education Act 2002
- Mental Capacity Act 2005
- Local Government Act 2000
- Homelessness Act 2002
- Criminal Justice Act 2003
- Civil Contingencies Act 2004
- Health and Social Care Act 2012
- Mental Health Act 1983
- Common Law Duty of Confidentiality

2.2 Local Context

All organisations face similar requirements with regards to the development of data sharing agreements with their local partners. While the requirements remain similar the number of partners with which an organisation must have such agreements differs. This number is dependent on the geographical area covered by an organisation and the nature of its work.

This protocol is a recognition that consistent data sharing agreements now need to exist across boundaries.

The intention of this protocol is to support and build on existing agreements in order to provide a common process for the development and implementation of future data sharing agreements across the patch.

The protocol is aimed at the data sharing agreements required between organisations and provides a framework within which organisations can share data.

3. Principles guiding the sharing of information

The following key principles guide the sharing of data between the organisations:

3.1 Organisations endorse, support and promote the accurate, timely, secure and confidential sharing of both person identifiable and anonymised data where such data sharing is essential for the provision of effective and efficient services to the local population.

3.2 Organisations are fully committed to ensuring that if they share data it is in accordance with their legal, statutory and common law duties, and, that it meets the requirements of any additional guidance.

3.3 All organisations must have in place policies and procedures to meet the national requirements for Data Protection, Data Security and Confidentiality. The existence of, and adherence to, such policies provides all organisations with confidence that data shared will be transferred, received, used, held and disposed of appropriately.

3.4 Organisations acknowledge their 'Duty of Confidentiality' to the people they serve. In requesting release and disclosure of data from other organisations employees and contracted volunteers will respect this responsibility and not seek to override the procedures which each organisation has in place to ensure that data is not disclosed illegally or inappropriately. This responsibility also extends to third party disclosures, any proposed subsequent re-use of data which is sourced from another organisations should be approved by the source organisation.

3.5 An individual's personal data must be complete and up to date and will only be disclosed where the purpose for which it has been agreed to share clearly requires that this is necessary. For all other purposes data should be anonymised.

3.6 Where it is agreed that the sharing of data is necessary, only that which is needed, relevant and appropriate will be shared and that would only be on a "need to know" basis.

3.7 When disclosing data about an individual, organisations will clearly state whether the data being supplied is fact, opinion, or a combination of the two.

3.8 There will be occasions when it is legal and necessary for organisations to request that data supplied by them be kept confidential from the person concerned. Decisions of this kind will only be taken on statutory grounds and must be linked to a detrimental effect on the physical or mental wellbeing of that individual or other parties involved with that individual. The outcome of such requests and the reasons for taking such decision will be recorded.

3.9 Careful consideration will be given to the disclosure of data concerning a deceased person, and if necessary, further advice should be sought before such data is released.

3.10 Organisations will ensure that all relevant staff are aware of, and comply with, their responsibilities in regard both to the confidentiality of data about people who are in contact with their organisation and to the commitment of the organisations to share data.

3.11 All staff will be made aware that disclosure of personal data, which cannot be justified on legal or statutory grounds, whether inadvertently or intentionally, could be subject to disciplinary action.

3.12 Organisations are responsible for putting into place effective procedures to address complaints relating to the disclosure of data, and information about these procedures should be made available to service users.

4. Consent

4.1 Data is provided in confidence when it appears reasonable to assume that the provider of the data believed that this would be the case, or where a person receiving the data knows, or ought to know, that the data is being given in confidence. It is generally accepted that most (if not all) data provided by service users is confidential in nature. All organisations, which are party to this protocol accept the duty of confidentiality and will not disclose such data without the consent of the person concerned, unless there are statutory grounds or an overriding justification for doing so. In requesting release and disclosure of information from members of partner organisations, staff in all organisations will respect this responsibility and not seek to override the procedures which each organisation has in place to ensure that data is not disclosed illegally or inappropriately, this includes third party disclosures.

4.2 Organisations are fully committed to ensuring that they share data in accordance with their statutory duties. They are required to put in place procedures that will ensure that the principles of the Data Protection

Act and requirements of other relevant legislation are adhered to and underpin the sharing of data between their organisations.

