

Strategy Committee

20 August 2018

Transfer of services and assets

For Decision

Portfolio Holder(s)/ Briefholder

Cllr A Thacker

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Statutory Authority

LGA 1972 – sections 123, 124 & 127

1. Purpose of Report

- 1.1 Strategy Committee agreed to establish this Programme on 12 September 2017. Therefore, this report updates the committee on actions since the latest report to Strategy Committee on this Programme 14 December 2017 when the Committee agreed (a) That the Programme Board Terms of Reference be approved; (b) That up to £120,000 be allocated from the set aside of more than £1m revenue reserves to implement management of the Transfer of Services/Assets programme (c) That the Local Government Resource Centre (LGRC) be appointed to act as programme implementer in accordance with the Brief and Offer of Services.
- 1.2 The purpose is to detail “agreements in principle” that have been established with Town and Parish Councils to take responsibility for discretionary services with a package of assets and money to facilitate the transfer and to therefore seek approval for the agreements and to proceed to implementation.
- 1.3 The Shadow Executive has considered two reports that are of particular relevance: 18 June 2018: Protocol on Spending and Commitments and 20 July 2018: Transfer of assets to Town and Parish Councils – current position and proposed principles. The recommendations included in this report are in line with those reports and have been referred to the Interim S151 for consideration whether the proposals include “any items that could have a financial impact upon the new unitary to be initially assessed by the interim Section 151 Officer and, if it has a significant financial impact, seek approval by the Shadow Executive” subject to de minimis levels. The Programme is scheduled on the Shadow Executive Forward Plan for 17 September 2018 to consider those assets with a value (Appendix 7 of this report).

2. Recommendations

Subject to the decisions of the Shadow Executive planned for 17 September 2018 with respect only to those assets with an estimated value:

- 2.1 To agree a number of potential service/asset transfers to local Councils as described in the report.
- 2.2 To delegate to the Strategic Director, in consultation with the lead WDDC Member for transfer of services/assets programme, to implement the transfers
- 2.3 To allocate up to the remainder of the set aside £1.3m to facilitate the transfer.
- 2.4 To agree to waive the Council's Contract Procedural Rules to award Service Concession Contracts, to operate the public conveniences, to the local Councils.

3. Reason for Decision

- 3.1 The proposals included in this report can be summarised as:
 - 1) This Programme provides budgeted cost reductions to WDDC/Dorset Council; whilst retaining important local services that contribute to the economy; provides a more cost efficient and improved customer service; retains control of assets (leased or, if appropriate, with overage); retains assets in the public sector; and is within the budget already established by WDDC.
 - 2) The proposed transfer of local services (that are important and have social, economic and environmental benefits) to other organisations (e.g. Town and Parish Councils) is on the basis that doing so will reduce costs to the "public purse" by for example improving efficiency and providing a better, more localised service and improved, locally managed customer experience;
 - 3) Implementing arrangements for some services with an annual cost, to be transferred to local councils; with a package of non-strategic assets (some with a current asset value); and an annual income (which is less than the current operating costs); together with a cash equivalent to make up to 2 years' operating costs; plus an amount for refurbishment to bring assets up to a presentable condition;
 - 4) During that first 2 years funding, local councils have the opportunity to ensure that the service can continue to be funded in the long term through for example reducing costs, improving efficiencies, increasing revenues and/or providing subsidy by raising precept;
 - 5) The programme proposes retaining assets and asset value within the public sector (disposed by lease or, if appropriate, with overage) and not sold outside the public sector;
 - 6) Assets/services are planned to be retained within the public sector with all the democratic publicly accountable decision making that that entails;

- 7) It will be required that the future control of assets, via leasehold or, if appropriate, overage arrangements, should not be onerous, time consuming or costly;
- 8) The programme aims to reduce costs while maintaining important local services for the social, economic and environmental benefits of communities;
- 9) The current cost of services (i.e. public conveniences) and Lyme Regis TIC is £538k pa; the current income from the non-strategic assets is £328k pa; projected over 20 years, the package of services/assets costs the operator net £4.2m (£10.8m cost and £6.6m income);
- 10) Therefore, after funding from WDDC budget (equivalent to the difference in 2 years' operating cost), the local council (as operator) will need to resolve costs of £247k pa;
- 11) A one-off refurbishment contribution of £538k is proposed to bring assets to a presentable condition. The contribution will be paid when works are undertaken;
- 12) The estimated asset value is £2.6m with no individual asset value exceeding £2m and the greatest being £400k;
- 13) Asset value will be confirmed by obtaining professional valuations prior to implementation so that the total of the disposal at less than best consideration is known for each asset and advise on Best Consideration and Best Value;
- 14) The programme does not promote selling outside of the public sector; asset control will be retained by the current (or succeeding) council (i.e. WDDC and Dorset Council) by leasing or, if appropriate, with overage;
- 15) The proposals need to be formally agreed by local councils before implementation;
- 16) Proposals can be progressed without referral to the Shadow Executive (in accordance with the Spending and Commitments Protocol) where assets do not have value. The assets that are required to be referred to the Shadow Executive are highlighted in this report in the Appendices (shown shaded grey and specifically Appendix 7): some assets in Bridport, Lyme Regis and Sherborne only. Therefore, all assets at Beaminster, all public conveniences in the parishes and Dorchester market and some assets in Bridport, Lyme Regis and Sherborne do not need to be referred to the Shadow Executive;
- 17) WDDC has already (December 2017) allocated £1.3m from Reserves to implement the programme; this programme is within that budget and is planned to be incurred before April 2019;
- 18) The programme promotes transfer of income, disposal of asset value and transfer of assets which is within the public sector via a lease or, if appropriate, freehold with overage, so that a proportion of future changes to or value release, in addition to the overall cost from the asset, will be retained or controlled by WDDC or any future succeeding council (e.g. Dorset Council).

