

Monday, 9 December 2024

CABINET

A meeting of **Cabinet** will be held on

Tuesday, 17 December 2024

commencing at **5.30 pm**

The meeting will be held in the Banking Hall, Castle Circus entrance on the left corner of the Town Hall, Castle Circus, Torquay, TQ1 3DR

Members of the Committee

Councillor David Thomas (Chairman)

Councillor Billings

Councillor Jacqueline Thomas

Councillor Bye

Councillor Tranter

Councillor Chris Lewis

Councillor Tyerman

A Healthy, Happy and Prosperous Torbay

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Governance Support, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

CABINET AGENDA

1. **Apologies**
To receive apologies for absence.
2. **Minutes** (Pages 5 - 38)
To confirm as a correct record the Minutes of the meeting of the Cabinet held on 26 November 2024.
3. **Disclosure of Interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda.

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**
To consider any other items the Chairman decides are urgent.
5. **Matters for Consideration**
6. **Commercial Policy** (Pages 39 - 104)
To consider a report that seeks approval of the Commercial Policy, which sets out how the Council's Contract Procedures will be implemented.
7. **Procurement of Education other than at School (EOTAS) Programme** (Pages 105 - 118)
To consider a report that seeks approval for the procurement and subsequent award of contracts to provide a set EOTAS education programme for children and young people (CYP), who have an Education, Health and Care Plan (EHCP) and are unable to attend school.

8. **Annual Director of Public Health Report 2024: Women's Health** (Pages 119 - 154)
To consider a report that sets out the Annual Director of Public Health Report 2024: Women's Health.
9. **Appointment of Member Champion** (Pages 155 - 156)
To consider a report that sets out the appointment of a Member Champion for the Armed Forces.

Live Streaming and Hybrid Arrangements

To encourage more people to engage in our public meetings the Council is live streaming our Cabinet meetings on our YouTube channel in addition to recording the meetings and publishing the recording on our website. To watch the meeting live please visit <https://www.youtube.com/user/torbaycouncil>.

We are also using hybrid meeting arrangements to enable officers and Councillors who are not members of the Cabinet to either attend the meeting in person or to attend the meeting remotely via Zoom. Anyone attending the meeting remotely must use their raise hand function when they wish to speak and to declare any interests at the appropriate time. If anyone attending the meeting remotely loses connection the meeting will continue and they will have the option to follow the meeting via the YouTube live stream.

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Minutes of the Cabinet

26 November 2024

-: Present :-

Councillor David Thomas (Chairman)

Councillors Billings, Bye, Jacqueline Thomas and Tyerman

(Also in attendance: Councillors Chris Lewis (virtual), Carter (virtual), Cowell, Foster, Johns (virtual), Law, Long, Maddison (virtual) and Spacagna (virtual))

51. Apologies

An apology for absence was received from Councillor Tranter. Councillor Chris Lewis was also gave an apology for absence from the physical meeting room, however Councillor Chris Lewis was present in the virtual meeting room from where he contributed to the meeting but was not part of the decision making process.

52. Minutes

The Minutes of the meeting of the Cabinet held on 15 October 2024 were confirmed as a correct record and signed by the Chairman.

53. Disclosure of Interests

No interests were declared.

54. Matters for Consideration

The Cabinet considered the following matters, full details of which (including the Cabinet's decisions and recommendations to Council) are set out in the Record of Decisions appended to these Minutes.

55. Revenue and Capital Budget 2025-2026 Launch for Consultation

56. Review of Council Tax Support Scheme for 2025/2026

57. Budget Monitoring 2024/25 - April to September 2024 Revenue and Capital Outturn Forecast

58. Paignton Picture House

Having given prior notice to the Leader of the Council, Councillor Billings left the meeting during consideration of this item.

59. **Strand Redevelopment - Land Assembly**
60. **Homelessness and Rough Sleeping Strategy**
61. **Gambling Act 2005 - Statement of Principles (Gambling Policy) 2025 - 2028**
62. **Review of Parliamentary Polling Districts, Polling Places and Polling Stations 2024**
63. **Response to Notice of Motion: Review of Torbay Sensory Services**
64. **Events Strategy - Report of the Overview and Scrutiny Board**
65. **Support for Young People - Report of the Children and Young People's Overview and Scrutiny Sub-Board**
66. **Notice of Motion - Torbay Airshow Working Party**
67. **Notice of Motion - Winter Fuel Payments**

Chairman

Record of Decisions

Revenue and Capital Budget 2025/2026

Decision Taker

Cabinet on 26 November 2024.

Decision

1. that the budget proposals for 2025/26 are launched for consultation running until midnight on 12 January 2025 and that the Overview and Scrutiny Board be asked to provide feedback as part of that consultation;
2. that the Chief Finance Officer be given authority to amend these budget proposals for any technical adjustments necessary between services and within the overall envelope of funding in agreement with the Leader of the Council;
3. that, should the Local Government Finance Settlement due to be announced in December 2024 materially affect the proposed budget proposals, the Director of Finance be requested to present an update report to the Overview and Scrutiny Board and Cabinet in January 2025; and
4. that the Chief Finance Officer report to the meeting of the Cabinet on 18 February 2025 on the implications for 2025/2026 as a result of these proposals currently being considered and the consultation results, in light of the final settlement which is expected by early February 2025.

Reason for the Decision

To enable the consultation process on the proposed Revenue Budget and Capital Plan for 2025/2026 to begin.

Implementation

This decision to publish the draft revenue budget and the savings proposals will come into force immediately, so as to commence the formal consultation process on the budget.

Information

The Cabinet has announced their provisional revenue and capital budget including proposals for service change, income generation and efficiencies for 2025/2026 (as available at [Agenda for Cabinet on Tuesday, 26 November 2024, 5.30 pm](#)) to enable the consultation process to start. The proposals for investment in services, efficiencies and income generation and development of the budget will support the Council in delivering its ambitions as set out in the Community and Corporate Plan.

The Cabinet wishes to hear the views of all Members of the Council, the Overview and Scrutiny Board and external stakeholders together with specific service users on their proposals before finally recommending a budget to the Council in February 2025. Councillor Tyerman proposed and Councillor David Thomas seconded a motion, as set out above, which was agreed unanimously by the Cabinet.

Alternative Options considered and rejected at the time of the decision

Alternative options were not considered.

Is this a Key Decision?

Yes

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Review of Council Tax Support Scheme 2025/26

Decision Taker

Cabinet on 26 November 2024.

Decision

That the Council be recommended to amend the Council Tax Support Scheme for 2025/26 as follows:

1. the self-employed minimum income floor calculation for households that are not receiving Universal Credit and have a disability, or caring responsibility is removed and is based on the actual income received;
2. discounting any compensation payments made by the Post Office in connection with the failings of the Horizon system;
3. discounting any additional settlement payments resulting from the ongoing Grenfell Tower related civil litigation;
4. discounting any payments for the Vaccine Damage Payment Scheme;
5. discounting payments for Victims of Terrorist Attacks Abroad; and
6. the income band with the highest level of discount is increased by the September 2024 Consumer Price Index rate, at 1.7%.

That subject to 1. to 6. above the Cabinet:

7. notes that the amendments in 1 to 6 above will affect all working age households in Torbay that will receive a Council Tax Reduction from 1 April 2025;

(Pension Age households will not be affected as they are part of the national scheme, set by the Government.)

8. notes that the Exceptional Hardship Fund will continue at £100,000;
9. that delegated authority be given to the Director of Finance, in consultation with the Cabinet Member for Housing and Finance, to make any further adjustments required to the Exceptional Hardship Policy and Fund and the Vulnerable policy; and
10. notes that when deciding claims for Council Tax Support and Housing Benefit, the Social Security Administration Act 1992 section 134(8)(b) and 139(6)(b) provides Local Authorities with the discretion to increase the amount of war pension it disregards. Local Authorities can introduce a local scheme to fully disregard War Widow's/Widower's Pension or War Disablement Pension remaining after the mandatory disregards have been applied.

Torbay has fully disregarded this type of income and military compensation payments for

many years and for that reason would like to remind Members of this arrangement when considering the renewal of the 2025/26 Council Tax Support scheme.

It also provides clarity that Members will continue to support this arrangement, should it be required for the annual Housing Benefit audit certification process.

Reason for the Decision

The Local Government Finance Act 2012 requires that the Council Tax Support scheme is reviewed annually and where a Council proposes changes to its scheme it must consult on the changes. The Council must approve the scheme for the financial year 2025/26, before 11 March 2025.

Implementation

The decisions in respect of 1 to 6 above will be considered at the Council meeting on 5 December 2024. The decision in respect of 9 above will come into force and may be implemented on 9 December 2024 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

Council Tax Support is a discount that reduces the amount of Council Tax to pay for households that have a low income. The Local Government Finance Act 2012 requires that the Council Tax Support scheme is reviewed annually and where a Council proposes changes to its scheme it must consult on the changes.

The Council must approve the scheme for the financial year 2025/26, before 11 March 2025.

At the meeting Councillor Tyerman proposed and Councillor David Thomas seconded a motion that agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

An alternative option would have been to leave the current scheme unchanged which would have resulted in a lower level of discount.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

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Record of Decisions

Budget Monitoring 2024/25 - April to September 2024 Revenue and Capital Outturn Forecast

Decision Taker

Cabinet on 26 November 2024.

Decision

That the Cabinet notes the forecasted revenue outturn position and amendments made to the published 2024/25 Capital Investment Plan; and recommends to Council:

1. that Council approves the revisions to the Capital Investment Plan, as set out in Appendix 1 to the submitted report;
2. that Council delegates authority to approve capital budget increases which are in respect of the drawdown of specific grant to the Director of Finance (S151 Officer) in consultation with the Cabinet Member for Housing and Finance; and

(This delegation applies to using grant funding where there is no direct financial impact or future liability to the Council.)

3. that the Monitoring Officer be requested to update the Officer Scheme of Delegation to reflect the delegation in 2 above.

Reason for the Decision

To ensure the Council operates in a prudent manner and works to maintain a balanced budget.

Implementation

The Cabinet's recommendations will be considered at the Council meeting on 5 December 2024.

Information

The Budget Monitoring 2024/25 report set out a high-level budget summary of the Council's revenue and capital position for the financial year 2024/25, reviewing budgets and considering year-end forecasts. These forecasts were based upon the levels of spend and financial information at the end of quarter two (up to 30 September 2024).

At the meeting, Councillor Tyerman proposed and Councillor Bye seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

There were no alternative options considered.

Is this a Key Decision?

No

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Paignton Picture House

Decision Taker

Cabinet on 26 November 2024.

Decision

1. That, subject to Council approval of recommendation 2. below, Cabinet approves:
 - (i) the Council enters into the tripartite agreement with the Arts Council England and the Paignton Picture House Trust, in accordance with the draft agreement as set out at Appendix 2 and subject to (vi) below;
 - (ii) the Council acts as the accountable body for the Delivery Partnership;
 - (iii) the Council indemnifies the Paignton Picture House Trust that the project will be delivered with reasonable skill and care and provides a clear and agreed mechanism for the Paignton Picture House Trust to have oversight of any decision the Council makes in executing the project including the right to dispute decisions through a defined escalation process of adjudication and arbitration;
 - (iv) the Council requires a charge to be made on the freehold title of the Paignton Picture House under the same terms as that required by the Art Council England but for a period of 20 years;
 - (v) the formalisation of the Delivery Partnership by the creation of a Project Delivery Board with Terms of Reference negotiated with the Paignton Picture House Trust and the Arts Council England that reflects the delivery requirements of (i, ii, iii); and

The Project Governance Structure under the Project Delivery Board to include:

- a) Ensure the Council has oversight of all expenditure associated with the project where the Council's underwriting risk is exposed.
 - b) That the Council has the ultimate authority to approve, review and reject payments to all contractors, suppliers and the Trust, necessary to deliver the project.
 - (vi) that the actions necessary to facilitate the agreements in (i, ii, iii, iv, v) through negotiation with the Paignton Picture House Trust and the Arts Council, and the wider supply chain, are delegated to the Director of Regeneration, in consultation with the Cabinet Member for Place Development and Economic Growth, the Director of Finance and the Monitoring Officer, and signed/in consultation with the Council's Statutory Officers as the nature of each agreement or action requires by the Council's Constitution.
2. That Cabinet recommend to Council the following:
 - (i) that an additional £900,000 be allocated from the Future High Street Fund to delivery of the Paignton Picture House project and

- (ii) that the Council underwrites the delivery of the project up to a maximum of £1.6m, to be funded from unsupported borrowing, if required. The Council will limit the financial liability through robust cost oversight of the project and seek to secure any other applicable funding sources.

Reason for the Decision

The proposals ensured that the project was developed in order to contribute towards meeting the objectives of the Paignton Town Centre Masterplan.

Implementation

The decision in respect of 2 above will be considered at the Council meeting on 5 December 2024. The decision in respect of 1 above will come into force and may be implemented on 9 December 2024 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The freehold of the building was acquired by the Paignton Picture House Trust in 2015 with the intent to regenerate the site and put it back into operation as a film and arts centre.

The surrounding area has seen falling property values in immediate and adjacent areas that have been recorded since 2008 and change was required to reuse the buildings to provide catalytic regeneration to the centre part of Paignton along with Station Square and Crossways redevelopment.

To deliver the full restoration of the Paignton Picture House as part of the regeneration of Paignton Town Centre, a tripartite partnership between Torbay Council, the Arts Council England and the Paignton Picture House Trust was required.

At the meeting Councillor David Thomas proposed and Councillor Jackie Thomas seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

- To do nothing; this option was discounted due to the risk that the grant funding already secured was time limited and without it the building would remain unrestored and continue to be listed on Historic England's, Heritage at Risk Register.
- For the Council to grant fund only, this option was discounted as the Arts Council England required evidence that the whole scheme was funded including the currently pledged but unsecured funding contributions.
- To underwrite the costs of the scheme and for the Council to take the Capital Cost Risk, this was the preferred option and was considered the best option that would give security to all funders that the scheme would be delivered as required by the Listing Building Consent. This option would also ensure that £5m of external grant funding was secured for the Project and the regeneration of Paignton Town Centre.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

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Record of Decisions

Strand Redevelopment - Land Assembly

Decision Taker

Cabinet on 26 November 2024.