4.3 As is required by the fair processing requirements of the Data Protection Act 1998, individuals in contact with organisations will be fully informed about data that is to be obtained, held or disclosed about them. The individual has the right to request that processing of their data cease if there is undue damage or distress caused to them.

4.4 As a minimum, individuals will be informed that data may be shared and the circumstances in which this could happen unless this poses a risk of harm or danger. Fair processing notices should always be in place. Consent can often be inferred from the circumstances in which data was given. However, it is always important that the person giving consent understands who will see their data and the purpose to which it will be put. If there is any doubt as to whether a disclosure is supported by a legal, statutory requirement or an immediate serious risk explicit consent should be sought. Where an organisation has consent forms the service user should be requested to sign one. Consent can be given verbally and should be recorded

4.5 The individual's right to confidentiality are not absolute and may be overridden if evidence that disclosure for specific purposes is necessary in exceptional circumstances. Such as;

- Where it is required by statute
- Where not to share the data poses a public health risk
- Where there is a risk of harm to any person
- Where sharing is required to prevent serious crime. (This is not an exhaustive list)

Where the individual chooses to exercise their right not to provide express consent for data sharing, they must be advised of any constraints that this will put upon the service that can be provided, however the individuals wishes must be respected unless there is a statutory requirement or a significant risk of harm to an individual to override those wishes as indicated above.

5. Supporting Policies, Procedures and Guidance

5.1 Supporting policies

For members of the public and staff from different organisations to have confidence that data sharing takes place legally, securely and within relevant guidance all organisations have in place policies which meet the requirements for:

- Data Protection
- Confidentiality
- Information Security

These policies must cover manual, verbal and computer-based data.

Processes must be in place within organisations to regularly monitor and improve the effectiveness of these policies.

5.2 Access and Security Procedures

All organisations will look to implementing secure solutions to support the safe transfer of data. Risk assessments will be carried out before the transfer of data is carried out and all reasonable steps to mitigate any risks identified will be taken Supporting documentation relating to the secure transfer, receipt, access to, storage and disposal of shared data should be made available to staff.

Each organisation will keep a log of all formal requests received from outside of the Constituent Authorities for data sharing received.

Each organisation will instigate a system of reporting back to the originator of data where actions have been taken on the basis of the data shared.

Organisations should put into place policies, procedures or guidelines covering:

- Communication by fax
- Communication by phone
- Electronic communication
- Verbal communication
- Written communication

- Use of personal data for purposes other than that agreed
- Access arrangements to shared records and databases
- Secure storage and disposal of confidential data

These policies, procedures or guidelines should be subject to regular monitoring and all organisations, as data controllers, should evidence that they have checked that their shared data is being kept and processed correctly by any third parties.

Organisations which process personal data must take appropriate measures against unauthorised or unlawful processing and against accidental loss, destruction of or damage to personal data. The Information Commissioner has the statutory power to impose a financial penalty (up to £500,000 as the same may be amended from time to time) on an organisation if satisfied that there has been a serious breach of one or more of the Data Protection principles and the breach was likely to cause substantial damage or distress.

5.3 NOT USED

5.4 Induction and continuing education

To support the implementation of the above-mentioned policies and procedures appropriate staff induction, training programmes and awareness raising sessions must be made available within the organisation. All training must include all aspects of information security and safe data transfers.

5.5 Data Quality

Shared data needs to be of sufficient quality for its intended purpose, this is an essential requirement to all data users and underpins the timely and effective delivery of services to those in need. Several characteristics of good data quality have been identified and in summary they are:

Accuracy – Data should be accurate so as to present a fair picture of circumstances and enable informed decision-making at all appropriate levels. Definitions for data should be specific and unambiguous.

Validity – Data should represent clearly and appropriately the intended result and should be used in accordance with the correct application of any rules or definitions.

Reliability – Data should reflect stable and consistent data collection processes that need to be fit for purpose and incorporate controls and verification procedures.

Timeliness – Data input should occur on a regular ongoing basis rather than being stored to be input later. Verification procedures should be as close to the point of input as possible. Data must not be retained for longer than is necessary.

Relevance – Data collected should comprise the specific items of interest only. Sometimes definitions need to be modified to reflect changing circumstances in services and practices, to ensure that only relevant data of value to users is collected, analysed and used.