- 19) Transfer of assets of value (and the income they derive) is on the basis that they continue to be provided to support services with a cost. Therefore, this is not considered to be a procurement of services although as a safeguard a recommendation has been included;
 - 20) The primary duty of a local authority disposing of land is to receive the best value reasonably obtainable. Where a proposed disposal of land is at an undervalue, the disposal requires consent from the Secretary of State (SoS). So as to avoid such a process for relatively small disposals, the SoS has issued a General consent, which permits disposals so long as the undervalue is less than £2m and the purpose of the disposal meets certain criteria set out in the consent. Those criteria essentially relate to economic, environmental and social benefits that may justify a disposal at the undervalue proposed.
 - 21) However, as the undervalue is less than £2m, specific consent from the Secretary of State is not required;
 - 22) This report has demonstrated consideration of the social, economic and environmental benefits of retaining services in localities to communities, and which is facilitated/supported by in parallel, and for the same purposes and justification, disposing of income generating assets of value;
 - 23) Because of the proximity to the dissolution of WDDC and the formation of Dorset Council, the Shadow Executive Committee has adopted a protocol and principles to guide decisions on the disposal of assets between now and April 2019.
 - 24) This report has been referred to the Interim S151 officer for his consideration and determination if the proposals need to be referred to the Shadow Executive in accordance with the Spending and Commitments Protocol. The proposals, therefore, of assets with value need to be formally considered by the Shadow Executive Committee.
- 3.2 At the Extraordinary Full Council meeting on 26 January 2017, West Dorset District Council decided “that preparation work with town and parish councils be further developed to enable a clear process by which downward devolution of powers to third tier authorities can be timetabled and managed.” This was mirrored by other Dorset councils.
 - 3.3 At its meeting on 1 August 2017 West Dorset District Council agreed to establish a Joint Committee with other Councils across Dorset and among its purposes is “to promote joint work with town and parish councils to identify and plan for the most effective governance and delivery arrangement for local public services.”
 - 3.4 The Strategy Committee at its meeting on 12 September 2017 decided “That an external programme board be established focused on Devolution of Services/Assets “Double Devolution” of some West Dorset District Council services. Since then the programme board has met regularly. In January 2018 the appointed professional services provider Local Government Resource Centre Associates Ltd. commenced working with Dorset Council Partnership Officers, Members of West Dorset District Councils and Clerks, members and Chairmen/Mayors of Town and Parish Councils

in West Dorset. They have established potential packages of services and assets that could be transferred to the Town and Parish Councils on the basis of the principles that were considered by WDDC and established with the Programme Board.

- 3.5 The Committee is now recommended to consider and approve these packages to allow work to commence on implementation with a planned end date before the end of the financial year 18/19 subject to decisions by the Shadow Executive where assets have restricted value.

4. Background and Reason Decision Needed

Principles underlying the Transfer of Services and Assets Programme

- 4.1 The District Council has identified a number of services including Public Conveniences and Tourist Information Centres as discretionary services that may not be capable of being fully funded in the future.
- 4.2 One option for these services is to attempt for them to be discontinued in order to yield cost reductions for the provider council and perhaps sell to realise the asset value or otherwise increase incomes.
- 4.3 Public conveniences make a valuable contribution to the economy particularly in a tourist area, and therefore may prove difficult to close. This programme is intended to reduce the risk to critical local services by moving to another local council.
- 4.4 Therefore, an alternative option is to transfer the service to, or fund services differently by, other organisations (e.g. Town and Parish Councils), on the basis that doing so reduces costs to the “public purse” by for example by improving efficiency and provides a better service and customer experience. Town and Parish Councils may be prepared to accept and operate these services if the District Council provides support during the transition period and Town or Parish Councils have an opportunity to reduce costs or increase incomes to sustain the service in the longer term.
- 4.5 The above reflects the Programme Principles that Strategy Committee agreed in the past and which have been considered by the Programme Board with West Dorset’s local councils.
- 4.6 Strategic assets have not been included from the start of the Programme.
- 4.7 The approach that has been adopted is to seek arrangements whereby some services with an annual cost are transferred to the Town or Parish Council together with a package of non-strategic assets, some with a current value and an annual income, together with some cash equivalent to make up to 2 years’ operating costs, plus an amount for refurbishment to bring services to a respectable condition. The packages will guarantee a cost neutral position for a period of two years. During this time the Town or Parish Council has the opportunity to ensure that the service can continue to be funded in the long term through a number of mechanisms, for example:

- It can take action to reduce costs.
- It can take action to increase revenues (e.g. by introducing charging)
- It can take action to increase the value of any non-strategic assets that have been transferred.
- It may feel able to provide a subsidy for the service by raising its precept.

4.8 The approach has been to consider all the Town Councils as these are most likely to be the focus for transfer of services and then specifically focus on all Parishes where WDDC services (specifically Public Conveniences) exist. The Town or Parish Councils have been offered the commitment to provide the service (in return for the value transfer, annual income, refurbishment contribution and cash contribution) on the basis that if they do not do so, the service may be withdrawn.

4.9 It should be noted that this package (of services with cost (public conveniences) and assets that generate an income) there is an annual net cost. After WDDC funding that difference for the transitional 2 years' period, local councils will need to fund in the longer term. The costs shown in the report are based on existing District Council operational costs but with recharge overheads removed. Clearly the receiving council will have their own management overheads which will need to be covered but which are not available at this time.

4.10 Also there will be additional ongoing costs for the Town and Parish Councils such as future refurbishments of facilities (although this programme includes an amount from WDDC to initially improve assets' condition as a condition of the lease), that are not shown in the analysis.

4.11 Assets have an estimated value (these are included in the Appendix to this report) which is different from the annual income. In the case of a leasehold property the value includes annual income multiplied by the years in the lease. For freehold property it is the estimated open market value. Disposal of freehold assets (e.g. by sale) may realise the asset. Some assets are proposed to be disposed leasehold to retain control of asset. Freehold disposal with an overage may not be suitable or effective. Nevertheless, if freehold disposal (assets with value) is pursued an overage clause will be included to ensure that the principal council participates in any subsequent value realisation. Whether by leasehold or, if appropriate, freehold transfer, this programme retains assets/services, and consequently the asset value, within the public sector (transferred to local councils); not sold outside of the public sector.