Decision

1. That Cabinet recommend to Council the following:
 - (i) that delegated authority be given to the Director of Regeneration to continue negotiations with the owners of the various properties previously noted fronting The Strand and The Terrace, Torquay and their tenants as edged red in Appendix 1 to the submitted report, and any other land, interests or rights subsequently required in consultation with the Cabinet Member for Place Development and Economic Growth and Section 151 Officer on any Heads of Terms to enable the redevelopment and regeneration of The Strand and The Terrace;
 - (ii) that, having taken into account the options to acquire the various properties fronting The Strand and The Terrace, Torquay, the making of the Compulsory Purchase Order (CPO) for the site be approved in principle under section 226(1)(a) of the Town and Country Planning Act 1990 and section 13 of the Local Government (Miscellaneous Provisions) Act 1976 , as outlined below, for land (as shown edged in red at Appendix 1 to the submitted report) and any other land, interests or rights subsequently required to deliver the redevelopment. The Director of Regeneration, in consultation with the Cabinet Member for Place Development and Economic Growth, be given delegated authority to give effect to this decision, including:
 - (a) the taking of all necessary steps required to secure the making of the CPO and for the subsequent confirmation and implementation of the CPO including the publication and service of all notices, statement of reasons and presentation of the Council's case at public inquiry, if necessary, to secure confirmation of the Compulsory Purchase Order by the Secretary of State;
 - (b) to carry out any surveys on the Order Land and enter as may be required in order to deliver the proposed development by Compulsory Purchase Order(s) which the Council is authorised to carry out either by consent of the relevant landowner or under section 172 to 179 of the Housing and Planning Act 2016;
 - (c) to enter into agreement(s) with any person or body to secure the withdrawal of objections to the Compulsory Purchase Order(s) and/or to negotiate and agree terms for the acquisition by agreement of any land, interests or rights as may be required for the scheme; and
 - (d) to pay all necessary compensation either as agreed or as determined by the Lands Chamber of the Upper Tribunal in relation to the acquisition of land and other interests or for the overriding or acquisition of rights; and
 - (iii) that Council delegate to the Chief Finance Officer, in consultation with the Cabinet Member for Housing and Finance, the approval of the expenditure of monies (including by prudential borrowing if necessary) required to cover the acquisition of the

land at various properties fronting The Strand and The Terrace identified red on the plan attached at Appendix 1 to the submitted report, and any land, interests or rights as may be required for the scheme, either by agreement or by CPO, on the basis that there continues to be a clear business case for the redevelopment of the area, which demonstrates how the monies are to be used, and how any prudential borrowing (if necessary) is to be repaid.

Reason for the Decision

Change was required to repurpose the land and buildings to provide catalytic regeneration to the Harbour area of Torquay Town Centre. Whilst every effort would be made to conclude the acquisition of the various properties by negotiation, the success of the negotiation process was not guaranteed and therefore a backstop position of a Compulsory Purchase Order (CPO) was needed to ensure that the properties could be acquired.

Implementation

The Cabinet's recommendation will be considered at the Council meeting on 5 December 2024.

Information

As a part of delivering against the Torquay Town Centre Masterplan a Business Case for the redevelopment of Debenhams (12-14 The Strand) was recommended at Cabinet in May 2022 to be progressed to a Planning Application/Consent. The current feasibility proposals required the acquisition of various properties fronting The Strand in addition to 10a,10, 12-14 The Strand (which was acquired in 2020). Negotiation with the owners of these various properties for their purchase were ongoing and at varying stages of progress. Every effort would be made to conclude the acquisition of the various properties by negotiation, but the success of the negotiation process is not guaranteed and therefore a backstop position of a Compulsory Purchase Order (CPO) was needed to ensure that the properties could be acquired.

At the meeting Councillor David Thomas proposed and Councillor Bye seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

The option to acquire the identified land necessary for the redevelopment by negotiation was being pursued. However not pursuing acquisition via CPO if necessary, could result in non-viability and hence non-delivery of the preferred scheme.

Is this a Key Decision?

No

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

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Record of Decisions

Homelessness and Rough Sleeping Strategy

Decision Taker

Cabinet on 26 November 2024.

Decision

That the Cabinet recommends to Council:

That following the results of the consultation, the Torbay Homelessness and Rough Strategy 2024-2030, as set out in Appendix 1 to the submitted report, be approved.

Reason for the Decision

The Strategy was a legal requirement for the Council to publish a strategy informed by a homeless review of its area, at least every 5 years. Furthermore, the Strategy would better inform our communities, stakeholders and Members about what the Council and its partners were doing about local homelessness priorities and issues.

Implementation

The Cabinet's recommendation will be considered at the Council meeting on 5 December 2024.

Information

The Homelessness and Rough Sleeping Strategy was the over-arching strategy that focused on the activities to address homeless in Torbay. It provided the context for other plans, policies and strategies, such as the Housing Strategy and the Domestic Abuse and Sexual Violence Strategy.

The current Strategy was produced before the pandemic, there had since been significant changes within the landscape of housing and homelessness. As such the document reflects the current needs within Torbay and the housing market.

An evidence review was undertaken to support the development of the Strategy resulting in the Strategy being more focused and succinct.

At the meeting Councillor David Thomas proposed and Councillor Tyerman seconded a motion that was unanimously agreed by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

As a result of consultation with the public, partners and stakeholders the Council had taken on a number of comments and suggestions, amending the Strategy accordingly.

Is this a Key Decision?

Yes

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Statement of Principles (Gambling Policy) 2025-2028

Decision Taker

Cabinet on 26 November 2024.

Decision

That Cabinet recommends to Council:

That the Gambling Statement of Principles 2025 to 2028, as set out in Appendix 2 to the submitted report be adopted with effect from 31 January 2025.

Reason for the Decision

It is a statutory requirement, as prescribed under Section 349 of the Gambling Act 2005, for the Licensing Authority to publish a Statement of Gambling Principles and to review and re-publish the same, every three years.

Implementation

The Cabinet's recommendation will be considered at the Council meeting on 5 December 2024.

Information

Torbay Council has a statutory responsibility under Section 349 of the Gambling Act 2005 (the Act) to review, consult and to re-publish its Licensing Statement of Principles (Gambling Policy) before each successive three-year period. The published document provides the framework for all decisions on applications relating to the Gambling Act 2005 and the way the Council carries out its functions in relation to the legislation.

At the meeting Councillor David Thomas proposed and Councillor Jackie Thomas seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

There were no other options considered, as the review of the Statement of Principles was a statutory requirement under the Gambling Act 2005 and the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (SI 2006/636).

Is this a Key Decision?

Yes

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Review of Parliamentary Polling Districts, Polling Places and Polling Stations 2024

Decision Taker

Cabinet on 26 November 2024.

Decision

That Cabinet recommends to Council:

1. that the revised polling district and polling station scheme, as set out at Appendix 1 to the submitted report, be approved; and
2. that delegation be given to the Returning Officer to make any amendments to the scheme which may be required to facilitate the running of elections.

Reason for the Decision

Under the Representation of the People Act 1983, the Council has a duty to conduct a review of its Parliamentary polling districts, polling places and polling stations at least once every five years.

Implementation

The Cabinet's recommendation will be considered at the Council meeting on 5 December 2024.

Information

Under the Representation of the People Act 1983, Torbay Council ("the Council") has a duty to divide its area into polling districts and to designate a polling place for each district. The Electoral Administration Act 2006, as amended, introduced a duty on all local authorities in Great Britain to review their polling districts and polling places at least once every five years. The Council's compulsory review must be undertaken within a 16-month window between 1 October 2023 and 31 January 2025. Whilst there were minimal changes to the existing scheme, changes had been made to existing polling stations as a result of consultation feedback, where they were no longer available, or a more suitable location had been identified.

At the meeting Councillor Jackie Thomas proposed and Councillor Tyerman seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

The options considered were:

- Consider the Returning Officer's recommendations for polling districts, polling places and polling stations – the preferred option.
- Identify alternative polling places and polling stations – this option was not recommended as alternative venues need to be fully assessed for accessibility and suitability.

Is this a Key Decision?

No

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Response to Notice of Motion: Review of Torbay Sensory Services

Decision Taker

Cabinet on 26 November 2024.

Decision

That the Cabinet give thanks to the Sensory Team for their work in Torbay and note the submitted report.

Reason for the Decision

To respond to the Notice of Motion submitted to the Cabinet on 13th February 2024, regarding Vision Rehabilitation Services.

Implementation

This decision will come into force and may be implemented on 9 December 2024 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

At its meeting on 13 February 2024, the Cabinet considered a Notice of Motion regarding Vision Rehabilitation Services. Consequently, the Director of Adult and Community Services was requested to ask the Torbay and South Devon NHS Foundation Trust to undertake an evidence-based review of social care rehabilitation, including undertaking engagement with people with visual impairments, together with input from the Directors of Public Health and Children's Services. The review had subsequently been completed for consideration by the Cabinet.

At the meeting Councillor Bye proposed and Councillor David Thomas seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

There were no alternative options considered.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Events Strategy - Report of the Overview and Scrutiny Board

Decision Taker

Cabinet on 26 November 2024.

Decision

That the Cabinet's response to the Events Strategy – Report of the Overview and Scrutiny be approved as published.

Reason for the Decision

The Cabinet was required to respond to the findings of the Overview and Scrutiny Board.

Implementation

This decision will come into force and may be implemented on 9 December 2024 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The Cabinet received the report of the Overview and Scrutiny Board on the Events Strategy. In accordance with section D7 of Standing Orders in relation to Overview and Scrutiny as set out in the Constitution, the Cabinet was required to respond to the recommendations of the Overview and Scrutiny Board within two months. Subsequently the Cabinet prepared a response to the recommendations of the Overview and Scrutiny Board which was proposed by Councillor Jackie Thomas and seconded by Councillor Bye and agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Support for Young People - Report of the Children and Young People's Overview and Scrutiny Sub-Board

Decision Taker

Cabinet on 26 November 2024.

Decision

That the Cabinet's response to the Support for Young People – Report of the Overview and Scrutiny be approved as published.

Reason for the Decision

The Cabinet was required to respond to the findings of the Overview and Scrutiny Board.

Implementation

This decision will come into force and may be implemented on 9 December 2024 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The Cabinet received the report of the Overview and Scrutiny Board on support for young people. In accordance with section D7 of Standing Orders in relation to Overview and Scrutiny as set out in the Constitution, the Cabinet was required to respond to the recommendations of the Overview and Scrutiny Board within two months. Subsequently the Cabinet prepared a response to the recommendations of the Overview and Scrutiny Board which was proposed by Councillor Bye and seconded by Councillor David Thomas and agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Notice of Motion - Torbay Airshow Working Party

Decision Taker

Cabinet on 26 November 2024.

Decision

That the Notice of Motion in respect of Torbay Airshow Working Party be rejected.

Reason for the Decision

To respond to the Motion in respect of the establishment of a working party for the airshow.

Implementation

This decision will come into force and may be implemented on 9 December 2024 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The Cabinet considered a motion in relation to the establishment of Torbay Airshow Working Party, notice of which was given in accordance with Standing Order A14.

The Cabinet provided the following response:

Members will recall that at the Cabinet meeting on 20 August 2024, Cabinet approved the formation of a number of working parties after careful consideration of the Council's priorities and resources. The Airshow Working Party was one that was not appointed. The Cabinet was very mindful that the Council successfully organises a number of major Council events such as Remembrance Sunday and the Bay of Lights without the need for a Member working party. The Torbay Airshow has taken place for a significant number of years with lessons learnt along the way, it is recognised that the Torbay Airshow is a major event for the Events Team and a Member Working Party is a diversion of officer resources away from the actual event itself, furthermore, in the latter years it is hard to identify where the former Airshow Working Party provided added value to warrant its continued appointment.

Our Events Team are experienced officers at delivering major events and will ensure when necessary that all Members are briefed and updated at crucial points in the planning process for the Torbay Airshow and all other major Council events. The Events Team spends time meeting with its key partner English Riviera Business Improvement District (ERBID) Company to discuss Airshow Marketing each month to ensure a robust programme of national and local promotions, and another monthly meeting as of January with other community and key event partners to discuss the mechanics of the airshow, and how these groups can deliver it. The airshow came in under budget last year, and unless this is likely to be different next year, which is not forecast at present, it is unlikely that there is need for additional Member scrutiny.

Should Members have any ideas or suggestions to enhance any Council event they were encouraged to email the Cabinet Member for Tourism, Events & Culture and Corporate Services or the Divisional Director for Culture and Events.

In light of the above, Councillor Jackie Thomas proposed and Councillor Bye seconded a motion that was agreed unanimously, as set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Notice of Motion - Winter Fuel Payments

Decision Taker

Cabinet on 26 November 2024.

Decision

That the Notice of Motion in respect of Winter Fuel Payments be rejected.

Reason for the Decision

To respond to the Motion in respect of Winter Fuel Payments.

Implementation

This decision will come into force and may be implemented on 9 December 2024 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The Cabinet considered a motion in relation to winter fuel payments, notice of which was given in accordance with Standing Order A14.

The Cabinet provided the following response:

The Cabinet was shocked that the Labour Government withdrew the universal winter fuel payment and set the eligibility criteria as pension credit. It is shocking that a number of pensioners have lost that support at a time when bills are going up. As a Council we are already taking a significant step to plug the gap to ensure payments go to all those in receipt of pension credit. The Council is also awarding payment to those who are in receipt of Council Tax Support without them having to claim pension credit. The Cabinet realise that they may not be reaching all that may be entitled to receive pension credit but have not claimed, however the Council is trying to reach out through communications and social media, working with voluntary sector and at our Hub in Paignton and provide assistance with submitting claims. The Council has also publicised the need to claim pension credit on its website and the Lead Cabinet Member has asked for the content to be reviewed and strengthened where possible. Furthermore, the Council will be writing to pensioners who receive Council Tax Support to encourage those entitled to claim Pension Credit.

The Cabinet was concerned that the motion was asking Officers to undertake activities that that they were already undertaking as part of their operational duties. The Cabinet don't believe that a motion has to be submitted to them in order for Officers to take action on operational matters. The Cabinet thanked the promoter and supporter for bringing forward the motion and welcomes suggestions on how the Council can do things in a different way, but requested these suggestions to be brought to them as individual Cabinet Members rather than formal motions directing Officers to do their job. Therefore, the Cabinet does not accept the motion but confirms that the Cabinet will continue to work with the Director of Adult and Community Services, Officers and voluntary sector partners to encourage and assist residents to claim all benefits they may be entitled to.

In light of the above, Councillor Tyerman proposed and Councillor David Thomas seconded a motion that was agreed unanimously, as set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

29 November 2024

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Meeting: Cabinet **Date:** 26 November 2024

Wards affected: All

Report Title: Commercial Policy

When does the decision need to be implemented?

Cabinet Member Contact Details Councillor Alan Tyerman, Cabinet Member for Housing and Finance, alan.tyerman@torbay.gov.uk

Director Contact Details: Malcolm Coe, Director of Finance, malcolm.coe@torbay.gov.uk

1. Purpose of Report

1.1 The purpose of the report is to obtain Cabinet approval to implement the proposed Commercial Policy, which sets out how the Council's Contract Procedures will be implemented.

2. Reason for Proposal and its benefits

2.1 The proposals in this report help us to deliver the ambitions within the Community and Corporate Plan by ensuring the priorities within the plan are considered within all procurement processes.

2.2 Procurement and Contract Management activities are vital for enabling the Council to meet its strategic objectives and operational needs whilst gaining best value for money in delivering services for our residents and communities.

2.3 The proposed Commercial Policy sets out how Council Contract Procedures will be implemented and will be underpinned by a wider framework of guidance and training for Officers. An example of the type of guidance which will sit below this Policy, is provided at Appendix 2 – Financial Checks Guide.