Completeness – All the relevant data must be recorded. Missing or invalid data can lead to incorrect judgement and poor decision-making.

6. Approval, implementation and review

6.1 Agreeing the protocol

This Protocol proposes a consistent approach to the development of data sharing agreements.

6.2 Implementation

Following approval of the protocol organisations will need to take action, either individually or jointly, on the following issues:

- Promoting ownership of responsibilities associated with the protocol
- Ensuring dissemination and appropriate implementation
- Reviewing existing support policies, procedures and guidance.
- Agreeing training and awareness programmes
- Auditing and monitoring the implementation and compliance of existing agreements

- Establishing review processes
- Joint work to develop standard service specific agreements
- Ensuring amendments to existing agreements
- Agreeing audit processes
- Maintaining local registers of agreements.
- Reviewed every 3 years

6.3 Monitoring and review processes

Where not already in place, processes will be set up in each agency to adopt a risk management approach to breaches/problems in relation to the implementation of this agreement. Formal review of the protocol should be held at three yearly intervals unless legislative changes require immediate action.

Prior to the review date, agencies should submit feedback on the use of the protocol and propose options for addressing problems or amending procedures.

7. Conclusion

All organisations are in the position of having to balance the conflicting demands of the need and requirement to share information with other organisations with the responsibility to maintain the highest level of confidentiality.

This protocol acknowledges these competing demands and provides a means whereby members of the public, staff and the agencies can be confident that where data is shared it is done so appropriately and securely.

APPENDIX I

SUMMARY OF KEY LEGISLATION AND GUIDANCE

(Detailed guidance should be available in all agencies for staff)

Access to Health Records Act 1990

This Act provides rights of access to the health records of deceased individuals for their personal representatives and others having a claim on the deceased's estate. In other circumstances, disclosure of health records relating to the deceased should satisfy common law duty of confidence requirements. The Data Protection Act 1998 supersedes the Access to Health Records Act 1990 apart from the sections dealing with access to information about the deceased

Data Protection Act 1998

The key legislation governing the protection and use of identifiable patient/Client data (Personal Data) is the Data Protection Act 1998. The Act does not apply to data relating to the deceased.

This Act gives seven rights to individuals in respect of their own personal data held by others. They are:

- Right of subject access
- Right to prevent processing likely to cause damage or distress
- Right to prevent processing for the purposes of direct marketing
- Rights in relation to automated decision making
- Right to take action for compensation if the individual suffers damage
- Right to take action to rectify, block, erase or destroy inaccurate data
- Right to make a request to the Commissioner for an assessment to be made as to whether any provision of the Act has been contravened.

In addition, the Act stipulates that anyone processing personal data comply with eight principles of good practice. These principles are legally enforceable.

Principle 1 – Personal data shall be processed fairly and lawfully

Principle 2 – Personal data shall be obtained only for one or more specified lawful purposes

Principle 3 – Personal data shall be adequate, relevant and not excessive in relation to the purposes for which they are processed.

Principle 4 – Personal data shall be accurate and, where necessary, kept up to date.

Principle 5 – Personal data processed for any purpose or purposes shall not be kept longer than is necessary for that or those purposes.

Principle 6 – Personal data shall be processed in accordance with the rights of data subjects under this Act, including the right to access their own record.

Principle 7 – Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss.

Principle 8 – Data shall not be transferred outside of the European Economic Area

Detailed information for staff about the requirements of the Act in relation to information sharing is available in each organisation.

Crime and Disorder Act 1998

The Crime and Disorder Act 1998 introduces measures to reduce crime and disorder, including the introduction of local crime partnerships around local authority boundaries to formulate and implement strategies for reducing crime and disorder in the local area. Section 115 of the Act provides that any person has the power to lawfully disclose information to the police, local authorities, probation service or health authorities (or persons acting on their behalf) where they do not otherwise have the power but only where it is necessary and expedient for the purposes of the Act. However, whilst all organisations have the power to disclose, Section 115 does not impose a requirement on them to exchange information and responsibility for the disclosure remains with the organisation that holds the data. It should be noted, however, that this does not exempt the provider from the requirements of the 2nd Data Protection principle.