4.12 In order to facilitate the future management of these assets the District Council will wish to ensure that future control such as leasehold arrangements, should not be onerous, time consuming or costly.

4.13 In the event that services cease to be delivered, the income from an appropriate proportion of the income producing assets revert back to WDDC (or Dorset Council).

4.14 To achieve the link between income producing assets and service delivery which requires support funding (e.g. public conveniences), it is suggested that all assets passed to the town councils are included in one single lease, if that is the best legally, for each town council and may also require an agreement between WDDC and local

councils. Therefore, this is not a procurement for services but control of assets via a lease. Nevertheless, it is considered prudent to apply an exemption under the Council's Contract Procedure Rules (see Section 2.4) in the case of a procurement for services.

- 4.15 The single lease would list the income producing assets and the service delivery aspects and would specify that the collective income from the income producing assets are used to fund the service delivery aspects. Each income producing asset has an existing use value and therefore passing to the town councils at no cost is a disposal at less than best.
- 4.16 In the event that any one of the public conveniences are closed, a proportion of the income would become due back to WDDC (or Dorset Council.) Any income above the current net costs of the package of assets per town would be recouped by WDDC/ Dorset Council.
- 4.17 There would be a requirement to comply with the lease/overage should the sale of any assets or change of use occur.
- 4.18 One area of opportunity which Parish Councils across the country continue to have is their ability (after consideration) to precept without limit as they are the only tier of local government which is not currently capped although in the past there have been indications from Government of doing so. As with all local authorities the precepting decision is a sensitive political issue and such decisions need to be taken in the context of the current overall level from all sources. Precept decisions will also be affected by the Council Tax Harmonisation outcomes at principal council level since individual tax payers will respond to increases in each element against the background of the overall tax level.
- 4.19 Below is a table which summarises the precept national ranking (out of the 10270 Towns and parishes nationally) of West Dorset Town Councils and Parishes where specific services and asset negotiations are under way. Broadly speaking, if a council has a higher Band D council tax rank than its Tax Base national rank, its scope for council tax increases is limited. Where the Band rank is lower it is easier to argue for increases as compared to other Councils. The national average Band D council tax for all Town and Parish Councils is just over £50 per household. This is a generalised analysis as local factors are relevant but it is indicative of the scope for precept raises among Dorset Town and Parish Councils.
- 4.20 Of course decision making on precepts is for individual councils. However, from this analysis Dorchester, Sherborne, Bridport and Beaminster Town Councils may have limited scope for precept increases as do Charmouth, Chideock and Osmington Parish Councils. On the other hand Lyme Regis, Abbotsbury, Burton Bradstock, and Cerne Abbas may have scope for precept increases within a national context. This has been taken into account in the current negotiations.

Table 1. Local Council Precepts

2017-18						
Town/ Parish Name	Rank	Total Amount precepted by local council (£)	Rank	Tax Base for precept purposes (households)	Rank	Band D Council Tax (£)
Dorchester	25	1,296,336	159	7,064.5	54	183.50
Sherborne	107	668,594	489	3,503.2	45	190.85
Bridport	140	569,698	625	2,923.5	40	194.87
Lyme Regis	957	120,708	1,008	1,977.5	1,946	61.04
Beaminster	839	140,063	1,535	1,272.3	358	110.09
Charmouth	1318	80,000	2,422	733.7	375	109.04
Abbotsbury	2752	26,000	2,530	697.4	4,527	37.28
Burton Bradstock	2908	23,896	3,003	545.7	3,628	43.79
Cerne Abbas	3795	15,350	3,333	475.3	5,364	32.30
Seatown (Chideock)	3765	15,626	4,149	341.8	3,394	45.72
Osmington	3868	15,000	4,389	315.4	3,175	47.56

Developments during the progression of the programme

4.21 The programme originally focussed on 5 discretionary services:

- TICs/Tourism
- Public Conveniences
- Town centre economic development
- Discretionary grants
- Town centre street cleansing

As the programme has evolved it has become clear that town centre street cleansing was not ready for devolution at this time due to the Dorset Waste Partnership financing having been clarified during the transfer period to the Unitary Authority. In discussion with the arts and museums organisations, it became clear that the sums of money that Town and Parish Councils could offer under new arrangements would be insignificant compared to overall requirements. While some further involvement of Towns and Parish Councils may be appropriate in future it seemed unlikely that they could be practically addressed within the programme parameters including potential assets and cash available to support a transfer. Economic development programmes of relevance to Town and Parish Councils are mainly linked to Tourism. Town

Councils did not see any specific service activity undertaken by the District Council, apart from Tourism, that they wished to be involved with and this only in one case.

- 4.22 In undertaking the programme the Council has distinguished between strategic and non-strategic assets and has considered non-strategic as appropriate for transfer. Non-strategic assets are those which generally do not form part of a wider service offering and do not form a crucial part of the Council's financing. Transferring these assets to Town and Parish Councils as a contribution to the maintenance of specific services does not undermine the financial integrity or capability of the principal council.
- 4.23 Generally speaking, for example car parks have been excluded from the programme. Car parks form part of a strategic approach to traffic management and also provide a significant element of the Council's underlying finance. Car parks also provide a potentially significant capital source in the event of future development. Where a car park has been considered for transfer it has been small scale but appropriate to support the devolution programme and is only available on a leasehold basis to preserve the capital value.

Specific Proposals

- 4.24 The table below summarises the transfer proposals. Up to 26 no. Public Conveniences and a Tourist Information Centre with a current annual cost of £537,715 will be transferred to Town and Parish Councils. Assets with a current annual income of £328,266 would be transferred to Town Councils to provide a base income to sustain the service. A total of £538,000 would be provided from the revenue reserves as a one-time contribution to refurbishing the public conveniences to a presentable condition. The Town and Parish Councils will need, within 2 years, to resolve £209,449 of cost by one of the means outlined in para 4.4 above. The District Council will make a contribution towards those costs for two years following which the costs will fall out of the principle council budget.