2.4 The Commercial Policy also sets out the strategic and operational responsibilities of Council Officers to ensure:

- a) the Council's approach to procurement and contract management is fair, open and transparent; and
- b) the effectiveness and efficiency of Procurement and Contract Management activities.

2.5 The Policy also addresses the recommendations made by the Devon Audit Partnership (DAP) following a review of the Torbay Food and Music Festival. Appendix 3 - Addressing

DAP recommendations. In view of this audit the Commercial Policy was taken to Overview and Scrutiny Board on 02/10/2024 for their consideration and recommendations to Cabinet. The Board welcomed the Commercial Policy and acknowledged the recommendations raised by Devon Audit Partnership had been addressed in the Commercial Policy and lessons had been learned.

- 2.6 The reasons for the decision are to enable to the Policy to be implemented and underpinning guidance and training to be put in place to support delivery of Council priorities and statutory obligations.

3. Recommendation(s) / Proposed Decision

1. To approve the implementation of the Commercial Policy as set out at Appendix 1.

Appendices

Appendix 1: Commercial Policy

Appendix 2: Financial Checks Guide

Appendix 3 – Addressing DAP Recommendations

Background Documents

[Financial Regulations and Contract Procedures – Torbay Council Constitution](#)

1. Introduction

- 1.1 The Council does not currently have a Commercial Policy to implement the revised Contract Procedures put in place on 01 April 2024, the Health Care Services (Provider Selection Regime) Regulations 2023, the Procurement Act 2023 and any associated secondary legislation.
- 1.2 The benefits of the Commercial Policy are:
- a) to provide clarity to Officers on the accountability and responsibilities placed on them in relation to external spend on behalf of the Council;
 - b) to ensure a consistent approach to commercial activities to better enable local suppliers to compete for Council contracts;
 - c) delivering local and national priorities set out in the National Procurement Policy Statement and Community and Corporate Plan.
 - d) mitigating the risk of legal challenge or complaint about poor procurement practice and non-compliance with primary and secondary legislation.
- 1.3 The Commercial Policy will provide a framework for ensuring the Council gives regard to the following procurement principles:
- e) delivering value for money;
 - f) maximising public benefit;
 - g) working transparently and sharing information where appropriate;
 - h) acting with, and being seen to act with, integrity;
 - i) treating Suppliers the same unless a difference between the Suppliers justifies different treatment;
 - j) giving regard to the fact that small and medium enterprises (SMEs) may face particular barriers to participation;
 - k) securing the needs of people who use services, improving the quality of services and improving efficiency in the provision of services.

2. Options under consideration

- 2.1 The only alternative option is to not put a Commercial Policy in place.
- 2.2 This alternative is not part of the proposal, as Contract Procedures states that there is a Commercial Policy and the purpose of which is to provide more detail on how Contract Procedures will be implemented and adhered to.

3. Financial Opportunities and Implications

- 3.1 The financial benefits of the Commercial Policy are:
- a) Ensuring contracts are awarded based on the most advantageous tender, thereby delivery best value;

- b) Reducing the risk of financial penalties or fines being imposed on the Council as a result on non-compliance with legislation

3.2 There are no direct resource implications.

4. Legal Implications

4.1 The Commercial Policy will enable the Council to meet the following statutory obligations and other requirements:

- a) the World Trade Organisation Agreement on Government Procurement (GPA), which takes precedence over national procurement regulations and legislation;
- b) the Procurement Act 2023, the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR), the Public Contract Regulations 2015, the Concession Contract Regulations 2016 and Utilities Contract Regulations 2016 (collectively the Regulations) which, where they apply, take precedence over local procurement considerations;
- c) other applicable primary or secondary legislation .
- d) best practice and national guidance, including government Procurement Policy Notes (PPNs) and Procurement Playbooks; the National Procurement Policy Statement, National Procurement Strategy for Local Government in England and relevant case law.

5. Engagement and Consultation

5.1 Engagement and consultation was undertaken as part of the development of Contract Procedures. As this Policy relates to implementation of those procedures, further consultation was not considered necessary.

5.2 Officers are being engaged and consulted on the training and guidance which will be in place to ensure Officers understanding of their obligations in relation to complying with both Contract Procedures and the Commercial Policy. This is being led by a group of procurement and contract management champions.

5.3 Once the Policy is in place, Commercial Services will engage suppliers on the changes and consult them on the development of new tender documents and guidance on how to do business with the Council.

6. Procurement Implications

6.1 The Commercial Policy sets out the rules for Officers in relation to how Social Value and other benefits, including sustainability, equality, diversity and inclusion, climate impact, local employment and training opportunities, wider Council priorities and opportunities for local suppliers are addressed within procurement processes and resultant contracts.

6.2 The Commercial Policy references and underpins the Council's Social Value policy.

7. Protecting our naturally inspiring Bay and tackling Climate Change

- 7.1 The Commercial Policy will be supported by guidance and training in relation to building sustainability requirements into procurement processes and contracts to establish how Council suppliers are tackling the climate emergency when delivering Council contracts.

8. Associated Risks

- 8.1 The risk if the Commercial Policy is not implemented is non-compliance with statutory obligations, securing best value and lack of regard for any added value or benefits that can be derived from Council contracts.
- 8.2 There are no risks associated with implementing the Commercial Policy.

9. Equality Impact Assessment

The impact will be seen on a contract-by-contract basis and the Commercial Policy, together with its associated guidance, will ensure Officers give due regard at the procurement planning stage of the impact of the proposed contract.

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age Page 44	18 per cent of Torbay residents are under 18 years old. 55 per cent of Torbay residents are aged between 18 to 64 years old. 27 per cent of Torbay residents are aged 65 and older.			There is no differential impact directly related to the policy itself.
Carers	At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.			There is no differential impact directly related to the policy itself.
Disability	In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by			There is no differential impact directly related to the policy itself.

	a physical or mental health condition or illness.			
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.			There is no differential impact directly related to the policy itself.
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.			There is no differential impact directly related to the policy itself.
Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.			There is no differential impact directly related to the policy itself.
Race	In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority			There is no differential impact directly related to the policy itself.

	ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.			
Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.			There is no differential impact directly related to the policy itself.
Sex	51.3% of Torbay's population are female and 48.7% are male			There is no differential impact directly related to the policy itself.
Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.			There is no differential impact directly related to the policy itself.
Armed Forces Community	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously served in the UK armed forces.			There is no differential impact directly related to the policy itself.
Additional considerations				

Socio-economic impacts (Including impacts on child poverty and deprivation)				There is no differential impact directly related to the policy itself.
Public Health impacts (Including impacts on the general health of the population of Torbay)				There is no differential impact directly related to the policy itself.
Human Rights impacts				There is no differential impact directly related to the policy itself.
Child Friendly	Torbay Council is a Child Friendly Council, and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.			There is no differential impact directly related to the policy itself.

10. Cumulative Council Impact

10.1 None.

11. Cumulative Community Impact

11.1 None.

Commercial Policy

[Date]

This document can be made available in other languages and formats.
For more information, please contact commercial.services@torbay.gov.uk

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Document Control

Organisation	Torbay Council
Title	Commercial Policy
Owner	Commercial Services
Review Due Date	

Amendment History

Revision No.	Name	Date	Description
0.1		16/08/2024	Draft
0.2		20/09/2024	Submission to O&S
0.3		03/10/2024	Submission to Cabinet
0.4		11/11/2024	Updated submission to Cabinet

A Introduction

The first time a defined term is used in this Policy the term contains a link to the definition within section I [Definitions](#). These terms are [underlined in blue text](#). Clicking on the term within section I [Definitions](#) will return to the section in which the term is first used. Any other links within the document are denoted by [blue text](#).

A1 Statement of Purpose

- A1.1 The [contracting authority](#) for this Policy is Torbay Council (the [Council](#)) or any [Council controlled company](#) acting on behalf of the Council or acting its own right where the company is deemed, for procurement purposes, to be a public authority.
- A1.2 [Procurement](#) and [contract management](#) activities are vital for enabling the Council to meet its strategic objectives and operational needs whilst gaining best value for money in delivering services for our residents and communities.
- A1.3 This Policy sets out how [Contract Procedures](#) will be implemented and is underpinned by a wider framework of guidance and training for officers.
- A1.4 The purpose of this Policy is to set out the strategic and operational responsibilities of Council officers to ensure:
- a) the approach to procurement and contract management is fair, open and transparent; and
 - b) the effectiveness and efficiency of procurement and contract management activities.

A2 Commercial Activity Definition

- A2.1 Commercial Activity is defined within this Policy as any activity undertaken as part of procurement or contract management.

Procurement

- A2.2 Procurement is the process of acquiring [goods](#), [services](#), or [works](#) from external sources through a systematic and strategic approach. It involves identifying needs, specifying requirements, assessing [suppliers](#) and negotiating [contracts](#) to ensure that the Council obtains the best value for its expenditures while maintaining compliance with legal and regulatory requirements.

Contract Management

- A2.3 Contract management is the mechanism by which the Council can ensure it is receiving the goods, services, or works that it has procured, on time, at the agreed price and at the requisite quality and enables all parties to the contract to ensure their respective obligations are being met.
- A2.4 Effective contract management involves building and maintaining strong working relationships between the Council and its suppliers. It continues throughout the life of a contract and involves proactive management to anticipate future needs as well as reacting to situations that arise.

A3 Commercial Activity Principles

- A3.1 When undertaking Commercial Activity officers must give regard to the following principles:
- delivering value for money;
 - maximising public benefit;
 - working transparently and sharing information where appropriate;
 - acting with, and being seen to act with, integrity;
 - treating suppliers the same unless a difference between the suppliers justifies different treatment;
 - giving regard to the fact that [small and medium enterprises \(SMEs\)](#) may face particular barriers to [participation](#); and
 - securing the needs of people who use services, improving the quality of services and improving efficiency in the provision of services.

A4 Extent and Application

- A4.1 This Policy applies to:
- any officer, or Agent of the Council undertaking any Commercial Activity on behalf of the Council;
 - all external expenditure regardless of the funding source; and
 - devolved expenditure.
- A4.2 Such activities may include (but are not limited to):
- contracts for goods, services and works, including spot purchased, ad-hoc or one-off requirements;
 - expenditure of third-party funding;
 - contracts for Services and Works [concessions](#);
 - disposal of assets or awarding of leases and development agreements where it becomes a procurement as defined in section 9 of the Financial Regulations or under the [Regulations](#);
 - collaborative contracts; and
 - expenditure devolved to a third party contracting in the Council's name.

A5 Governing Legislation

- A5.1 This Policy is governed by:
- the [World Trade Organisation Agreement on Government Procurement \(GPA\)](#), which takes precedence over national procurement regulations and legislation;
 - the [Procurement Act 2023](#), the [Health Care Services \(Provider Selection Regime\) Regulations 2023 \(PSR\)](#), the [Public Contract Regulations 2015](#), the [Concession Contract Regulations 2016](#) and [Utilities Contract Regulations 2016](#) (collectively the Regulations) which, where they apply, take precedence over local procurement considerations; and
 - [other applicable primary or secondary legislation and regulations](#).
- A5.2 In implementing this Policy the Council will give due regard to best practice and national guidance, including government [Procurement Policy Notes \(PPNs\)](#) and [Procurement Playbooks](#); the [National Procurement Policy Statement](#), [National Procurement Strategy for Local Government in England](#) and relevant case law.

Debarment and Exclusion

- A5.3 A [debarment list](#) has been introduced under the Procurement Act 2023, this is a list of suppliers the government consider should be excluded from or are excludable from being awarded [above threshold](#) public contracts. Exclusion can apply to suppliers, sub-contractors, [associated persons](#) and [connected persons](#). In the case of sub-contractor exclusion the supplier must be given reasonable opportunity to find an alternative sub-contractor.
- A5.4 The Council has a legal duty to ensure [excluded suppliers](#) are not able to participate in [procurement procedures](#) and to establish whether it is appropriate to allow [excludable suppliers](#) to participate. The Debarment List must be checked at all stages of a procurement procedure and over the term of the contract to verify the status of participating or contracted suppliers.
- A5.5 The Council must exclude suppliers who are on the debarment list where the [exclusion ground](#) is mandatory and has discretion whether to exclude a supplier if the exclusion ground is discretionary.
- A5.6 It is the responsibility of [Commercial Services](#) to undertake all required checks in relation to the debarment list and take appropriate action. For procurements not directly supported by Commercial Services it is the responsibility of the lead officer to request this check is undertaken by Commercial Services.
- A5.7 Evidence of actions and decisions must be kept in an electronically accessible format alongside details of the relevant supplier.
- A5.8 Further information on excluded and excludable suppliers and mandatory and discretionary exclusions can be found in section I Definitions.
- A5.9 The Council must notify Cabinet Office's Procurement Review Unit (PRU) where a supplier not on the Debarment List is excluded from a procurement for failing to meet a mandatory or discretionary exclusion ground.

A6 Authority to Undertake Commercial Activity

- A6.1 Officers undertaking Commercial Activity must be appropriately trained. As a minimum, they must have completed one or more of the following iLearn modules, as relevant to their role:
- a) Understanding procurement;
 - b) Advanced procurement;
 - c) Advanced contract management.

A7 Conflict of Interest, Confidentiality and Integrity

- A7.1 The Council has a legal duty to maintain the confidentiality and integrity of its procurement activity and to identify and mitigate any actual, potential or perceived conflicts of interest which could be deemed to impact on the outcome or distort competition. This obligation starts when the need for the procurement is first identified and continues until the completion or termination of the contract. Officers must abide by the confidentiality, integrity and [conflict of interest](#) requirements set out in this Policy.
- A7.2 The Council must take all reasonable steps to:
- a) identify and keep under review any conflicts or potential conflicts of interest.

- b) ensure a conflict of interest does not put a supplier at an unfair advantage or disadvantage in relation to the procurement and [award](#) of a public contract. Where a conflict of interest has been identified appropriate mitigations will be put in place by Commercial Services and officers must abide by those mitigations.

A7.3 To maintain the confidentiality and integrity of the procurement, officers:

- a) must exercise impartiality and fairness at all times;
- b) may not discuss or share any “confidential information” other than where it is essential to the discharging of their duties and the recipient(s) of the information is/are subject to the same confidentiality requirements;

This does not prevent officers from complying with legal obligations (for example under FOI), however officers must consult with Commercial Services prior to disclosing any [tender](#) information.

A7.4 The Council will take the following approach to managing confidentiality, integrity and conflict of interest:

- a) The Chief Executive, Directors, Divisional Directors, members of strategic boards (such as Capital and Growth Board) and Commercial Services staff are required to complete an annual declaration of interest and confidentiality statement to confirm they understand and will comply with their obligations in relation to confidentiality, integrity and conflict of interest;
- b) officers and external stakeholders involved in procurement activity are required, on a project-by-project basis, to complete a declaration of interest and confidentiality statement to confirm they understand and will comply with their obligations in relation to confidentiality, integrity and conflict of interest throughout the procurement, including at the outset and prior to the issuing of Tender responses for assessment;
- c) Commercial Services are responsible for issuing declaration of interest and confidentiality statements for procurements they are directly supporting and will maintain a record of the statements issued, any conflicts of interest identified and the mitigations necessary to manage the conflict;
- d) For procurements not directly supported by Commercial Services, individual officers are responsible for identifying whether they have a conflict of interest and reporting any identified conflicts to Commercial Services. Commercial Services will undertake periodic spot checks to ensure this is being complied with.
- e) All officers are responsible for notifying Commercial Services as soon as they become aware of an actual or potential conflict of interest or the inappropriate disclosure of confidential procurement information; and
- f) Where a conflict of interest has been identified or confidential information has been disclosed appropriate mitigations will be put in place by Commercial Services and officers must abide by those mitigations.