The Criminal Procedures and Investigations Act 1996 require the police to record in durable form any information that is relevant to an investigation. The information must be disclosed to the Crown Prosecution Service, who must in turn disclose it to the defence at the relevant time if it might undermine the prosecution case. In cases where the information is deemed to be of a sensitive nature then the CPS can apply to a judge or magistrate for a ruling as to whether it should be disclosed.

Human Rights Act 1998

Article 8.1 of the Human Rights Act 1998 provides that “everyone has the right to respect for his private and family life, his home and his correspondence”. This is however, a qualified right i.e., there are specified grounds upon which it may be legitimate for authorities to infringe or limit those rights and Article 8.2 provides “there shall be no interference by a public authority with the exercise of this right as it is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedom of others”.

In the event of a claim arising from the Act that an organisation has acted in a way which is incompatible with the Convention rights, a key factor will be whether the organisation can show in relation to its decision to take a particular course of action: -

- That it has taken these rights into account
- That it considered whether any breach may result, directly or indirectly, from the action, or lack of action
- If there was the possibility of a breach, whether the particular rights which might be breached were absolute rights or qualified rights
- Whether one of the permitted grounds for interference could be relied upon
- Whether there was proportionality

The Act also requires public bodies to read and give effect to other legislation in a way that is compatible with these rights and makes it unlawful to act incompatibly with them. As a result these rights still need to be considered, even when there are special statutory powers to share information.

Common Law duty of Confidentiality

All staff working in both the public and private sector are aware that they are subject to a common law Duty of Confidentiality and must abide by this. The duty of confidence only applies to identifiable information and not to aggregate data derived from such information or to information that has otherwise been effectively anonymised i.e., it is not possible for anyone to link the information to a specified individual.

The Duty of Confidentiality requires that unless there is a statutory requirement to use information that has been provided in confidence it should only be used for purposes that the subject has been informed about and has consented to. This duty is not absolute but should only be overridden if the holder of the information can justify disclosure as being in the public interest (e.g., to protect others from harm).

Freedom of Information Act 2000

This Act provides clear statutory rights for those requesting information together with a strong enforcement regime. Under the terms of the Act, any member of the public will be able to apply for access to information held by bodies across the public sector. The release of personal information remains protected by the Data protection Act 1998.

The Children Act 2004

The Act provides a legislative spine for the wider strategy to improve children's lives. This covers the universal services which every child accesses, and more targeted services for those with additional needs. The overall aim is to encourage integrated planning, commissioning and delivery of services as well as improve multi-disciplinary working, remove duplication and increase accountability. There is a duty to cooperate between relevant partners in the making of arrangements to improve the well-being of children.

Health and Social Care Act 2012

The Health and Social Care Act 2012 underpins wide ranging reforms of the NHS since it was founded in 1948. Changes include the establishment of a National Health Service Commissioning Board and Clinical Commissioning Groups, as well as Health and Wellbeing Boards. The changes became operational on 1st April 2013. The Act sets out provision relating to public health in the United Kingdom; public involvement in health and social care matters; scrutiny of health matters by local authorities and co-operation between local authorities and commissioners of health care services. The Act establishes a National Institute for Health and Care Excellence, and establishes the provision for health and social care.

Other relevant legislation

Criminal Justice Act 2003

Criminal Procedures and Investigations Act 1996

Civil Contingencies Act 2004

Regulation of Investigatory Powers Act 2000

Homelessness Act 2002

Safeguarding Vulnerable Groups Act 2006

Education Act 2002

Mental Capacity Act 2005

Local Government Act 2000

Mental Health Act 1983

Common Law Duty of Confidentiality

SCHEDULE 11

Not Used

SCHEDULE 12 – MEMORANDUM OF PARTICIPATION

MEMORANDUM OF PARTICIPATION FOR LOCAL AUTHORITIES

Whereas the functions conferred on each Local Authority relating to the Building Control Services shall be discharged by a joint committee set up in pursuance of arrangements entered into by it under Section 101(5) and s102 (1) (b) of the Local Government Act 1972;

And whereas a number of Local Authorities have entered into a written agreement for the establishment of a joint committee known as the Somerset Building Control Partnership;