Table 2. Summary of Proposed Transfer Packages

Summary of Proposed Transfer Packages								
A	B	C	D	E	F	G	H	J
			B+C			D-E	2XG	F+H
Council	Public Conveniences Costs	TIC Costs	Total Costs	Current Annual Income from Assets to be transferred	Refurbishment Contribution	Estimated Annual Costs for T/P Council To Resolve	2 Years Cash Contribution	2 Years Cash Contribution Plus Refurb
Beaminster	£11,070	£0	£11,070	£0	£20,000	£11,070	£22,140	£42,140
Bridport	£117,953	£0	£117,953	£85,918	£98,000	£32,035	£64,070	£162,070
Chickerell	£0	£0	£0	£0	£0	£0	£0	£0
Dorchester Option 2 (indicative)	£75,131	£0	£75,131	£70,445	£80,000	£4,686	£9,372	£89,372
Lyme Regis	£113,387	£81,316	£194,703	£105,118	£120,000	£89,585	£179,170	£299,170
Sherborne	£42,819	£0	£42,819	£19,100	£60,000	£23,719	£47,438	£107,438
Parishes	£96,039	£0	£96,039	£47,685	£160,000	£48,354	£96,780	£256,780
Total	£456,399	£81,316	£537,715	£328,266	£538,000	£209,449	£418,898	£956,898

- 4.25 On the advice of the S151 officer, as an interpretation of NPV, over a 20-year period the annual costs that are inherent in the services being transferred are therefore £10,754,300 set against the current annual income from assets of £6,565,320. Therefore, taken as a whole, the cost of these services is 85% more than the income transferred to the operating council (or £4.2m). Local councils therefore, have every incentive to increase and realise the income from those assets that are proposed for transfer.
- 4.26 The estimated value of the assets as defined above and proposed to be transferred is estimated to be £2.6m; the greatest individual estimated asset value is £400,000 and therefore no individual asset has a value greater than £2m. However, upon transferring these asset values to local councils, value is retained within the public sector and the safeguards it provides. The District Council will impose lease/overage conditions to further control future use of the assets.
- 4.27 The detailed makeup of each of the proposed packages of services and assets is detailed in Appendices 1 to 6.
- 4.28 The benefits of these transfers, if ultimately agreed with Town and Parish Councils will be experienced by both tiers of local government and by the community in the West Dorset District Council area.
- **The District Council** (and the Unitary Council) will ultimately have reduced discretionary responsibility for service provision and reduced costs while

retaining control of assets through lease and overage conditions. Services are valued locally as contributors to the economy particularly in a tourist area and Dorset Council may not wish to deliver directly.

- **Town and Parish Councils** have an opportunity to retain and operate services in their communities which may otherwise be withdrawn. They have some freedom, subject to lease and overage terms, to evolve the service and the associated assets to manage costs and increase revenues.
- **The Community** will retain access to services which might otherwise have been lost and experience a refurbished provision.

4.21 These proposals need to be agreed with each Town and Parish Council and when that is achieved implementation will follow; other arrangements may require further negotiation.

5. Implications

Corporate Plan

5.1 The four WDDC Corporate Plan 2016-17 objectives will be affected by this proposed programme:

- Contribute to a Stronger Local Economy;
- Empowering Thriving and Inclusive Communities;
- Improve Quality of Life; and
- Develop Successful Partnerships

Financial

5.2 WDDC has already allocated £1.3m from Reserves for the programme to Strategy Committee on 14 December 2017. Some of that fund has already been allocated/spent on professional fees and this will continue through the implementation phase.

5.3 It is intended that some funds will be set aside for legal work in connection with the implementation of the scheme and to assist local councils with their reasonable legal costs.

5.4 The decisions arising from this report would allocate a further £956,898 and therefore, the financial implications of these recommendations are within budget already set aside by WDDC.

Equalities

5.5 Equality issues, in particular with respect to public conveniences, are likely arise and a full EIA will be prepared prior to transfer of those services.

Environmental

- 5.6 The programme and retention of service is intended to continue to provide environmental benefits from for example provision of public conveniences. No adverse environmental issues have been identified to date but it is anticipated that some issues may arise during implementation. These will be addressed on an individual basis

Economic Development

- 5.7 The implications arising from continuing to provide discretionary services with communities is likely to have a positive economic impact. Many public conveniences are located in holiday resorts and as such their continued provision can be regarded as directly supporting the local economy. Lyme Regis TIC is a key element of economic infrastructure in that location.

Risk Management (including Health & Safety)

Best consideration

- 5.8 Local authorities have powers under the Local Government Act 1972 to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term on a lease, and the granting of easements. Government policy is that local authorities should dispose of surplus land wherever possible.
- 5.9 The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies), unless the Secretary of State consents to the disposal (s.123 LGA). This programme promotes transfer (disposal with control via leases/freehold overage) of assets of value, within the public sector, via a lease or with overage, so that any future changes to or value release from the asset will be controlled by WDDC or any future succeeding council.
- 5.10 However, it is recognised that there may be circumstances where an authority considers it appropriate to dispose of land at an undervalue. Authorities should clearly not divest themselves of valuable public assets unless they are satisfied that the circumstances warrant such action.
- 5.11 The “*General Disposal Consent 2003*” provides guidance to local authorities which have land disposal powers under sections 123 and 127 of the 1972 Local Government Act. The Consent gives local authorities autonomy to carry out their statutory duties and functions, and to fulfil such other objectives as they consider to be necessary or desirable.
- 5.12 However, when disposing of land at an undervalue, authorities must remain aware of the need to fulfil their fiduciary duty in a way which is accountable to local people.
- 5.13 The Consent removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land where the difference between the value

of the interest to be disposed of and the consideration accepted ("the undervalue") is **£2,000,000** (two million pounds) or less, and where the local authority considers that the purpose for which the land is to be disposed is likely contribute to the achievement of **any one or more of:**

- the promotion or improvement of economic well-being;
- the promotion or improvement of social well-being;
- the promotion or improvement of environmental well-being;

5.14 Therefore, specific consent is not required for the disposal of any interest in land which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. Where applicable, authorities should also have regard to their community strategy.