A7.5 The Council’s conflict of interest obligation also applies to suppliers. Officers must ensure when engaging with suppliers that they do not do anything which could result in a supplier gaining an unfair advantage due to them having knowledge about the procurement that other suppliers do not have, or that would allow a supplier to have undue influence on decisions made by the Council during the procurement.

A7.6 Officers are also bound by their obligations under the Council’s Employee Code of Conduct and by the Bribery Act 2010.

Gifts and Hospitality

- A7.7 Officers must comply with the Council's Employee Code of Conduct and the Council's Local Protocol on Gifts and Hospitality in their dealings with suppliers.
- A7.8 Officers must not be permitted to accept any gift (where the value is above £25.00) or hospitality, including drinks, meals, entertainment, overnight accommodation, travel and holidays. This does not include a lift in a private or company car, a taxi, or refreshments in the course of their duty.

Information Governance

- A7.9 Officers must comply with the Council's Data Protection Policy when processing personal data and / or sensitive personal data.
- A7.10 Officers must consider any requirements for disclosing information under relevant legislation including the Data Protection Act 2018, the Freedom of Information Act 2000, and the Environmental Information Regulations 2004.

A8 Breach of this Policy

- A8.1 Any non-compliance or breach of this Policy or Contract Procedures must be reported immediately on discovery to Commercial Services. Failure to report any known non-compliance or breach is deemed to be a breach of this Policy.
- A8.2 The following internal actions will be taken to deal with identified breaches of this Policy and / or Contract Procedures:
- a) Commercial Services will establish the financial, legal or other risks the breach may pose to the Council and identify any mitigating actions which the contracting department must put in place to reduce or remove the risk;
 - b) Commercial Services will establish the circumstances which led to the breach and put measures in place within the department or across the Council to prevent reoccurrence. These measures include, but are not limited to, training, communications, amendments to policies, procedures and guidance; and
 - c) where the breach is serious or persistent (i.e. is repeated despite actions taken at step b) Commercial Services will refer the matter to the [Section 151 Officer](#) and [Monitoring Officer](#) who may, in consultation with the relevant Director, recommend disciplinary action be taken in accordance with the Council's Human Resources policies.
- A8.3 In addition to internal measures, the Council will take any action required by an external body, such as the Courts or the Procurement Review Unit, where non-compliance with this policy has led to legal challenge to or external investigation of an individual procurement or the Council's commercial activity.
- A8.4 The consequences to the Council of non-compliance or breach of this Policy are wide ranging and may result in:
- a) damage to the Council's reputation;
 - b) suspension of the procurement process or requirement to retender the contract;
 - c) removal of individual bidders from the process;
 - d) prevention from implementing any decisions made in relation to the outcome of a procurement process, including termination of or a reduction to the term of the contract;
 - e) termination of a procurement process;
 - f) payment of damages or fines;

- g) repayment of grant funding;
- h) exclusion from bidding for grant funding;
- i) criminal prosecution under the Bribery Act;
- j) requirement to change or improve our general commercial behaviours, policies or practices.

B Procurement Planning

B1 Decision Making

- B1.1 The primary decision for any procurement is whether it can proceed. Prior to issuing the tender, written approval to undertake the procurement must be obtained in accordance with the [Officer Scheme of Delegation](#).
- B1.2 Where the value of the contract requires approval at Tier 2 or Tier 3 officers must use the Procurement Report Template rather than the standard Cabinet / Council Report Template.
- B1.3 To enable the Council to meet its legal obligations in relation to transparency of procurement decision making, officers must maintain a written record of all decisions made in relation to external spend.
- B1.4 For contracts awarded under PSR there is a specific decision making process to establish the procurement procedure which officers must follow.

B2 Starting a Procurement

- B2.1 All potential procurements where the [contract value](#) is estimated to exceed £25,000 (excluding VAT) must be raised by an officer to Commercial Services through submission of a [start a procurement \(SAP\)](#) form at the earliest opportunity. This is to ensure there is procurement resource available to support the project and sufficient time to prepare and complete the procurement.
- B2.2 Officers are not required to involve Commercial Services in the procurement of contracts with a value below £25,000 (excluding VAT), but must ensure the procurement is undertaken in accordance with Contract Procedures.

B3 Planning a Procurement

- B3.1 At the outset of the procurement, officers must establish the business need and high level requirements / specification for the contract.
- B3.2 Throughout the procurement planning and tender development stages officers must:
 - a) consider other requirements of the contract, including climate impact, data protection and information security, equality, diversity and inclusion, health and safety, national and Council priorities, social value, sustainability, and [TUPE](#);
 - b) give regard to the fact that SMEs and [Voluntary and Community Sector Enterprises \(VCSEs\)](#) may face particular barriers to participation. Officers must consider whether such barriers can be removed or reduced without putting a supplier at an unfair advantage or disadvantage;
 - c) consider the use of [lots](#) within high value contracts;
 - d) identify key stakeholders required to input into the procurement process and the role they will play, such as drafting the specification, or involvement in tender

assessment. Including internal stakeholders such as IT, Information Governance, Finance, Legal Service, and Planning and external stakeholders such as residents, services users, and key partners;

- e) identify any risks or barriers to the procurement and resultant contract;
- f) calculate the estimated value of the contract; and
- g) consider the timescales for the procurement to ensure there is sufficient time allowed to undertake all of the work required to put the contract in place.

Collaborative Arrangements

- B3.3 Where it is of benefit to the Council, considering any adverse effect on the local economy or voluntary sector, opportunities to collaborate with other public bodies on procurement processes should be sought.
- B3.4 In a joint procurement process, the rules and governance of the leading public organisation must be followed unless agreed otherwise. Where the Council is not the lead body, it must be ensured that the lead body's governance meets the standards of this Policy.

B4 Contract Values

Goods, Services (Excluding Relevant Health Care Services) and Works

- B4.1 Estimating the total value of the contract at the outset of the procurement is essential. This influences the internal approval route, the procurement procedure, and the extent to which the Regulations apply.
- B4.2 Contract values must be calculated excluding VAT; however the [thresholds](#) are inclusive of VAT and this must be considered when determining whether a contract is above threshold or [below threshold](#).
- B4.3 Where the value of the contract cannot be determined the procurement must be assumed to be above threshold for the type of contract being put in place.

Relevant Health Care Services

- B4.4 There are no thresholds associated with contracts put in place under PSR, however it is still essential to establish the estimated value of the contract as this will need to be considered when determining the procurement process to be carried out.
- B4.5 The value of the contract will be used when identifying the [route to market](#) in accordance with the procurement procedure thresholds and procurement options set out in Contract Procedures.

All Contracts

- B4.6 The estimated value of the contract must be the maximum amount the Council could be expected to pay over the whole life of the contract including any extension periods and, where applicable, amounts already paid. Where the contract falls under the Regulations or PSR the method of calculation must be in accordance with that set out in the applicable legislation.
- B4.7 Officers must include any additional income generated by the supplier as a result of the contract being put in place, particularly where there is no direct Council spend.
- B4.8 Officers must not artificially disaggregate (break down into smaller spend levels) spend or potential spend in order to avoid internal governance requirements, undertaking a specific procurement procedure or an above threshold procedure.

B5 Timescales

- B5.1 Officers must ensure sufficient time is allowed for:
- pre-procurement planning activities including preliminary market engagement and consultation;
 - the internal approval process;
 - document development to be completed prior to tender issue;
 - the procurement process itself;
 - tender assessment;
 - contract approval and award;
 - contract signing and implementation; and
 - unforeseen delays at any stage of the process.
- B5.2 The time limit for receipt of above threshold tenders must be set in accordance with the minimum timescales stipulated within the Regulations whilst considering the procurement procedure used, the complexity of the contract, and the length of time required by suppliers to complete their tender.
- B5.3 The time limit for receipt of below threshold tenders must be proportionate to the complexity of the contract and the time required by suppliers to complete their tender.
- B5.4 For the procurement of relevant health care services timescales must be set in accordance with the requirements of PSR.

B6 Risk

Procurement Risk

- B6.1 Submission of the SAP form will be followed by an initial meeting with Commercial Services, who will support the officer to complete a [procurement and contract risk tool](#) to calculate the overall level of risk associated with the contract. The risk score will be used to inform the procurement strategy and route to market.
- B6.2 Officers must identify any potential contractual or delivery risks that need to be addressed within the [tender documents](#) and resultant contract, this will enable the contract to be modified in the event the risk occurs.

Contract Risk Tiering

- B6.3 Any contract with a value exceeding £25,000 (excluding VAT) must be risk assessed using the procurement and contract risk tool to determine the required level of contract management.
- B6.4 Commercial Services must support the [contract manager](#) to determine the [risk tier](#) and the level of contract management and monitoring required based on the value, risk and complexity of the contract.

Risks and Issues

- B6.5 The contract manager is responsible for identifying, measuring, and monitoring risk activities in line with the Council's Risk Management Policy, including any risks identified at tender stage.
- B6.6 Risks and Issues must be accepted by the contract manager and the supplier(s) and must be clearly documented with details of mitigations and actions required by whom.

B6.7 Risks and Issues must be regularly reviewed as part of ongoing contract Review Meetings.

B7 Stakeholders

B7.1 Consideration must be given to whether any consultation is required to take place with residents, service users, partner organisations, or other Council departments who will be affected by, or use, the contract.

B7.2 Where engagement or consultation with external stakeholders, such as residents or people who will use the service, is required this must be undertaken in accordance with Council consultation and communication policies and procedures.

B7.3 Where input into the development of the procurement documents or tender assessment involves stakeholders from external organisations or Service Users, steps must be taken to identify and address conflicts of interest and ensure the confidentiality of any information shared.

B8 Market Research and Preliminary Market Engagement

Market Research

B8.1 Market research involves collecting, analysing, and interpreting data about a product or service. It provides valuable insight into procurement needs and the market that supplies these products or services.

B8.2 Market research should be undertaken to determine the capacity and capability of the market and will inform decision making in relation to whether the requirement is capable of being delivered in house or whether the service needs to be outsourced to the market.

Preliminary Market Engagement

B8.3 The Council actively encourages preliminary market engagement for the purposes of:

- a) testing and informing the procurement strategy (including, where used, design of any competitive flexible procedure) and specification of requirements;
- b) understanding and building the capacity / capability of the market to deliver the requirements;
- c) establishing the most effective route to market;
- d) understanding the local supply market, particularly in relation to below threshold tenders;
- e) informing the [award criteria](#) and [weightings](#) necessary to enable the contract to be awarded on the basis of Most Economically Advantageous Tender;
- f) developing and creating suitable conditions for participation;
- g) establishing appropriate contract terms;
- h) understanding the barriers to participation for SMEs or VCSEs and what can be done to remove or reduce those barriers;
- i) understanding the capacity of the market to respond to the tender, taking into account other authorities tendering for the same thing at a similar time or the impact of legislative changes; and
- j) establishing whether innovation is available within the market that may enable a service or system to be delivered differently and strategically raising awareness of and encouraging participation in the procurement.

- B8.4 Officers must not engage with the market without first seeking advice from Commercial Services. This is to ensure suppliers are not put at an unfair advantage and there is no distortion of competition resulting from preliminary market engagement.
- B8.5 For above threshold tenders under the Procurement Act 2023 the Council must publish a preliminary market engagement notice on the [Central Digital Platform](#) to signal its intention to undertake preliminary market engagement. Officers are responsible for providing the information required within the [notice](#) to enable it to be published by Commercial Services.
- B8.6 Market research and engagement is particularly important for all procurements under PSR as the information gathered can be used to inform and evidence the decision making to establish the appropriate procurement procedure.

Information Sharing

- B8.7 Officers may only share information not deemed to be of a confidential or sensitive nature during preliminary market engagement and stakeholder engagement activities.
- B8.8 When undertaking preliminary market engagement, information may only be shared with the suppliers engaged in the activity where it will not result in a supplier being put at an unfair advantage or disadvantage or in a distortion of competition.

Informing the Procurement Strategy

- B8.9 The information gathered during preliminary market engagement and stakeholder engagement activities must be used to inform the procurement strategy and route to market.

B9 Use of Sub-Contractors

- B9.1 Officers must give regard to:
- the possibility that suppliers may sub-contract elements of service delivery or obtain goods and works through their supply chain;
 - whether the Council has an expectation that specific elements of the contract will be sub-contracted; and
 - consider this within any preliminary market engagement activities.
- B9.2 Officers must consider whether there is a need to restrict how much of the contract can be sub-contracted or whether there are any specific obligations on the supplier to consider local supply chains.

B10 Contracting Strategy

- B10.1 Officers, in consultation with Commercial Services and / or Legal Services, must determine the type of contract that they will use at the start of the procurement process. contract options are covered in sections [D6.1](#) to [D6.11](#) below.
- B10.2 For construction projects, officers should consider whether the use of a single stage procurement process or a 2-stage construction process would be most beneficial to the project and the Council.

B11 Awarding Funding in the Form of a Grant

- B11.1 When awarding funding in the form of a grant, officers must determine whether arrangements being put in place can legitimately be described as a grant under HMRC

rules, i.e. is the payment being made a consideration for supply for VAT purposes or not. Advice must be sought from Finance in relation to the VAT position before any award is made.

- B11.2 Further information on whether a payment is a consideration for a supply for VAT purposes can be found here: [VATSC06311 - Consideration: Payments that are not Consideration: Grants: What is a grant? - HMRC internal manual - GOV.UK \(www.gov.uk\)](#)

C Routes to Market

C1 Defining Routes to Market

- C1.1 Commercial Services are responsible for determining the most appropriate route to market / procurement procedure:
- a) in accordance with the procurement procedure thresholds set out in section 40.2 of Contract Procedures;
 - b) using a risk-based approach, taking into account information provided by the lead officer in respect of the value, risk, complexity, market and urgency of the contract.

C2 Procurement Procedures

Below Threshold Contracts

- C2.1 Commercial Services are responsible for identifying the most appropriate procurement procedure based on the following options after considering the procurement and contract Risk score and the outcome of any market research and / or any preliminary market engagement:
- a) informal or formal written quotes requested from at least three suppliers by email, wherever possible this should include two Torbay based suppliers;
 - b) informal or formal written quotes requested through the SupplyDevon hub, targeting Torbay based suppliers;
 - c) request for quote from at least three suppliers through the [e-tendering system](#), wherever possible this should include two Torbay based suppliers;
 - d) open invitation to tender through the e-tendering system;
 - e) [call-off](#) from an established [Framework](#), [Dynamic Purchasing System](#) or approved Standing List, where the Council is eligible to use it, and the stipulated call-off process is followed;
 - f) [direct award](#) to a company wholly or jointly owned by the Council where it is considered that best value can be achieved;
 - g) direct award to another contracting authority where it is considered best value can be achieved;
 - h) direct award, under any of the circumstances set out at [C2.4](#) to [C2.6 below](#), and/or;
 - i) the amendment of an existing contract.