And whereas the said Local Authority is desirous of entering into the same arrangements as govern the setting up and operation of Somerset Building Control Partnership with those Local Authorities which are currently parties to the said arrangements and to that end wishes to become a party to those arrangements;

And whereas the said Local Authority is hereby acting in accordance with its own constitutional arrangements and under the provisions of section 101(5) of the Local Government Act 1972, section 20 of the Local Government Act 2000 and any regulations made thereunder

NOW IT IS HEREBY AGREED

1. In the signing of this Memorandum the [] Local Authority (“the Joining Local Authority”) shall become a party to the joint arrangements set out in the Agreement forming Schedule 1 to this Memorandum as if the Joining Local Authority had been named as a party in the said Agreement but subject only to the modifications contained in this Memorandum.
2. By signing this Memorandum the Local Authority hereby agrees to be bound by the terms set out in the said Agreement subject only to the following modifications:
 - a) The agreement shall come into effect insofar as the Joining Local Authority is concerned only on the date the Joining Local Authority signs this Memorandum;
 - b) The Joining Local Authority shall be liable to contribute in accordance with Clause [] of the Agreement and for the first [] years until [] the proportion identified is as set out in the letter which forms Schedule 2 to this Memorandum

[Signed]

Taunton Deane Borough Council

Shadow Executive – Tuesday 26th March 2019

Revised Corporate Equalities Objectives for the new Council

This matter is the responsibility of Executive Councillor Jane Warmington

Report Author: Neil Anderson Strategy Specialist

1 Executive Summary

- 1.1 The Corporate Equality Objectives 2016 - 2019 set out the council's aims on how to meet its statutory duties with regard to the Equality Act 2010 and the public sector equality duty 2011 toward its service users, members and employees; and to promote equality and eliminate all forms of direct and indirect discrimination. Taunton Deane Borough Council (TDBC) and West Somerset Council (WSC) each have existing objectives which are due to end in April 2020. However, in order to protect the New Somerset West and Taunton Council (SWT) from any potential legal challenge it is essential to update these so that they are in place for start of the New Council on the 1st of April 2019.
- 1.2 Both TDBC and WSC Councils are represented on the Somerset Equalities Officers Group (SEOG) which has suggested 5 Equality Objectives which all the District Councils should sign up to (see 4.7.2).

2 Recommendations

- 2.1 The Shadow Executive is requested to adopt the refreshed Corporate Equality Objectives that now includes the SEOG Equalities Objectives that have been subject to extensive public consultation.
 - 2.1.1 That officers of the Council will work together to identify the actions that they will take to deliver the Objectives and these will be reported back to Members through the usual Democratic process 2019/20.
 - 2.1.2 That officers work on a refreshed 'equalities policy', and that this will be reported to Members through the appropriate committee(s) during 2019/20.

3 Risk Assessment

Risk Matrix

Description	Likelihood	Impact	Overall
The Council fails to properly consider equality impacts on protected groups within its decision making and this becomes subject to legal challenge.	3	4	12
If the new Council fails to have Corporate Equalities Objectives in place it could leave itself open to legal challenge	3	4	12

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)	High
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)	High
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)	
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)	
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)	
			1	2	3	4	5	
			Negligible	Minor	Moderate	Major	Catastrophic	
Impact								

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

4.1 Legislative Background

4.1.1 The Equality Act sets out the Public Sector Equality Duty (PSED) that includes the General and Specific Equality Duties.

4.1.2 The Public Sector Equality Duty means that public bodies have to consider all

individuals when carrying out their day-to-day work in shaping policy, in delivering services and in relation to their own employees. It also requires public bodies to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

4.1.3 These duties are supported by Specific Equality Duties. The specific duties require public bodies to publish relevant, proportionate information showing compliance with the Equality Duty, and to set equality objectives at least every four years.

4.2 The Equality Act identifies who is protected under the legislation and refers to them as Protected Characteristics. They are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and Belief
- Sex
- Sexual orientation

Locally we have also recognised the following characteristics:

- Carers
- Military status
- Rurality
- Low income

This report does not change the status for any of the protected characteristics.

4.3 In March 2016 both TDBC approved the Council's current Corporate Equalities Objectives as set out below :

Objective 1: Councillors will fully consider the equality implications of all decisions they make.