5.15 By approving these Recommendations and via this report, WDDC is demonstrating that it has considered the social, environmental and economic benefits to retaining services in localities and to communities that are supported by a contribution towards costs, which in turn are derived from a range of assets with value.

5.16 The authority has also taken account of its Asset Management Policy, considered obtaining evidence of value and ensured that the decision is taken by Members where appropriate.

Best value

5.17 Revised "*Best Value Statutory Guidance*" was issued by DCLG in March 2015. The guidance sets out clear expectations for councils considering changing funding to local voluntary and community groups and small businesses.

5.18 It re-stated the Duty of Best Value as continuing to be important and makes clear that councils should consider overall value, including social value, when considering service provision.

5.19 In summary, Best Value authorities are under a general Duty of Best Value to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

5.20 Under the Duty of Best Value, authorities should consider overall value, including economic, environmental and social value, when reviewing service provision.

5.21 The assets/services which this programme considers are intended to remain in the public sector with all the democratic publicly accountable decision making that entails.

5.22 A policy option may be open for Dorset Council to reduce the level and range of discretionary service and by doing so reduce costs for that council. Those important local services may not be provided by that council and, if no others provide the service, they may be lost to the community.

5.23 To achieve the right balance, and before deciding how to fulfil their Best Value Duty, authorities are under a Duty to Consult representatives of a wide range of local persons. In this case wide consultation and involvement has been undertaken with

Town and Parish Councils as these are most likely to be the focus for transfer of services and also specifically all Parish Councils where WDDC services (specifically Public Conveniences) exist.

- 5.24 Authorities should make provision for the organisation, service users and wider community to put forward options on how to reshape the service or project, which this programme achieves. This has been achieved via the Programme Board and comments on the proposals from local councils.
- 5.25 In terms of the WDDC Devolution of Assets and Services programme, this is taking place in order to attempt to reduce costs while maintaining, where possible, services which provide benefit to the communities involved. In terms of the Best Consideration guidance it will help WDDC and Towns and Parishes to secure the promotion or improvement of the economic, social or environmental well-being of its area.
- 5.26 This programme does not promote selling assets outside the public sector. The services are being transferred within the public sector to bodies which will continue to serve relevant communities, with the governance arrangements and democratically accountable decision making. Transfer of assets should be seen in that context.
- 5.27 As of now, action will need to be taken by Local Councils to ensure that the services can be delivered sustainably. Any assets that may be transferred at an asset undervalue or where the local council is in future able to enhance their income are transferred on the basis that they continue to be provided alongside the service being provided.
- 5.28 Continued provision of public conveniences across the district and the TIC at Lyme Regis will promote the social, economic and environmental wellbeing of communities and particularly in an area of significant tourism and to support businesses.
- 5.29 The annual income from assets is less than £2m (£328k pa). The full cost of providing the services is estimated to be £538k so the net cost after deducting the income provided from assets is £210k pa. As detailed at 4.16 the costs transferred are almost double the income from the assets being transferred.
- 5.30 A risk management exercise has been undertaken with respect to the transfer of Services and Assets Project and mitigation actions have been undertaken as outlined below.

Table 3. Risk Register

<u>Risk Register</u>				
<u>WDDC Transfer of Assets and Services project</u>				
	<u>Risk</u>	<u>RAG score</u>	<u>Mitigation</u>	<u>Residual score</u>
1	<p>Town & Parish Councils do not engage in the process</p> <p>Reluctance to take on assets/services</p> <p>Assets/services seen as liabilities/costs</p> <p>Piecemeal approach</p>	9	<p>Programme Board in place for monthly discussions</p> <p>Dialogue with 4 largest Town Councils</p> <p>LGRC regular liaison with key TC officers</p> <p>Services will cease if no engagement</p>	6
2	<p>Insufficient funding available enable transfers</p> <p>High maintenance requirements prior to transfer</p> <p>Funding budget is insufficient to support all transfers</p>	9	<p>WDDC have allocated a specific sum of money (£1.2m) to enable</p> <p>Programme consultants appointed</p>	6
3	<p>Asset and Service costs cannot be fully identified</p> <p>T&PCs unwilling to take on uncosted assets/services</p> <p>All data not available at individual Town or asset level</p>	9	<p>Detailed discussions with Finance</p> <p>LGRC will analyse data available</p> <p>Assets system has identified costs by individual asset</p>	6
4	<p>Approval process may need to include shadow arrangements for the new Unitary authority, adding time and complexity to the process</p>		<p>Sovereign Councils remain until 31 March 2019</p>	
5	<p>Insufficient resource</p> <p>Town Clerks key to progressing</p> <p>WDDC resource required to produce key information and reports implementation capacity</p> <p>LRGC resource limitations</p>	9	<p>Larger Town Councils have support staff</p> <p>Programme agreed by WDDC Strategy Committee</p> <p>LGRC contract states best efforts for alternatives</p>	6

5.31 Under the arrangements established for the creation of the new Unitary Authority actions relating to the disposal of assets may need to be referred to the Shadow Executive. Under the recently agreed Protocol (which includes triggers), such decisions will need to be referred by the Interim Section 151 Officer. This report has therefore been referred to the Interim Section 151 Officer. However, those proposed transfers that do not include an asset value can be decisions made by WDDC.

- 5.32 Those services that do not have an asset value can be agreed by WDDC without referral to Shadow Executive. The factors for consideration by the Section 151 Officer will be those related to the transfer of physical assets. Cash only arrangements affecting some Town and Parish Councils will not be affected by this requirement. This report summarises the overall recommendations to Shadow Executive.
- 5.33 In approving this report, the District Council is confirming its belief that the transfer programme is the right approach to take and that doing so now is more likely to preserve the services while realising potential savings at the earliest opportunity.

Human Resources

- 5.34 The transfer of Lyme Regis TIC will involve transfer of some WDDC staff. Existing TIC staff would be transferred under TUPE regulations, requiring a 12-week period of staff consultation.
- 5.35 A new 2-year Public Convenience cleaning contract has been put in place but in anticipation of the devolution programme individual facilities can be withdrawn from it on six months' notice. To date no specific human resources implications would accrue to the District Council or to Local Councils although this needs to be kept under review as the transfer is implemented.