Above Threshold Contracts

- C2.2 Commercial Services are responsible for identifying the most appropriate procedure from those permitted under the Regulations considering the procurement and contract risk score and outcome of any market research or preliminary market engagement. The

use of approved Frameworks, [Dynamic Markets](#) and Dynamic Purchasing Systems is permitted for above threshold procurements.

Contracts under the Health Care Services (Provider Selection Regime) Regulations 2023 (PSR)

- C2.3 The award procedure will be identified from the following permitted options through completion of the PSR Decision Making template:
- a) Direct award process A – the existing contract is ending, the current supplier is capable of providing the new service and there are no realistic alternatives;
 - b) Direct award process B – the services are subject to patient choice and the number of suppliers they can choose from is not restricted;
 - c) Direct award process C - the existing contract is ending, the requirements are not changing significantly, the current supplier has delivered the contract to a satisfactory standard and is capable of satisfactorily providing the new service;
 - d) Most suitable provider process – the most suitable supplier can be identified from all likely suppliers using information available without the need to undertake a competitive process; or
 - e) Competitive process – must be used when setting up a framework or when none of the alternative processes can be used.

Direct Awards

- C2.4 In order to make a Direct award of a contract, it must be clearly established through market research and preliminary market engagement activities, that there are no other suppliers capable of meeting the need.
- C2.5 Where the contract is above threshold, one or more of the specific circumstances permitting a Direct award under the Regulations must apply.
- C2.6 Where the contract is below threshold the lead officer must be able to demonstrate there are unique circumstances leading to the need to make a Direct award, including:
- a) a Council standardisation policy is in place for the requirement and any change could result in significant change in working practices or service delivery;
 - b) What is being supplied must be identical to an existing product or service to ensure consistency in results;
 - c) what is being supplied must be compatible with an existing specific brand / mode of equipment or service delivery;
 - d) there is a genuine monopoly supplier situation where it is not possible to undertake a [competitive tender](#);
 - e) the goods or services being purchased are of such a specialist nature and no challenge from an alternative supplier could occur;
 - f) the best interests of the Council or local residents cannot be met through an alternative supplier; and/or
 - g) there is genuine emergency which could not have been foreseen by or is not in any way attributable to the Council through its actions or lack of action.
- C2.7 Where the contract falls under PSR Direct award of the contract may only be made where the decision making processes identifies one of the Direct award options.

Supplier Selection to Participate in a Quote Process

- C2.8 Where a quote process inviting pre-selected suppliers is used, suppliers may be selected on the basis of:
- a) Officers' knowledge of the market, including previously used suppliers;

- b) supplier capacity and capability to meet the needs within the timescales and the likelihood of them bidding;
- c) the outcome of an internet search or search of supplier databases such as the e-tendering system or the SupplyDevon hub; and/or
- d) the outcome of an expression of interest (EOI) process.

C2.9 Wherever possible, the suppliers invited to quote should include at least two Torbay based suppliers.

Framework Call-Offs

C2.10 Where a framework has been selected as the chosen procurement route, an expression of interest (EOI) may be carried out prior to running a further competition to establish which suppliers have the capacity to meet the timescales for delivery and are likely to bid.

C2.11 Where a Direct award route is chosen on a multi-supplier framework, the process used to identify the supplier must be in accordance with the requirements of the framework and justification for the Direct award must be recorded and signed off at the appropriate level according to the value of the contract.

C2.12 [Conditions of participation](#) may be re-assessed when running a further competition between multiple framework suppliers or when making a Direct award, providing they are appropriate and relevant to the nature, cost and level of complexity of the contract.

Use of Approved Standing Lists

C2.13 Officers may utilise approved standing lists such as Devon County Council's (DCC) Standing List of Approved contractors (SLoAC) or Maintenance Panel Agreement (MPA) to select suppliers to invite to quote in line with the guidance published by DCC with these lists.

C2.14 A [Confidentiality Agreement Declaration](#) must be made prior to access to the SLoAC and MPA being granted to any officer.

C3 Advertising and Marketing

C3.1 The primary method of advertising the tender opportunity will be determined by the chosen route to market.

C3.2 Under both the Regulations and PSR the Council has a duty to publish a range of [notices](#) within specific timescales in relation to planned and actual procurements. Commercial Services are responsible for publishing these notices. The lead officer is responsible for ensuring Commercial Services has the necessary information to enable the publication of the notice.

D Procurement Process and Tender Assessment

D1 Tender Packs

D1.1 The purpose of the [tender pack](#) is to provide potential suppliers with the information necessary to enable them to determine whether they have the capacity and capability to meet the Council's requirements and submit a response which is capable of being assessed to identify the [most advantageous tender](#).

- D1.2 The lead officer is responsible for ensuring the information within the pack is accurate and unambiguous. Commercial Services will be able to guide the lead officer in terms of how the tender documents should be written and presented, specific elements that should be considered and how the assessment could be conducted, should this be required.
- D1.3 To ensure consistency of the information and guidance provided to suppliers and meet regulatory requirements, the standard [tender templates](#) must be used for all above threshold tenders and below threshold tenders covered by the Regulations and competitive tenders under PSR. For all other procurements, the relevant standard templates should be used wherever possible.
- D1.4 The lead officer is responsible for compiling all information for inclusion in the tender pack relating to what we want to buy (the Specification), why we are buying it (defining business need) and how we check a supplier's ability to meet our requirements (tender assessment).
- D1.5 Commercial Services are responsible for compiling all information within the tender pack on how the procurement is conducted, unless the procurement is not being directly supported by Commercial Services and this is then the responsibility of the lead officer.

D2 Site Visits

- D2.1 Site visits may be appropriate to inform supplier's tender submissions, for example where services are being delivered from specific Council or third-party premises and suppliers require information such as the building layout / location, or for construction projects where suppliers need to view the site.
- D2.2 Commercial Services will be able to advise whether it would be appropriate to include a site visit and how this should be undertaken. Where site visits are necessary, information on the how the site visits will be managed must be included in the tender documents.

Formal Site Visits

- D2.3 Formal site visits are led by an appropriately trained officer and suppliers are required to book a specific date and time.
- D2.4 During the visit no information may be shared with suppliers which may lead to a supplier gaining an unfair advantage or distortion of competition. The responses to any questions asked, or any further information provided, must be issued to all other suppliers as soon as possible after the site visit has taken place.

Informal Site Visits

- D2.5 This is where the supplier can visit the site with no officer needing to be present. There may be a need for suppliers to arrange access to the site or for site visits only being able to be carried out at specific times.

D3 Presentations and Demonstrations

- D3.1 Presentations and/or demonstrations can be used in a procurement only where it is necessary and deemed appropriate by the lead officer and Commercial Services to do so. For example:
- a) presentations may be used where a core requirement cannot adequately be responded to in written format, such as a bite-sized version of a training programme;
 - b) demonstrations may be used where it is appropriate for a practical demonstration of the requirement, such to demonstrate functionality of an IT System being purchased.
- D3.2 The lead officer is responsible for ensuring clear and specific requirements, including the purpose and [assessment criteria](#) are stated within the tender documents.
- D3.3 Unless explicitly stated within the tender documents, all suppliers who have submitted a compliant tender and have met the conditions of participation must be invited to participate in the presentation and/or demonstration.

D4 Assessment Criteria

Conditions of Participation

- D4.1 Conditions of participation are used to establish whether the supplier has the legal and financial capacity to perform the contract and / or the technical ability to perform the contract. A supplier must satisfy all of the conditions of participation in order to be awarded the contract.
- D4.2 Conditions of participation must be proportionate to the nature, complexity and value of the contract and must not have the effect of affording an unfair advantage or disadvantage to a supplier or distorting competition.

Award Criteria

- D4.3 Award criteria are used to assess tender submissions to establish the degree to which suppliers are able to meet the requirements of the Specification and the level of additional benefit that will be achieved through the contract to identify the most advantageous tender.
- D4.4 The award criteria must comprise the optimum combination of price, quality and, where applicable, social value. Officers must ensure the award criteria used:
- a) relate to the subject matter of the contract;
 - b) are sufficiently clear, measurable and specific
 - c) do not break any rules on technical specifications
 - d) are a proportionate means of assessing tenders, considering the nature, complexity and value of the contract;
 - e) are weighted appropriately to achieve value for money from the contract.
- D4.5 Each award criteria and any [sub-criteria](#) must have an individual score or weighting attributed to them, these will be determined by the lead officer in consultation with Commercial Services. Weightings must be defined for each tender to achieve value for money over the life of the contract. Weightings must set an appropriate balance across the effectiveness, efficiency and economy of the resultant contract, considering any relevant socio-economic and environmental benefits and impacts.

D4.6 Where the inclusion of social value criteria applies to the procurement the weighting must be set in accordance with the [social value policy](#).

D5 TUPE Considerations

D5.1 Where TUPE may apply to a contract the Council must include anonymised staffing information within the tender pack which will then be issued to suppliers on submission of a confidentiality agreement. To ensure availability of this information to suppliers, the lead officer must liaise with Commercial Services to obtain staff data from the incumbent supplier in sufficient time to inform the procurement process.

D5.2 Where the procurement involves the outsourcing of Council staff, the lead officer must engage with HR at the earliest opportunity.

D6 Terms and Conditions

D6.1 The terms and conditions used will depend on the scope, nature and complexity of the requirement, the options available are set out below.

Sub-contracting Arrangements

D6.2 Where there is the potential for the supplier to use sub-contractors or a supply chain in order to deliver the requirements the supplier cannot delegate any of its [contractual obligations](#) to its sub-contractors and remains wholly accountable for delivering the contract.

D6.3 The supplier must not impose terms and conditions on its sub-contractors and supply chain that are less favourable than the terms of the contract the supplier has with the Council.

D6.4 The supplier has a legal duty, regardless of whether it is stipulated in their contracts, to pay its sub-contractors and supply chain within thirty days and the Council has a duty to investigate complaints from sub-contractors where the supplier is not fulfilling this obligation.

Council Terms and Conditions

D6.5 Commercial Services has a suite of standard terms and conditions. Commercial Services, in conjunction with the lead officer, will identify which schedules will be applicable to the contract.

National Contracts

D6.6 For construction and engineering requirements, [Joint Contracts Tribunal \(JCT\)](#) or [New Engineering Contract \(NEC\)](#) can be used.

D6.7 Both provide a suite of standard form contracts, these are structured differently in terms of roles and responsibilities and there is cost associated with using them.

D6.8 It is the responsibility of the lead officer to determine whether it would be appropriate to use either set.

Call-offs from Frameworks, Dynamic Markets, Dynamic Purchasing Systems or Approved Standing Lists

D6.9 Where using a Framework, the [call-off contract](#) as set up by the Framework provider must be used unless it explicitly states within the Framework guidance documents that an alternative contract can be used.

- D6.10 It is the responsibility of Commercial Services to ensure that the Framework is compliant and that any call-off is compliant.
- D6.11 Advice must be sought from Commercial Services prior to engaging with a Framework.

Supplier Terms

- D6.12 The use of supplier terms is not permitted unless under exceptional circumstances and only where approval has been given under the [waiver procedure](#).

Key Performance Indicators (KPIs)

- D6.13 Where relevant to the nature of the contract, the lead officer is responsible for identifying appropriate [key performance indicators \(KPIs\)](#) that the successful supplier will be performance managed against once the contract is live.
- D6.14 Contracts procured under the Procurement Act 2023 with a value of £5,000,000 or more must include a minimum of three KPIs. The supplier's performance against these KPIs will be subject to regular publication on the Central Digital Platform.

D7 Contract Changes and Permitted Modifications

Future Contract Modifications

- D7.1 All above threshold contracts, some below threshold contracts and contracts awarded under PSR may only be changed where the change is allowed for under the Regulations or PSR.
- D7.2 The lead officer is responsible for ensuring any potential changes that may happen during the life of the contract are identified and detailed in the tender documents and / or the Change Control Procedure of the contract.
- D7.3 To enable the change to be made at a future date the details of the potential change must be unambiguous and if enacted would not change the overall nature of the contract.

Modifications to Awarded Contracts

- D7.4 Approval to modify live contracts must be done so in accordance with the Officer Scheme of Delegation.
- D7.5 contracts may only be modified where the Regulations or PSR, the tender documents and / or the terms and conditions of the contract allow and must only be modified following the change control procedure as set out in the contract.
- D7.6 Any proposed changes or modifications to the contract must be discussed between the contract manager and the supplier where appropriate.
- D7.7 Advice must be sought from Commercial Services before making any changes or modifications to a live contract. Where a proposed change or modification is provisionally agreed it is the responsibility of the contract manager to inform Commercial Services of the proposed change.
- D7.8 The contract manager must formally action the change by completing a [change control notice](#) (CCN) which must be signed by the supplier(s) and an authorised signatory within the Council's Legal Services.
- D7.9 A copy of the completed change control notice must be provided to Commercial Services as soon as possible and must kept in an accessible electronic format alongside the contract.

D7.10 Commercial Services are responsible for publishing details of contract changes as required.

D8 Tender Issue

D8.1 The purpose of the tender issue is to invite suppliers to participate in the procurement process.

D8.2 All documents relating to the tender must be issued using the publication method appropriate to the procurement procedure selected and in accordance with the Regulations or PSR where applicable.

D8.3 The documents issued must include information on how the procurement procedure will be undertaken, the Council's requirements, assessment criteria, terms and conditions of Contract and any other information required by suppliers in order to enable them to complete a bid. Refer to [D1 Tender Packs](#) for further information.

D8.4 All tenders issued through the e-tendering system (above threshold tenders and any applicable below threshold tenders) will be published by Commercial Services, together with any notices required under the Regulations or PSR.

D8.5 Where publication of a notice is required for below threshold tenders that is not being issued through the e-tendering system the lead officer is responsible for providing Commercial Services with the information to enable publication of the notice.

D8.6 When seeking informal or formal quotes the opportunity is not advertised publicly and only identified suppliers will be invited. Suppliers should be identified in accordance with [C2.8](#) and [C2.9](#) above.

D9 Clarification Questions

D9.1 During the tender process suppliers must have an opportunity to raise any questions they have regarding the procurement, content of the tender documents, or the terms and conditions.

D9.2 The manner of submission and response to clarification questions must be set out in the tender documents. Where a supplier does not follow the prescribed procedure officers must not respond directly to the supplier other than to advise them of the correct method for submitting questions.

D9.3 Responses to clarification questions must be issued to all suppliers, unless the question:

- a) is directly linked to a supplier's individual response (e.g. is innovation based) where the response will only be provided to the Supplier raising the question; or
- b) relates to confidential documents, where the response will be provided only to those suppliers who have submitted a [confidentiality agreement](#).