Objective 2: Those with protected characteristics feel empowered to contribute to the democratic process that affects them; their input is used to inform the planning and delivery of services.

Objective 3: Communities with protected characteristics are able to access services in a cost effective and appropriate way.

Objective 4: Actions are taken to identify and reduce any inequalities faced by employees.

And specifically in our role as:

Service provider:

Undertake continuous assessment of our services to ensure that we meet the needs of our communities.

Employer:

Ensure equality of access and opportunity.

Purchaser of goods and services:

Extend our equalities policy to organisations with whom we work in partnership and also those delivering services on our behalf. We will require partners and vendors to be compliant with the equalities standards we set for ourselves.

Elected Community leader:

Promote our commitment to equality among members, staff, partners and the communities we serve.

- 4.4 At the time of adoption the intention was that these would be reviewed after 4 years. However, these were adopted before the possibility of having One Council was considered. It is therefore, now appropriate for the New Council to have its own Corporate Equality Objectives and it is also considered to be essential so that the New Council is protected from the risk of any potential legal challenge through not having these in place for April 2019.
- 4.5 It is part of the recommendation of this report that the Council adopts as a new additional objective those promoted by Somerset County Council and the Somerset Equalities Officers Group as set out in 4.7.2 .

In Somerset public bodies have decided to work together on equality and diversity. This is through a partnership called Somerset Equality Officers Group (SEOG).

This group is made up of County and District Councils, Somerset Clinical Commissioning Group, Taunton Musgrove and Yeovil Hospitals, Somerset Partnership and Devon and Somerset Fire and Rescue.

The reasons for adopting this approach doing are set out below and explained further in paragraph 4.7.3.

Over the last 4 years the picture of Somerset has changed and will continue to do so for the length of the new objectives. Somerset is becoming more diverse in a multitude of ways:

- The ethnic diversity has increased since the last census. This along with the refugees taken into the County has seen communities coming to Somerset that haven't before.
- The number of people aged 75 or more is projected to double in the next two decades. The fastest-growing group are men aged 80 or more.
- Connected to the increase in older people is an increase in disabled people.
- Austerity in all its forms have impact on the amount of money households have available. This has been evidenced in a steady increase in the use of food

banks.

4.6 Connected to these changes in the county is a reduction in services provided to those most in need. This is impacting on how families and individuals can remain independent and navigate the changing landscape of benefit reforms.

4.7 **Equality Objectives 2019 – 2023**

4.7.1 Following consultation with officers from the key functions within the Council it is proposed the SWT refresh the existing Corporate Equality Objectives to reflect changes to that have taken place in the local community and to represent the new Corporate Objectives of the new Council.

4.7.2 The refreshed Equality Objectives 1-4 are shown below with any amendments to the original objective shown in ***bold italics***, together with the additional 5th Objective encompassing the Somerset Equality Officers Group (SEOG) recommended Objectives.

Objective 1: Councillors and ***officers*** will fully consider the equality implications of all decisions they make.

Objective 2: Those with protected characteristics feel empowered to contribute to the democratic process and ***any Council activity that affects them***; their input is used to inform the planning and delivery of services.

Objective 3: Communities with protected characteristics are able to access services in a ***reasonable*** and appropriate way.

Objective 4: Actions are taken to identify and reduce any inequalities faced by ***our staff or our*** potential employees.

Objective 5: To work in partnership to empower and enable communities to tackle identified inequalities including:

- Improve the opportunities for integration and cohesion.
- Improve understanding of mental health and access to support
- Work with the Gypsy and Traveller community to improve the provision of pitches
- Work with communities and voluntary sector groups to address inequalities experienced by low incomes families and individuals.

Reasons for including the SEOG Objective:

4.7.3 The Public bodies (District and County Council, Health and Fire) in Somerset have chosen to look at working on a collective set of equality objectives. This will make the most effective use of Public Sector resources for equality and diversity. The hope is that it will also increase the impact of any changes on the community as a whole.

The SEOG objectives were produced following a consultation and engagement exercise that took place between September and November 2018. This included an online consultation form, promotion to 150+ equality organisations and consultation at equality events. The collectively identified objectives are shown in 4.7.2 objective 5

above. Since these objectives were produced following public consultation it is considered to be appropriate for the SWT to adopt them as the 5th new Corporate Equality Objectives.