6. Consultation and Engagement

- 6.1 The Programme Board which was formally established following the 14 December 2017 Strategy Committee and is made up of Mayors and Town Clerks of West Dorset Town Councils, West Dorset District Council Members and Officers and LGRC consultants, has met monthly since January.
- 6.2 A survey of all parishes was conducted during the first quarter, to assess initial interest in participating in the programme and all parishes were incited to respond. The survey responses were used to focus on areas which has an interest in transfer of services.
- 6.3 In addition, a meeting of all West Dorset Parish Councils was held on 2 May 2018. Parish Council Members and Clerks were briefed on the services and assets transfer scheme by Cllrs Thacker and Alford, supported by LGRC staff.
- 6.4 Individual negotiations have taken place between LGRC and Town and Parish Councils where relevant services are delivered.

Appendices

Summary of Transfer Schedules and Asset Plans

Appendix 1. Beaminster

Service Transfer			
	Estimated Annual Operating Cost	Cost Contribution to Refurbishment to Presentable Condition	Basis of Transfer
Fleet Street Public Conveniences	£11,070	£20,000	Leased
Total	£11,070	£20,000	

Assets of Potential Value			
Asset	Description	Current Income PA	Estimated Value of Asset
Yarn Barton Community Centre Lease	Transfer of lease from WDDC to Beaminster TC to simplify management	0	£1
Square car park	Land owned by Beaminster TC but leased to WDDC for car park. Lease to be given up by WDDC	Potential loss of revenue to WDDC	£0

Summary of Proposed Transfer Package								
A	B	C	D	E	F	G	H	J
			B+C			D-E	2XG	F+H
Council	Public Conveniences Costs	TIC Costs	Total Costs	Current Annual Income from Assets to be transferred	Refurb Costs	Estimated Annual Costs for T/P Council To Resolve	2 Years Cash Contribution	2 Years Cash Contribution Plus Refurb
Beaminster	£11,070	£0	£11,070	£0	£20,000	£11,070	£22,140	£42,140

Beaminster Town Council would prefer to relinquish the existing leased public conveniences and build new within the Town Hall. They would like the WDDC contribution to be put towards this new facility.

Appendix 2. Bridport

Service Transfer			
	Estimated Annual Operating Cost	Cost Contribution to Refurbishment to Presentable Condition	Basis of Transfer
West Street Public Conveniences	£28,944	£35,000	Leasehold
South Street Public Conveniences	£16,003	£10,000	Leasehold
East Beach Public Conveniences	£29,958	£35,000	Leasehold
The Mound Public Conveniences	£22,453	£8,000	Leasehold
West Bay Car Park Public Conveniences	£20,595	£10,000	Leasehold
Total	£117,953	£98,000	

Assets of Potential Value			
Asset	Description	Current Income PA	Estimated Value of Asset
The Old Dairy Site	Long Leasehold of a rectangle of unused land. Potential Retail/ Commercial Units. Requires investment	£0	£30,000
Land at Rear of 52 West Street	Land to rear of Waitrose for use as Taxi rank	£0	£30,000
The Old Railway Line West Bay	Land at West Bay	£0	£10,000
Railway Carriage and Approach	Railway Station Café and carriage	£12,750	£250,000
Gushes Yard and Shop 35 George Street	Yard and shop. Freehold Transfer	£6,411	£120,000
Three Stores East Beach	Open Space and 3 stores. Change of use opportunity	£3,150	£30,000
Harbour Green	Open Space in front of George Hotel	£3,107	£20,000
Seagulls Restaurant West Bay	Commercial lease to 2026	£9,500	£150,000
Watch House and Rocket Cafe	Café in West Bay Leased property	£30,000	£400,000

Assets of Potential Value			
Asset	Description	Current Income PA	Estimated Value of Asset
Land at West Cliff		£1,000	£50,000
The Grove	Retail Premises with potential for conversion into housing	£20,000	£350,000
		£85,918	£1,440,000

NB: Lines which are shaded grey highlight those assets which have estimated value and therefore need to be referred to Shadow Executive.

Assets of Potential Value			
Asset	Description	Current Income PA	Estimated Value of Asset
Play Area – West Bay	Play area. Freehold transfer. Already Leased to BTC	£0	£1
Land at Victoria Grove	Wooded land - Freehold Transfer	£0	£1
Priory Lane	Community Orchard- Freehold transfer	£0	£1
Normandy Way	Access Road- Freehold Transfer	£0	£1
	Overage clause in that event		

Summary of Proposed Transfer Package								
A	B	C	D	E	F	G	H	J
			B+C			D-E	2XG	F+H
Council	Public Conveniences Costs	TIC Costs	Total Costs	Current Annual Income from Assets to be transferred	Refurb Costs	Estimated Annual Costs for T/P Council To Resolve	2 Years Cash Contribution	2 Years Cash Contribution Plus Refurb
Bridport	£117,953	£0	£117,953	£85,918	£98,000	£32,035	£64,070	£162,070

Appendix 3. Dorchester

Potential Service Transfer			
	Estimated Annual Operating Cost	Cost Contribution to Refurbishment to Presentable Condition	Basis of Transfer
Trinity Street Public Conveniences	£17,778	£20,000	Leased
Fair Field Public Conveniences	£17357	£20,000	Leased
Top O Town Public Conveniences	£22,307	£20,000	
Tudor Arcade	£17689	£20000	
	£75131	£80,000	

Assets of potential Value				
Asset	Description	Option	Current Income	Estimated Value of Asset
Dorchester Market Charter	Charter to hold Markets Lease to Ensor to 2026	1	£21,000 (costs reducts)	Not Assessed
		2	£69,000	
Land at Lubbecke Way	Freehold parcel of Land		£0	