D9.4 The timescale for responding to clarification questions is five working days from the date the question was received. Where it will take longer to provide a response the supplier must be notified of the delay as soon as it becomes evident the five day timescale will not be met.

D9.5 Where a clarification results in amendments to the tender, such as the specification, assessment criteria or terms and conditions of contract the lead officer must consider whether the submission deadline should be extended to enable suppliers to consider the new or amended information.

E Bid and Tender Assessment and Validation

E1 Tender Opening

- E1.1 The tender submission method must be as set out in the tender documents and, where the e-tendering system is used, tenders will be electronically sealed until the submission deadline has passed.
- E1.2 Tenders submitted through the e-tendering system will be unsealed at the same time by an authorised [Verifier](#), independent of the procurement.

E2 Tender Acceptance

- E2.1 Everyone participating in the assessment process must confirm compliance with the requirements of [A7 Conflict of Interest, Confidentiality and Integrity](#) and identify any conflicts in relation to the suppliers who have responded to the tender prior to their involvement in the assessment process.
- E2.2 Tenders must be assessed against the criteria published in the tender documents including the conditions of participation, any sub-criteria, weightings and scoring methodology.
- E2.3 A tender must be disregarded if:
- the conditions of participation are not satisfied;
 - the supplier is on the Debarment List as an excluded supplier.
- E2.4 A tender may be disregarded if:
- it breaches a procedural requirement set out in the tender notice or associated tender documents; and/or
 - the supplier and/or a sub-contractor they intend to sub-contract the performance of all or part of the contract to, is not a UK supplier or [treaty state supplier](#);
 - it is considered to be an abnormally low priced tender for the performance requirements of the contract; and/or
 - the supplier is on the Debarment List as an Excludable supplier; and/or
 - The supplier is a non-UK or non-treaty state supplier or the supplier is intending to sub-contract all or part of the contract to a non-treaty state supplier.
- E2.5 A record must be kept of all decisions relating to the exclusion of suppliers and the appropriate process for notifying the supplier followed.

E3 Tender Assessment

- E3.1 Quality (e.g. award questions, social value, presentations or demonstrations) and commercial (e.g. price) elements of the tender must be scored independently from one another to avoid the risk of one influencing the other.
- E3.2 For commercial elements of the tender, a quantitative assessment may be completed by one member of the assessment team and a sense check on this scoring completed by a second person.
- E3.3 An initial desktop assessment of award questions will be completed individually by each member of the assessment panel, in line with the published assessment methodology.
- E3.4 Commercial Services will oversee the moderation process bringing together assessment panel members to agree the moderated scoring including the individual

award question scores, the commercial score and those from any presentation / demonstration.

- E3.5 During the tender assessment and moderation stage any post-tender clarifications will be sent to suppliers to respond to within a reasonable timeframe. Responses to these clarifications will be considered by the assessment panel and final moderated scores agreed.

E4 Supplier Due Diligence

Exclusion Grounds and Conditions of Participation

- E4.1 Due diligence checks must be undertaken in respect of the successful supplier to evidence they meet the mandatory and discretionary exclusion grounds and conditions of participation, prior to approval to award the contract being sought. Where the supplier is unable to provide the necessary evidence they cannot be awarded the contract.
- E4.2 For procurements not directly supported by Commercial Services it is the responsibility of the lead officer to request that Commercial Services undertake required checks prior to any contract award.
- E4.3 Where the successful supplier is reliant on sub-contractors to meet any of the conditions of participation, appropriate due diligence checks must also be undertaken in respect of those sub-contractors.

Financial Standing and Performance

- E4.4 Commercial Services will undertake checks to establish the successful supplier's financial standing in accordance with the financial standing guidance. Where there are concerns in relation to the supplier's financial standing this will trigger escalation to Corporate Finance for more in-depth checks and identification of any actions or recommendations to reduce risk.
- E4.5 Where award of the contract to the supplier is deemed to pose significant risk to the Council this will be escalated to the Section 151 Officer a decision on whether the award can proceed or not.
- E4.6 Over the term of the contract the designated contract manager is responsible for:
- a) prompt processing of invoices;
 - b) monitoring the budget and financial performance of the contract;
 - c) monitoring and mitigating financial standing risk by actioning recommendations made by Corporate Finance; and
 - d) informing Commercial Services of any potential financial risks or information which may indicate risk and result in the need for a Financial Standing Check.
- E4.7 Over the term of the contract the Payments team are responsible for:
- e) ensuring payments are made to supplier(s) in accordance with the Regulations, PSR and the terms of the contract;
 - f) providing sufficient information to Commercial Services to enable publication of contract payment notices (CPN) in accordance with the Regulations.
- E4.8 Over the term of the contract Commercial Services are responsible for:
- g) completing financial standing checks on supplier(s) and monitoring ongoing financial standing on at least an annual basis;
 - h) escalating financial risks to Corporate Finance for the completion of further checks.

E4.9 Corporate Finance are responsible for completing the relevant checks and issuing any actions or recommendations to reduce risk.

E5 Contract Award

Approval and Supplier Notification

- E5.1 Contracts must be awarded in accordance with the stated criteria. The contract award process cannot commence until written approval of the award has been given in accordance with the Officer Scheme of Delegation.
- E5.2 Where relevant to the value of the contract, the decision must be recorded using the designated approval template.
- E5.3 [Assessment summaries](#) for sharing with suppliers must be produced for all tenders to reflect the outcome of the moderation.
- E5.4 Suppliers must be notified of the outcome of the procurement process via issuance of the assessment summaries and, where applicable in accordance with the Regulations or PSR, including the publication of any notices and requirement for the observance of a standstill period.

Non-Award of a Contract

- E5.5 Approval to not award a contract must be obtained in accordance with the Officer Scheme of Delegation.
- E5.6 Under certain non-award circumstances, it may be possible to switch to a Direct award process or terminate the procurement process. The decision made must be justified and recorded and, where applicable, the appropriate notice published.

Contract Finalisation, Issuing and Signing

- E5.7 Contracts over £25,000 must be made in writing and in a form in accordance with the Contract Procedures. The form of contract will be as defined in the tender process. contracts over £50,000 in value must be signed under the common seal of the Council.
- E5.8 Any changes to the contract which have arisen from the procurement process will be added to the contract at this stage, for example TUPE, conditions precedent, pre-start implementation and contract management arrangements.
- E5.9 All contracts in excess of £5,000,000 must have at least three KPIs written into them.
- E5.10 Contracts will be sent in draft to the supplier prior to finalisation by the Council. The contract must be signed by the supplier first and then, dependent on the value, counter-signed or sealed by Legal Services.
- E5.11 Contracts must be finalised in advance of any activities under the contract commencing.
- E5.12 Where required under the Regulations or PSR, notices relating to the contract award must be published via the Central Digital Platform. Commercial Services will publish any notices and the lead officer is responsible for ensuring the relevant information is provided to enable this.
- E5.13 Following publication of the relevant regulatory notices, Governance Support will publish a Record of Officer Decision using the appropriate form.
- E5.14 Details of the contract will be entered into the Council's [Contracts Register](#) within the timescales defined under the Regulations or PSR, along with redacted copies of the contract where the contract value exceeds £5,000,000 and publication is required under

the Regulations. Where Commercial Services have not directly supported the procurement the lead officer is responsible for providing Commercial Services with the information necessary for publication on the Contracts Register.

- E5.15 Post award, the management of the contract will transfer to the designated contract manager.

F Contract Management

F1 Managing a Contract

- F1.1 The contract manager is responsible for ensuring the contractual obligations between the Council and the supplier are met during the entire lifecycle of a contract.
- F1.2 The contract manager is also responsible for ensuring any sub-contracting arrangements are managed effectively by the supplier and in particular that the requirement to pay sub-contractors within thirty days is met.
- F1.3 The contract manager is responsible for maintaining good working relationships with supplier(s) and must keep accurate records regarding the management of the contract in an electronically accessible format.

F2 Contract Mobilisation

- F2.1 The contract manager is responsible for the Contract Mobilisation stage ensuring a smooth transition from Contract award to service delivery. The contract manager should, where relevant to the scale and complexity of the contract, develop a mobilisation plan and the relevant stakeholders must be involved where appropriate.

F3 Contract Review Meetings

- F3.1 The contract manager is responsible for organising, facilitating and documenting regular contract review meetings between the Council and its supplier(s) to monitor the contract and performance throughout its lifecycle.
- F3.2 The minimum frequency for Contract Review Meetings will be determined by the risk tier of the contract, although more frequent meetings can be agreed with the supplier.

F4 Contract Performance

- F4.1 The contract manager is responsible for monitoring performance from the commencement of the contract, including achievement against any KPIs, service levels or targets included in the contract.
- F4.2 For contracts procured under the Procurement Act 2023 with a value of £5,000,000 or more, it is the responsibility of Commercial Services to publish supplier performance notices on the Central Digital Platform in accordance with the Regulations. It is the responsibility of the contract manager to provide Commercial Services with the information required for inclusion in the notices.

F5 Contract Risks and Issues

- F5.1 Refer to [B6 above](#) B6 Risk.

F6 Default, Disputes and Remedies

Default

- F6.1 Where the supplier is not meeting contractual obligations on performing the contract to the required standards, the contract manager must seek to resolve the performance issues with the supplier in a timely manner.
- F6.2 Where any agreed actions fail to resolve the poor performance, the contract manager should instigate the default process set out in the contract prior to invoking any financial or performance measures within the contract.

Disputes and Remedies

- F6.3 Should the need arise, the contract manager must seek to resolve conflict and / or disagreements between the Council and its supplier(s) by utilising the Dispute Resolution Procedure set out in the contract.

F7 Poor Performance and Breach of Contract

- F7.1 Where there is a failure of the supplier(s) to meet the terms and conditions agreed in a contract the contract manager must clearly document this and seek to address the issue in accordance with terms of the contract.
- F7.2 Commercial Services are responsible for publishing contract performance notices as required in accordance with the requirements of the Regulations. Where poor performance, breach of contract terms, or escalation of issues require the publishing of a contract performance notice it is the responsibility of the contract manager to provide Commercial Services with the necessary information and evidence as soon as possible.
- F7.3 For contracts procured under the Procurement Act 2023 with a value of £5,000,000 or more, there may be enhanced consequences for a breach of contract. The contract manager must seek advice from Commercial Services if a significant breach of a high value contract (£5m or above) has, possibly has, or is likely to occur.

F8 Contract Modification

- F8.1 Refer to [D7 Contract Changes and Permitted Modifications](#).

F9 Contract Compliance Documentation

- F9.1 The contract manager is responsible for ensuring that supplier(s) provide the required documentation specified in the contract, in accordance with the timescales and intervals as set out in the contract.
- F9.2 For contracts with a value exceeding £25,000, the mandatory documents include:
- Business Continuity Plans;
 - Exit Management Plans;
 - Insurances;
 - evidence of accreditations, certificates, registrations or memberships where these were a condition of participation and required by the supplier enable them to fulfil the requirements of the contract; and
 - any other Policies or documents specified in the contract.
- F9.3 The contract manager must be assured that the required documents are fit for purpose in accordance with the associated guidance and are relevant to the contractual

obligations and service delivery. Where appropriate the additional documents must be approved with the supplier in a timely manner so that it may form part of the contract.

G Ending a Contract

G1 Natural Termination and Transition

- G1.1 Contract managers are responsible for ensuring that the Council and the supplier are working towards the planned fulfilment and exit of the contract as set out in the Exit Management Plan.
- G1.2 A contract termination notice must be published for contracts coming to a natural end. Contract managers must provide relevant information to Commercial Services who are responsible for publishing these notices in accordance with the Regulations.

G2 Early Termination

- G2.1 Approval for the early termination of a contract must be in accordance with the Officer Scheme of Delegation and advice from Legal Services sought where the value of the contract exceeds £100,000.
- G2.2 Any early termination must only be carried out in accordance with the Regulations, Contract Procedures, and the specific termination conditions set out in the contract.

G3 Contract Termination Notices

- G3.1 It is the responsibility of Commercial Services to publish contract termination notices as required and stipulated by the Regulations. The contract manager must inform Commercial Services that a contract is due to come to an end either naturally or as an early termination as soon as possible.

H Waiver Procedure

- H1.1 Exemptions may be sought from the application of the specific requirements of Contract Procedures. Where an exemption is granted all other requirements of Contract Procedures continue to apply.
- H1.2 Officers may seek an exemption to:
- a) run an alternative Procedure (including making a direct award) to the one identified in accordance with [C2.1](#) (below threshold tenders) or [C2.2](#) (above threshold tenders) where:
 - for below threshold contracts there is appropriate justification and evidence for doing so; or
 - for above threshold contracts the alternative is permitted under the Regulations and there is legal justification for awarding the contract in this way;
 - b) use alternative tender pack to that applicable to the procurement procedure being undertaken;
 - c) use an alternative method for the issuing and submission of tenders to that applicable to the procurement procedure being undertaken;

- d) use the supplier's or another authority's terms and conditions of contract:
 - where approval is conditional on changes being made to the contract, the officer must resubmit the amended contract for review before it can be entered into;
 - where the changes cannot be made for any reason the officer must either use the appropriate council terms or resubmit the request for further consideration, setting out why the changes cannot be made;
- e) appoint agency staff through a supplier who is not on the Council's framework of approved agency staff suppliers. Officers must be able to evidence that none of the approved suppliers are able to fulfil the requirements.

H1.3 The use of alternative procurement procedures is not permitted under PSR and exemptions must not be sought or granted in this respect.

H1.4 Officers must follow the relevant waiver process and may not undertake any work or enter into a contract the waiver request has been approved by the [budget holder](#) or Commercial Services.

H1.5 Where a request is approved the officer may proceed with the tender or contract award. The officer must abide any conditions attached to the approval and address any recommendations made.

H1.6 Where a request is declined the officer must comply with the relevant requirements of Contract Procedures.