For the New Council it is imperative that if the 5 objectives are adopted it must identify the actions that will be taken to deliver each. It will not be acceptable to merely sign up to the 5 objectives without showing the Council's commitment to how it intends to deliver on each.

It will be incumbent on the organisation as a whole to deliver on each of the objectives, this includes staff, elected members and those partner organisations the Council works with, and any contractors that the Council employees.

It is proposed therefore, that if the Committee agrees to the 5 objectives recommended in this report that officers within the Council identify and agree an action plan on how these objectives will be delivered and that progress against this action plan is reported back to the appropriate Committee (s) in 12 months' time.

4.8 Governance and Management

4.8.1 The Council's performance and governance function will be responsible for monitoring the set of actions once approved and for reporting progress on each back to Elected Members.

4.9 Equality and Diversity Policy

4.9.1 The New Council will need to produce a new equality and diversity policy to reflect these new Corporate Equality Objectives , this will be subject to separate discussions with appropriate officers from within the Council and will be brought back to the appropriate Committee (s) for consideration at a later date.

5.0 Links to Corporate Aims / Priorities

5.1 The proposed the refreshed Equality Objectives link to the new Corporate Objective of People, as they clearly relate to people and how the Council provides services to the wider community and in particular those identified protected groups.

5.2.1 The new objectives also reflect and are of direct relevance to the Council's new behaviours framework, in ensuring staff treat customers properly and that services are provided in such a way that they do not discriminate against any of the protected groups.

6 Finance / Resource Implications

6.1.1 The new functional areas will be responsible for identifying and addressing inequalities and promoting diversity. The resource implications of equality action plans should be considered by service areas as part of their budget setting process. However, by making the process part of everyday work it should not result in the requirement for any additional resources since the Council has been working to its own set of Equality Objectives since 2016, therefore, equalities and producing e.g. Equality Impact assessments for committee reports should already be imbedded within the Council's work.

7.1.1 Working toward the achievement of the New Corporate Equality objectives will ensure that the SWT is meeting the requirements of the Equality Act 2010 and the public sector equality duty 2011.

8 Environmental Impact Implications

8.1 None with regard to this report.

9 Safeguarding and/or Community Safety Implications

9.1 In considering the needs of elderly, disabled and young people, there is a better opportunity for services to strengthen their commitment to safeguarding.

10 Equality and Diversity Implications

10.1 All reports to members will continue to include an equality impact assessment.

10.2 The intention is that staff and members will receive equality and diversity training on these proposed objectives and the appropriate functions will be responsible for implementing any of the agreed actions that relate to the objectives.

11 Social Value Implications

11.1 These will be included as part of any new Equality and Diversity Policy.

12 Partnership Implications

12.1.1 There will be the need and opportunity to work with peers and partners within the voluntary sector toward the Corporate Equality Objectives.

12.1.2 The Council will continue to work as part of The Somerset Equalities Officers Group (SEOG), who will assist the Council in delivering these objectives through partnership and collaborative working.

12.1.3 All opportunities will be taken to carry out community engagement in partnership with neighbouring local authorities and services. The Council's new engagement leads will play a key role in this.

13 Health and Wellbeing Implications

13.1.1 The council recognises that the health and wellbeing of the whole community benefits if all members of the community including those with protected characteristics have access to its services and information.

13.1.2 By adopting the new Corporate Equality Objectives together with the implementation of any of the associated actions will assist the council in delivering health and wellbeing benefits to the wider community.

14 Asset Management Implications

14.1 None with regard to this report.

15 Data Protection Implications

15.1 None

16 Consultation Implications

16.1 As identified in 4.7.3 elsewhere in this report a consultation exercise was carried out by the County wide group during September to November 2018 in the production of the 5th of the new Corporate Equality Objective.

17 Scrutiny Comments / Recommendation(s)

17.1 The recommendations contained within this report were presented to the Shadow Scrutiny Committee of the 14th of March.

17.2 The committee unanimously approved the recommendations included within the report.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – Yes**
- **Cabinet/Executive – Yes**
- **Full Council – No**

Reporting Frequency: Annually on progress made on agreed actions.

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