Summary of Proposed Transfer Packages								
A	B	C	D	E	F	G	H	J
			B+C			D-E	2XG	F+H
Council	Public Conveniences Costs	TIC Costs	Total Costs	Current Annual Income from Assets to be transferred	Refurb Costs	Estimated Annual Costs for T/P Council To Resolve	2 Years Cash Contribution	2 Years Cash Contribution Plus Refurb
Dorchester Option 1	£17,357	£0	£17,357	£21,111	£20,000	£0	0	£20,000
Dorchester Option 2	£75,131	0	£75,131	£69,000	£80,000	£6,131	£12,262	£92,262

NB: To date Dorchester Town Council has declined the transfer of Dorchester TIC

Agreement has yet to be reached on a proposal for Dorchester Town Council (DTC). Therefore, a range of proposals are (for indicative purposes only) outlined below. Strategy Committee are requested to provide approval in principle and delegate the final details to reach agreement with DTC to officers with these ranges. Strategy Committee is considering on 20 August 2018 a separate report relating to Dorchester town centre and Dorchester Market, which is likely to impact on reaching an agreement.

1. Transfer of the Dorchester Market Charter. This is currently subject to the ongoing legal agreement between WDDC and DTC in 1984 whereby the market account surplus is split 65/35 between WDDC and DTC. WDDC would retain all of the income in respect of the Corn Market and Café rents and the notional Wednesday car parking fixed income currently paid into the markets account. This would leave Dorchester in a similar income position to their current 35% share of the surplus, with the potential to make savings on the market operating costs that could amount to £20k p.a. DTC would take over the operation of the market public conveniences (operating costs £17,357) on a leasehold basis.

2. Transfer the market charter to DTC with all of the annual income (currently paid into the market account by WDDC since 1984) retained by DTC. This would give DTC the 65% share of the surplus currently retained by WDDC (amounting to £69k) in exchange for taking over the leasehold of all 4 WDDC public conveniences in the town with annual operating costs of £75,131. A sum equivalent to 2 years' operating costs less the income transferred plus £20,000 per public convenience if required for refurbishment would be transferred.

Appendix 4. Lyme Regis

Service Transfer			
	Estimated Annual Operating Cost	Cost Contribution to Refurbishment to Presentable Condition	Basis of Transfer
Lyme Regis Tourist Information Centre	£81,316		
Broad Street Public Conveniences- Freehold	£34,892	£20,000	Leasehold
Cobb Arms Public Conveniences- Freehold	£19,155	£20,000	Leasehold
Holmbush Public Conveniences- Leasehold	£18,649	£20,000	Leasehold
Monmouth Beach Public Conveniences- Freehold	£25,282	£20,000	Leasehold
Charmouth Road Public Conveniences- Leasehold	£14,752	£20,000	Leasehold
Victoria Pier Public Conveniences- Freehold	£657	£20,000	Leasehold
Total	£194,703	£120,000	

Assets of Potential Value			
Asset	Description	Current Income PA	Estimated Value of Asset
Kiosk 1, The Cobb, Lyme Regis, Dorset plot,	Kiosk for sale of food and beverages, leased out	£16,250	£200,000
Kiosk 2, The Cobb Lyme Regis	Kiosk for sale of food and beverages, lease out	£15,000	£200,000
Kiosk 3 The Cobb Lyme Regis	Kiosk for sale of food and beverages, lease out	£16,250	£200,000
67b Broad Street	Freehold	£5,720	£75,000
Land Opposite harbour inn	Currently Leased to Town Council seeking freehold transfer	£2,040	£20,000
		£55,260	£695,000

NB: Lines which are shaded grey highlight those assets which have estimated value and therefore need to be referred to Shadow Executive.

		Assets of Potential Value	
Asset	Description	Current Income PA	Estimated Value of Asset
Cobb Gate Car Park	25 Year Lease	£47,858	Leasehold
Theatre Square and Walkway to Charmouth Road Car park	LRTC would operate a Market in this area. 25 Year management agreement	£0	£0
Walkway from Cobb Road to Harbour Inn	Includes Kiosks above	£0	£0
Part Cobb Beach	Used as seating area by Lyme Regis Town Council	£0	£0
Cobb Beach, Lyme Regis		£0	£0
Boat Park storage managed by Harbour Master	Issue around	£0	£0
Skate park in Charmouth Road car park	Removal of rental payments Not Freehold Transfer	£2,000	£0
Land Swap LRTC Land used by Harbour Master	Makes land available for Car park	£0	Not Known
		£49,858	

Summary of Proposed Transfer Package								
A	B	C	D	E	F	G	H	J
			B+C			D-E	2XG	F+H
Council	Public Conveniences Costs	TIC Costs	Total Costs	Current Annual Income from Assets to be transferred	Refurb Costs	Estimated Annual Costs for T/P Council To Resolve	2 Years Cash Contribution	2 Years Cash Contribution Plus Refurb
Lyme Regis	£113,387	£81,316	£194,703	£105,118	£120,000	£89,585	£179,170	£299,170

Appendix 5. Sherborne

Service Transfer			
	Estimated Annual Operating Cost	Cost Contribution to Refurbishment to Presentable Condition	Basis of Transfer
Culverhayes Public Conveniences	£14,763	£20,000	Leasehold
Digby Road Public Conveniences	£15,501	£20,000	Leasehold
Old Market Yard Public Conveniences	£12,555	£20,000	Leasehold
Total	£42,819	£60,000	

Assets of Potential Value			
Asset	Description	Current Income	Estimated Value of Asset
		PA	
Westbridge Shops		9100	£270,000
Coldharbour	Residual land at Coldharbour Business Park A small area of land between plots 5 and 6 retained Potential	0	£20,000
BRETTS Small Warehouse	Use by pet supply business in same courtyard as garages. Development Potential	7500	£120,000
5X Garages	Old Market /Hound Courtyard, Development potential	0	£50,000
Shop Ex Sub Post Office	Littlefield	£2,500	£50,000
		£19,100	£510,000

NB: Lines which are shaded grey highlight those assets which have estimated value and therefore need to be referred to Shadow Executive.