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I Definitions

Term	Definition
<u>Above threshold</u>	<p>A procurement which is above the relevant threshold for the requirement, i.e.:</p> <ul style="list-style-type: none"> • Goods and services; • Services under the light touch regime; • Services and works concessions; • Works. <p>For further information refer to: <u>Procurement Processes and Procedures</u></p>
<u>Assessment criteria</u>	<p>The criteria used to assess the supplier’s capacity and capability to perform the contract (conditions of participation) and the degree to which the supplier is able to meet the requirements of the Specification and deliver additional benefits (award criteria)</p>
<u>Assessment summary</u>	<p>A document provided to suppliers at the end of a competitive tendering process to enable them to understand why their tender was successful or unsuccessful.</p>
<u>Associated person</u>	<p>A person (including an organisation) the supplier is relying on to satisfy one or more conditions of participation for the tender, but is not a person who is acting as a guarantor.</p>
<u>Award</u>	<p>The process used by the Council to determine the successful supplier following a procurement or the process of awarding the contract, considering any specific requirements set out in the Regulations or PSR.</p>
<u>Award criteria</u>	<p>The criteria against which tenders are assessed to establish the Most Advantageous Tender and on which contract award decisions are made, including but not limited to consideration of quality, price and social value.</p>
<u>Below threshold</u>	<p>A procurement or contract which is below the relevant threshold for the requirement, i.e.:</p> <ul style="list-style-type: none"> • Goods and services; • Services under the light touch regime; • Services and works concessions; • Works. <p>For further information refer to: <u>Procurement Processes and Procedures</u></p>

Term	Definition
<u>Budget holder</u>	The individual responsible for managing and overseeing a specific budget within the Council.
<u>Call-off</u>	The process of awarding a contract under a Framework, Dynamic Market, Dynamic Purchasing System or approved standing list.
<u>Call-off contract</u>	The contract awarded following a call-off from a Framework, Dynamic Market, Dynamic Purchasing System or approved standing list.
<u>Central Digital Platform</u>	<p>A centralised digital platform managed by Cabinet Office:</p> <ul style="list-style-type: none"> • used for the publication of all procurement notices and data; • housing the supplier information system which holds commonly used supplier information that can be shared with contracting authorities.
<u>Change control notice (CCN)</u>	The document signed by the Council and the supplier setting out and confirming agreement to any changes or modifications being made to the contract.
Commercial policy	The set of rules and associated guidance which set out the Council’s procedures for meeting the requirements of these Procedures, the Regulations, PSR and other legislative or regulatory obligations in relation to procurement.
<u>Commercial Services</u>	The Council department responsible for the management and oversight of procurement activities, including the setting of policies and guidance.
<u>Competitive tender</u>	A tender where there is an element of competition, i.e. where more than one supplier is given the opportunity to participate.
<u>Concession (contract)</u>	<ol style="list-style-type: none"> 1. A contract for the supply, for pecuniary interest, of works or services to a contracting authority where: <ul style="list-style-type: none"> • at least part of the consideration for that supply is a right for the supplier to exploit the works or services; and • under the contract the supplier is exposed to a real operating risk. 2. An “operating risk” is a risk that the supplier will not be able to recover its costs in connection with the supply and operation of the works or services, where the factors giving rise to that risk: <ul style="list-style-type: none"> • are reasonably foreseeable at the time of award; and • arise from matters outside the control of the contracting authority and the supplier. 3. Services concessions: The provision and management of services (other than the execution of works) for financial interest,

Term	Definition
	<p>giving the supplier the right to exploit the services with or without payment.</p> <p>4. Works concessions: The execution of works for financial interest, giving the supplier the right to exploit the works with or without payment.</p>
<p><u>Concession Contracts Regulations 2016</u></p>	<p>The legislation incorporated into English law concerning the procurement by public authorities or utilities of public services or works concessions contracts.</p> <p><u>The Concession Contracts Regulations 2016 (legislation.gov.uk)</u></p>
<p><u>Conditions of participation</u></p>	<ol style="list-style-type: none"> 1. The criteria used to establish a supplier's legal, economic and financial standing, capacity and capability to fulfil the requirements of the contract; and / or 2. The questionnaire completed by suppliers to set out their legal, economic and financial standing, capacity and capability to fulfil the requirements of the contract.
<p><u>Confidentiality agreement</u></p>	<p>An agreement which binds one or more parties to non-disclosure of confidential or proprietary information.</p>
<p><u>Conflict of interest</u></p>	<p>A conflict between the interest of an individual acting in relation to a procurement and those of the procurement itself. There are three types of conflict of interest:</p> <ul style="list-style-type: none"> • Actual – where the conflict of interest exists, e.g. a person assessing tenders in a procurement owns shares in a supplier who has submitted a bid; • Potential – where the conflict of interest will arise in future if certain circumstances occur, e.g. the spouse of someone assessing the tenders is the CEO of a business that is in the process of acquiring ownership of another company and that company has recently submitted a tender; <ol style="list-style-type: none"> 1. Perceived – where there are circumstances which are considered likely to cause a reasonable person to wrongly believe there is an actual or potential conflict of interest, e.g. there is a close personal friendship between someone assessing the tenders and an employee of a supplier who has submitted a bid.
<p><u>Connected person</u></p>	<ol style="list-style-type: none"> 2. Persons with significant influence or control over the supplier or persons over which the supplier has significant influence or control, e.g. majority shareholders; or 3. Directors and shadow directors; or 4. Parent and subsidiary companies (sister companies of the supplier, i.e. a company with the same parent are not a

Term	Definition
	<p>connected person unless they fall within one of the other categories of connected person); or</p> <p>5. Predecessor companies (companies which have become insolvent and ceased to trade and the business has effectively been transferred to the supplier); or</p> <p>6. Other persons who can reasonably be considered to stand in an equivalent position to the above.</p>
Constitution	The document which sets out the rules governing the Council's business.
<u>Contract management</u>	The process and approach taken to implement, monitor and review what is being provided under the contract to ensure what has been agreed is being provided to the required standards and all parties to the contract are meeting their obligations.
<u>Contract manager</u>	The individual responsible for the process of contract management.
<u>Contract procedures</u>	The rules and procedures in place to ensure the Council is compliant with legislation, fair and accountable in its dealings with economic operators and obtains value for money.
<u>Contract value</u>	The estimated or actual price of the contract to be awarded.
<u>Contract(s)</u>	<ol style="list-style-type: none"> 1. The requirements being put in place as a result of a tender process; and / or 2. A legally binding agreement between the Council and one or more suppliers for the provision of goods, services or works, including formal terms and conditions of contract or the terms stated on a Council Purchase Order.
<u>Contracting authority</u>	<p>A public authority or body governed by public law in whose name the contract is awarded; and/or</p> <p>An authority or body governed by public law able to put public contracts in place.</p>
<u>Contracts Register</u>	The register containing the information the Council is required to publish, under the Local Government Transparency Code, for all spend and contracts entered into with a value that exceeds £5,000 (excl. VAT).
<u>Contractual obligations</u>	Legally recognised responsibilities that parties to the contract have committed to meeting.
<u>Council</u>	Torbay Council, including any Council controlled company acting on behalf of the Council

Term	Definition
<u>Council controlled company</u>	Any company wholly or jointly owned and controlled by the Council, including but not limited to SWISCo and Torbay Education Limited. This policy will apply to any Council controlled company acting on the Council's behalf or where they are acting in their own right and are deemed, for procurement purposes, to be a public authority,.
<u>Debarment List</u>	A list, managed by the Procurement Review Unit, of suppliers who are deemed by the government as being excluded or excludable from participating in a tender.
<u>Direct award</u>	An award made direct to a supplier without any form of tender or consideration of other supplier's offers.
<u>Dynamic Market</u>	A list of qualified suppliers who are eligible to participate in future procurements for the goods, services or works which are the purpose of the dynamic market.
<u>Dynamic Purchasing System</u>	Is a procedure available for contracts for goods, services, or works commonly available on the market and operated through a completely electronic system, which is open throughout its duration for the admission of economic operators.
<u>e-tendering system</u>	A web-based system used to facilitate a complete tendering process, covering advertising, issuing and receiving tender related information, assessment and contract award.
<u>Excluded supplier</u>	<p>A supplier:</p> <ul style="list-style-type: none"> • to which a mandatory exclusion ground applies and the circumstances giving rise to the exclusion ground are likely to occur again; • on the Debarment List by virtue of a mandatory exclusion ground.
<u>Excludable supplier</u>	<p>A supplier</p> <ul style="list-style-type: none"> • to which a discretionary exclusion ground applies and the circumstances giving rise to the ground are likely to occur again • on the Debarment List by virtue of a mandatory exclusion ground.
<u>Exclusion grounds</u>	<ol style="list-style-type: none"> 1. Mandatory Exclusion Grounds – the grounds set out in Schedule 6 of the Procurement Act 2023 or regulation 57(1) to 57(7) of the Public Contracts Regulations 2015. 2. Discretionary Exclusion Grounds – the grounds set out in Schedule 7 of the Procurement Act 2023 or regulation 57(3) to 57(5) and 57(8) of the Public Contracts Regulations 2015.

Term	Definition
<u>Framework agreement(s)</u>	An agreement between one or more contracting authorities and one or more suppliers, the purpose of which is to establish the terms governing contracts to be awarded during a given period.
<u>Goods</u>	Tangible items which may be needed to support the Council's operations such as (but not limited to): office supplies, vehicles, machinery, and equipment needed for public works and community services.
<u>Health Care Services (Provider Selection Regime) Regulations 2023 (PSR)</u>	<p>The rules for procuring health care services in England by organisations termed relevant authorities. For the purposes PSR relevant authorities are:</p> <ul style="list-style-type: none"> • NHS England; • integrated care boards (ICBs); • NHS trusts and NHS foundation trusts; • local authorities and combined authorities. <p><u>The Health Care Services (Provider Selection Regime) Regulations 2023 (legislation.gov.uk)</u></p>
<u>Joint Contracts Tribunal (JCT)</u>	A nationally recognised suite of construction contracts developed and provided by the Joint Contracts Tribunal.
<u>Key performance indicators (KPIs)</u>	Measurable targets used to monitor and evidence how the supplier is performing the requirements of the contract.
Light touch regime	The regime under which certain above threshold social and other specific services may be procured.
Local businesses	A business, SME or VCSE that is located and operated from within the Torbay local authority boundary, i.e. postcodes TQ1 to TQ5. Or where, there is no such organisation within the Torbay local authority boundary, one that is located and operated from within Teignbridge or South Hams district councils' boundaries, i.e. postcodes TQ6 to TQ14.
<u>Lot(s)</u>	One of a number of categories of goods, services or works into which a single procurement process has been divided. The use of lots potentially allows for multiple providers to be appointed following a single procurement process.
<u>Monitoring Officer</u>	The statutory officer responsible for matters relating to the conduct of Councillors and officers, the operation of the Council's <u>Constitution</u> and reporting on matters they believe to be illegal or amount to maladministration.

Term	Definition
<u>Most advantageous tender</u>	The tender that the Council considers to best satisfy the requirements as stipulated in the tender documents once the tender Assessment is complete.
<u>National procurement policy statement (NPPS)</u>	Guidance from Cabinet Office setting out the strategic priorities for public procurement and how contracting authorities can support their delivery. <u>National Procurement Policy Statement.pdf (publishing.service.gov.uk)</u>
<u>National procurement strategy (NPS) for local government in England</u>	Sets out the ambition of the sector, including guidance and a roadmap to improvement and innovation. This strategy promotes: <ul style="list-style-type: none"> • adding value; • fulfilling our social value priorities through procurement; • building even greater connections and partnerships locally, across the public sector, with suppliers and the voluntary sector; • attracting, developing and retaining talent; • exploiting data and technology; • effective contract, supplier relationship and supply chain management; and • embracing public procurement transformation and innovation including making procurement easier for bidders.
<u>New Engineering Contract (NEC)</u>	A nationally recognised suite of engineering and construction contracts created by the UK Institution of Civil Engineers.
<u>Notice(s)</u>	Notices which the Council is legally required to publish at various stages of the procurement process. Full details of the required notices are set out in procurement and contract management guidance.
<u>Officer scheme of delegation</u>	A framework that confers powers to conduct an authority's executive functions on chief officers and certain other designated officers, setting out the arrangements for the delegation of authority to officers to carry out the Council's various functions.
<u>Other applicable primary or secondary legislation and regulations</u>	Primary and secondary legislation and regulations relevant to public procurement, this includes but is not limited to: <ul style="list-style-type: none"> • Bribery Act 2010; • Children Act 2014; • Contract (Rights of Third Parties) Act 1999

Term	Definition
	<ul style="list-style-type: none"> • Data Protection Act 2018 and UK General Data Protection Regulation; • Fraud Act 2006; • Freedom of Information Act 2000; • Health and Safety at Work etc. Act 1974; • Health and Care Act 2022; • Human Rights Act 1998; • Insolvency Act 1986; • Intermediaries Legislation (IR 35); • Local Government Transparency Code 2015; • Modern Slavery Act 2015; • Prevent Duty; • Prevention of Corruption Act 1906; • Procurement Regulations 2024; • Public Bodies Corrupt Practices Act 1889; • Public Sector Equality Duty; • Public Services (Social Value) Act 2012; and • Transfer of Undertakings (Protection of Employment) Regulations 2006.
<u>Participation</u>	The process by which suppliers are selected to move forward to the next stage of the procurement, in accordance with the criteria listed in the Regulations or PSR.
<u>Procurement Act 2023</u>	The legislation which, when incorporated into English law, will govern how the procurement of public goods, services (excluding relevant health care services) and works contracts must be undertaken, as amended from time to time.
<u>Procurement and contract risk tool</u>	A tool developed and utilised by Commercial Services to assist in calculate a risk tier for individual projects using predetermined weightings to assess multiple choice inputs. This informs the type of procurement, the route to market, and supports officers to determine to required level of contract management on a project-by-project basis.
<u>Procurement playbooks</u>	<p>Guidance which sets out how government departments should approach outsourcing projects and outlines the government's expectations on how contracting authorities and suppliers engage with each other. The playbooks encompass the following:</p> <ul style="list-style-type: none"> • sourcing; • construction; • consultancy;

Term	Definition
	<ul style="list-style-type: none"> digital, data and technology.
Procurement policy note (PPN)	<p>A document that sets out information and guidance for public bodies on the Regulations and policies issued by the UK and devolved governments.</p>
Procurement(s)	<ol style="list-style-type: none"> The award, entry into and management of a contract, including: <ul style="list-style-type: none"> any step taken for the purpose of awarding, entering into or managing the contract; all or part of the procurement; and termination of the procurement before award of the contract, <p>regardless of whether the procurement is covered under the Regulations or PSR or not. and / or</p> Steps taken for the purpose of awarding, entering into or managing a contract include, but are not limited to: <ul style="list-style-type: none"> pre-tender planning and decision making; market engagement; the procurement procedure itself; contract issuing and signing; mobilisation/implementation; contract and performance management; exit management; and de-commissioning.
Procurement procedure	<p>The process undertaken to tender a contract.</p>
Public Contracts Regulations 2015	<p>The legislation incorporated into English law concerning the procurement by public authorities of public services, goods and works contracts, as amended from time to time.</p> <p>The Public Contracts Regulations 2015 (legislation.gov.uk)</p>
Regulations	<p>The Procurement Act 2023 and its associated secondary legislation (such as the Procurement Regulations 2024), the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016 and/or Utilities Contract Regulations 2016.</p>
Route to market	<p>The approach used to reach the identified market to maximise the number and quality of the responses to the tender.</p>
Risk tier	<p>A tier that defines the minimum requirements in the management of the contract.</p>