Summary of Proposed Transfer Packages								
A	B	C	D	E	F	G	H	J
			B+C			D-E	2XG	F+H
Council	Public Conveniences Costs	TIC Costs	Total Costs	Current Annual Income from Assets to be transferred	Refurb Costs	Estimated Annual Costs for T/P Council To Resolve	2 Years Cash Contribution	2 Years Cash Contribution Plus Refurb
Sherborne	£42,819	£0	£42,819	£19,100	£60,000	£23,719	£47,438	£107,438

NB: Sherborne Town Council have declined the transfer of Sherborne TIC

Appendix 6. Parish Councils Public Conveniences

A	B	C	D	E	F	G	H	J
			B+C			D-E	2XG	F+H
Council	Public Conveniences Costs	TIC Costs	Total Costs	Current Annual Income from Assets to be transferred	Refurb Costs	Estimated Annual Costs for T/P Council To Resolve	2 Years Cash Contribution	2 Years Cash Contribution Plus Refurb
Charmouth Foreshore	£22,879		£22,879		£20,000	£22,879	£45,758	£65,758
Charmouth Lower Sea lane	£20,370	£0	£20,370	£47,685	£20,000	£10,370	£20,740	£40,740
Burton Bradstock	£16,519	£0	£16,519		£20,000	£16,519	£33,038	£53,038
Seatown	£11,447	£0	£11,447		£20,000	£11,447	£22,894	£42,894
Cerne Abbas	£16,476	£0	£16,476		£20,000	£16,476	£32,952	£52,952
Abbotsbury	£8,348	£0	£8,348		£20,000	£8,348	£16,696	£36,696
	£96,036	£0	£96,039	£47,685	£160,000	£48,354	£96,780	£256,780

NB: Osmington and West Bexington Parish Councils have declined to accept transfer of public convenience.

Appendix 7: Assets which have an estimated value and therefore need to be referred to Shadow Executive.

Bridport

Assets of Potential Value			
Asset	Description	Current Income PA	Estimated Value of Asset
The Old Dairy Site	Long Leasehold of a rectangle of unused land. Potential Retail/ Commercial Units. Requires investment	£0	£30,000
Land at Rear of 52 West Street	Land to rear of Waitrose for use as Taxi rank	£0	£30,000
The Old Railway Line West Bay	Land at West Bay	£0	£10,000
Railway Carriage and Approach	Railway Station Café and carriage	£12,750	£250,000
Gushes Yard and Shop 35 George Street	Yard and shop. Freehold Transfer	£6,411	£120,000
Three Stores East Beach	Open Space and 3 stores. Change of use opportunity	£3,150	£30,000
Harbour Green	Open Space in front of George Hotel	£3,107	£20,000
Seagulls Restaurant West Bay	Commercial lease to 2026	£9,500	£150,000
Watch House and Rocket Cafe	Café in West Bay Leased property	£30,000	£400,000
Land at West Cliff		£1,000	£50,000
The Grove	Retail Premises with potential for conversion into housing	£20,000	£350,000
		£85,918	£1,440,000

Lyme Regis

Assets of Potential Value			
Asset	Description	Current Income PA	Estimated Value of Asset
Kiosk 1, The Cobb, Lyme Regis, Dorset plot,	Kiosk for sale of food and beverages, leased out	£16,250	£200,000
Kiosk 2, The Cobb Lyme Regis	Kiosk for sale of food and beverages, lease out	£15,000	£200,000
Kiosk 3 The Cobb Lyme Regis	Kiosk for sale of food and beverages, lease out	£16,250	£200,000
67b Broad Street	Freehold	£5,720	£75,000
Land Opposite harbour inn	Currently Leased to Town Council seeking freehold transfer	£2,040	£20,000
		£55,260	£695,000

Sherborne

Assets of Potential Value			
Asset	Description	Current Income	Estimated Value of Asset
		PA	
Westbridge Shops		9100	£270,000
Coldharbour	Residual land at Coldharbour Business Park A small area of land between plots 5 and 6 retained Potential	0	£20,000
BRETTS Small Warehouse	Use by pet supply business in same courtyard as garages. Development Potential	7500	£120,000
5X Garages	Old Market /Hound Courtyard, Development potential	0	£50,000
Shop Ex Sub Post Office	Littlefield	£2,500	£50,000
		£19,100	£510,000

Appendix 8 - Legal: draft guidelines for the lease

- 8.1 All new head leases would be granted on a 30 year term, on full repairing and insuring terms and at a peppercorn rent.
- 8.2 Each head lease will be granted subject to existing lettings, and the income would go to the intermediate landlord, being the town councils. There would be an absolute bar on change of use without the head landlords express consent, which could be withheld. Some permitted pre-agreed alternative uses might be included where appropriate.
- 8.3 There would be a requirement for the town councils to let any assets (where possible) or to re-let the premises when empty to generate income, all at open market rental value.
- 8.4 There will be a single lease to each town council which will list all the assets and the service delivery elements.
- 8.5 The current total income from the assets will be identified, as will the current total operating costs. The lease will state that in the event that the total income reaches the same level as the total expenditure then any surplus income beyond this will be paid to the landlord.
- 8.6 The landlord will require all the public conveniences to be open and operated as such, but in the event the tenant (the town council) wishes to cease operating one or more toilets then those will be agreed to be removed from the lease and returned to the landlord. Further an agreed percentage of the total income at that time, (being a proportion of the toilets closed compared to the original total) will then be passed back to the landlord until the head lease expires.
- 8.7 If all public conveniences were to be closed then the lease would then forfeit and all revenues and assets would revert to the landlord. Freehold transfers are not affected.
- 8.8 Where there is a proposal to provide funds to improve and renovate any of the public conveniences then the lease will state that the works are to be undertaken as a condition of the lease. This is in order that the landlord (WDDC or successor) may be assured the works will be completed, and also that there is no possibility that the tenant will be able to claim compensation for those works, as otherwise would be legally possible.
- 8.9 Other clauses and issues will be incorporated as appropriate for the respective assets being leased.

Background Papers

Footnote

Issues relating to financial, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

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Date: 9 August 2018