Term	Definition
<u>Section 151 Officer</u>	The statutory officer responsible for the arrangements for the proper administration of the Council's financial affairs.
<u>Services</u>	The provision of any type of service other than those which fall within the definition of a works contract or a social and other specific services contract.
	The provision and management of services (other than the execution of works) for financial interest, giving the supplier the right to exploit the services with or without payment.
<u>Small and medium enterprises (SMEs)</u>	Small and medium enterprise.
<u>Social value policy</u>	The policy which sets out how the Council will meet its legal obligations to consider and achieve wider social, economic and environmental benefits through external contracts.
<u>Start a procurement form (SAP)</u>	The form to be completed by Officers and sent to Commercial Services as soon as an officer becomes aware that there may be a need to put an external contract in place.
<u>Sub-criteria</u>	The criteria which sit below the main criteria, against which the supplier's tender will be assessed.
<u>Supplier</u>	<ol style="list-style-type: none"> 1. The generic term to cover a contractor, provider, supplier, service provider, applicant, bidder, candidate, tenderer, company, organisation or any other legal entity who may or does tender for or is awarded a contract. 2. Under the Procurement Act 2023 supplier may also mean a supplier associated with another supplier where: <ul style="list-style-type: none"> • the suppliers are submitting a tender together; or • the successful supplier will be entering into a legally binding agreement to the effect that: <ol style="list-style-type: none"> i the supplier will sub-contract the performance of all or part of the contract to the other supplier; or ii the other supplier will guarantee the performance of all or part of the contract by the supplier.
<u>Tender</u>	The invitation to bid for a contract; and / or The bid submitted by a supplier in response to a tender opportunity.
<u>Tender document(s)</u>	The documents issued by the Council setting out its requirements and the rules for the procurement, together with the documents submitted by suppliers containing their tender response. Which may

Term	Definition
	be in the form of an official tender pack or written instructions within an email or letter to suppliers.
<u>Tender pack</u>	The full set of documents or other form of written instructions and information issued to suppliers as part of any tender process.
<u>Tender template(s)</u>	The proforma tender document(s) for completion by the contracting department and procurement lead officer.
<u>Threshold(s)</u>	<p>The contract value thresholds (inclusive of VAT) set by the UK government above which the full requirements of the Procurement Act 2023, Public Contracts Regulations 2015 and Concession Contracts Regulations 2016 apply, as amended every two years, covering:</p> <ul style="list-style-type: none"> • light touch regime services • services • services and works concessions supplies • works <p>For further information refer to: <u>Procurement Processes and Procedures</u></p>
<u>Treaty state supplier</u>	A supplier that is entitled to the benefits of any of the international agreements set out in Schedule 9 of the Procurement Act 2023.
<u>TUPE</u>	Transfer of Undertaking (Protection of Employment) Regulations 2006: the regulations which govern how employers must deal with transfer of staff when a service or business changes hands from one employer to another in order to ensure the principal terms of employees' rights are protected, including where Council staff are outsourced.
<u>Utilities Contract Regulations 2016</u>	<p>The legislation incorporated into English law concerning the procurement by utilities of public services, goods and works contracts, as amended from time to time.</p> <p><u>The Utilities Contracts Regulations 2016 (legislation.gov.uk)</u></p>
Utilities	<p>An entity which pursues one of the following activities and is a contracting authority or public undertaking or is not a contracting authority or public undertaking but whose activities include and operate on the basis of special or exclusive rights:</p> <ul style="list-style-type: none"> • gas and heat; • electricity; • water; • transport services; • ports and airports;

Term	Definition
	<ul style="list-style-type: none"> • postal services; and • extraction of gas, oil, coal or other solid fuels.
<u>Voluntary and community sector enterprises (VCSEs)</u>	<p>Organisations that operate with the primary aim of addressing social, economic, or environmental issues within communities. They can include charities, community groups, and social enterprises that work to deliver public services and improve community well-being.</p>
<u>Verifier</u>	<p>The officer(s) authorised to unseal electronic tenders.</p>
<u>Waiver procedure</u>	<p>The procedure set out in this policy governing the exemption of the application of the Finance and Contract Procedures.</p>
<u>Weighting</u>	<p>A score which may be allocated to individual criteria and/or sub-criteria to denote their level of importance in comparison to other criteria.</p>
<u>Works</u>	<p>The execution or design and execution of construction, civil engineering, demolition, building installation and building completion works.</p>
<u>World Trade Agreement on Government Procurement (GPA)</u>	<p>A plurilateral agreement under the auspices of the World Trade Organization (WTO) which regulates the procurement of goods and services by the public authorities of the parties to the agreement, based on the principles of openness, transparency and non-discrimination.</p> <p><u>Government Procurement Agreement [WP for Windows Docs] (wto.org)</u></p>

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TORBAY COUNCIL

Contract Compliance

Compliance Tracker – Financial Standing Monitoring

Introduction

Financial failures can be discovered when completing supplier checks for a new contract/supplier or via an alert. The lead officer is responsible for the contract and therefore will be involved as the key contact with the supplier.

Supplier checks are completed by the Data and Compliance Officer. Requests for a supplier check will come from:

- Procurement & Contracts Officers (PCOs) when appointing a successful bidder, this will be either above threshold or below threshold supplier checks (Pre-award assessment),
- Business Support Officers (BSOs) for waivers over £25k (Pre-award assessment),
- For all remaining contracts over £25k, when downloading the monthly contracts register report (Post award assessment),
- Via a D&B alert (Post award assessment).

Business Support and Corporate Contracts Officers will provide cover for leave when required.

PCOs and BSOs will inform DCO via email when a supplier check is required as soon as possible or when the preferred supplier is known to allow maximum time for check to be carried out prior to award. The following information is required via email:

- **Contract start date**
- **Contract Value. Whether contract will be above threshold or below threshold**
- **The supplier(s) name and any details or link to the SSQ**
- **The project number**
- **Name of project folder (not required if SSQ is in folder and link provided)**
- **Any deadlines that need to be adhered to**

Pre contract award checks will be completed in order of urgency and returned at the earliest opportunity. Post award checks will be completed weekly. If the requirement is urgent, please inform DCO. The requesting PCO/BSO will be informed of the result and whether a financial check is to be completed due to failure.

The Data and Compliance Officer (DCO) will complete and monitor financial checks from pre-award assessment throughout contract lifetime. This is monitored on [Financial Standing Log.xlsx](#)

Finance documents relating to the supplier will all be saved in the Project or Waiver folder the contract relates to, in a Finance sub-folder for all to access if required.

An example file path would be:

TC-Commercial Services [Projects](#) - Documents > [Corporate Contracts](#) > [2023 Cleaning Services - TJO1823](#) > Contract Management > [Finance](#)

TC-Commercial Services - General > [Waivers](#) > Active > 700-799 > [732 Panoramic Associates](#) > [Finance](#)

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How to create a D&B Report

1. Log in to D&B - [dnb - Sign In](#)
2. Enter the company name or reg number and select Get Report

Enter Company Name, ID, D-U-N-S or Reg #

Get Report

3. To save the report in Contract Compliance Folder: Save> Contract Compliance Folder > Save. This folder provides alerts when changes occur with the supplier.

View
Save
Delete
Print
Email
Excel
PDF
Preferences

Available Folders

Contract Compliance

[Create Folder](#)

Cancel
Save

4. Download the Report: PDF> wait for PDF to render> Once complete you will see the below 'Success' pop up, click on this to download PDF. Move the downloaded report to the Projects Finance sub-folder.

View
Save
Delete
Print
Email
Excel
PDF
Preferences

Success
×

✓

PDF ready for EXETER
 COMMUNITY ENERGY LIMITED.
[Click here to download](#)

5. The D&B report will show the suppliers information. Check the Failure Score and Overall Business Risk Score. See Supplier Checks Process for failure criteria.

Failure Score

15

Moderate to High Risk of severe financial stress.

OVERALL BUSINESS RISK ⓘ
More > | ✕

Dun & Bradstreet thinks...

HIGH

MODERATE-HIGH

MODERATE

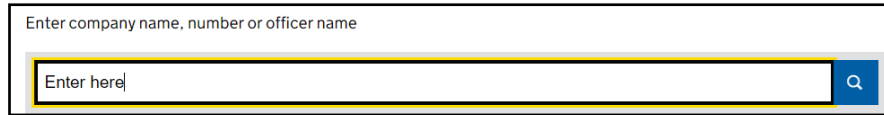
LOW-MODERATE

LOW

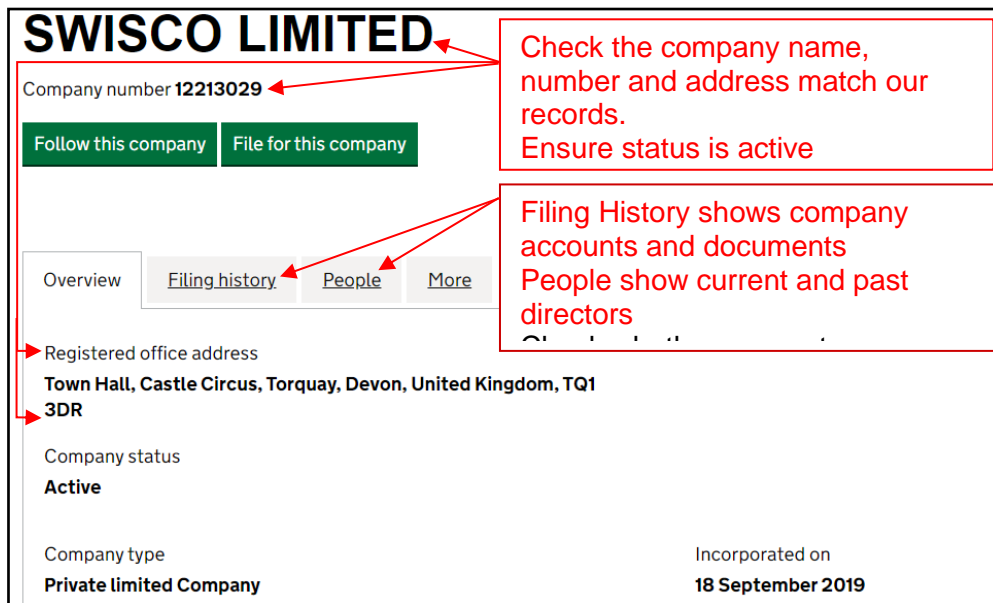
6. D&B report will be saved in the project folder> 03. Contract Management> Finance Checks sub folder each time the report is created. The latest failure score and overall business score will be noted on the Financial Standing Log.

Companies House Checks

1. Go to Companies House
[Find and update company information - GOV.UK \(company-information.service.gov.uk\)](https://www.gov.uk/find-and-update-company-information)
2. In the search bar, enter company name, number or director name and search



3. Select the correct company from the list.
4. On the Overview page, check the company status to ensure company is active and ensure the details match our records.



SWISCO LIMITED

Company number **12213029**

Follow this company | File for this company

Overview | **Filing history** | People | More

Registered office address
Town Hall, Castle Circus, Torquay, Devon, United Kingdom, TQ1 3DR

Company status
Active

Company type
Private limited Company

Incorporated on
18 September 2019

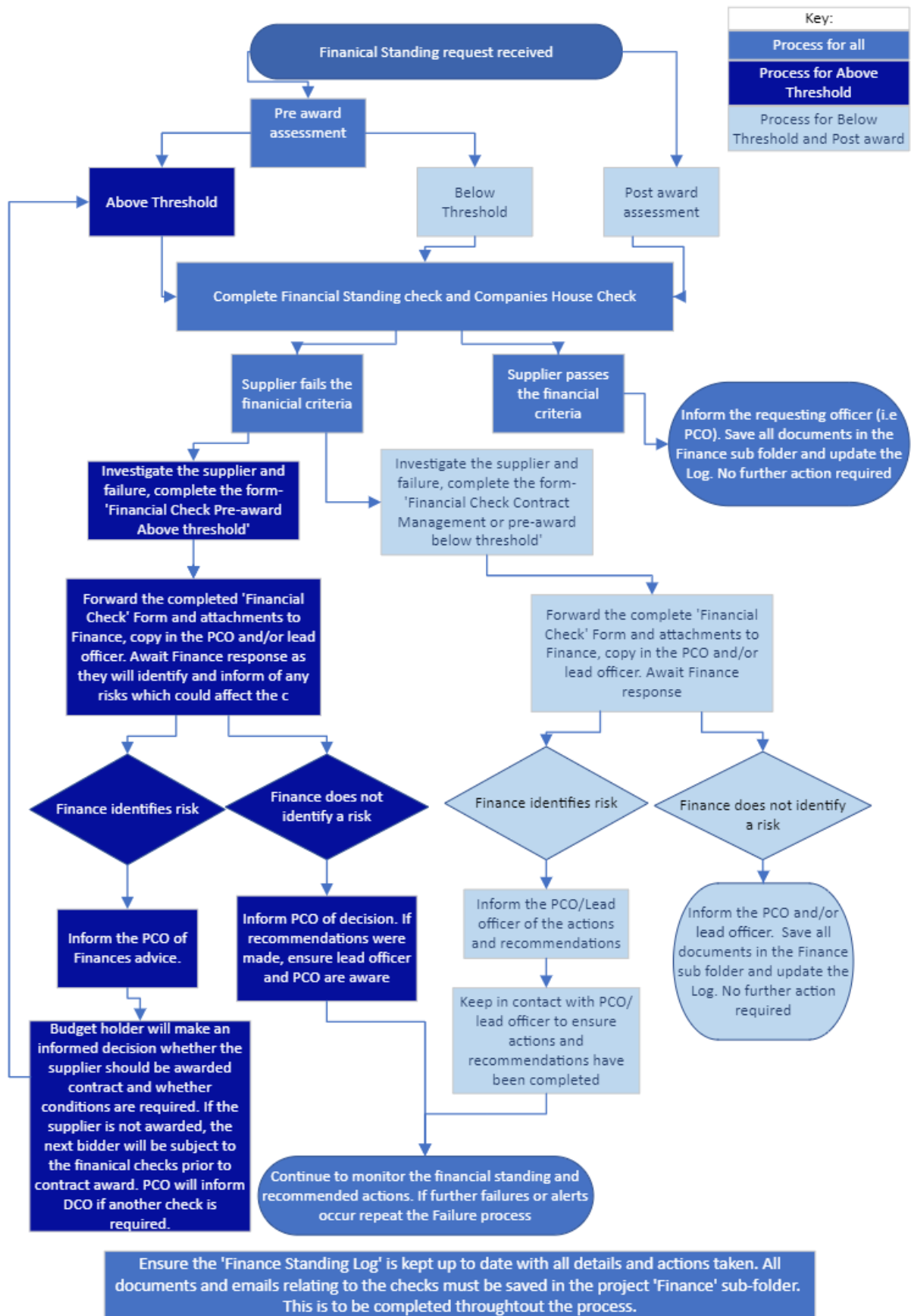
5. In the Filing History tab, obtain the previous 2 years of accounts and save in the project Finance subfolder. (Select View PDF on the Company Accounts, this will open a new PDF tab which can be saved to the relevant folder).
6. In the People tab, perform an audit on each active director, look out for:
 - a. Other companies they are appointed too
 - b. The status of the other companies the director is appointed too (i.e whether the company is active, overdue accounts, any issues or red flags within filing history such as voluntary or mandatory striking off).
7. If any issues are revealed, evidence the findings by saving the pages (Print to PDF and save in finance subfolder).
8. Make a note of the issues on the Log and inform the PCO and/or lead officer. Add details of any failure to the Finance Check Form.

Central Digital Platform

Supplier details will all be held on the CPD

Guide on how to access will be updated once platform has been released and is in use.

Supplier Checks and Financial Failures



Supplier Checks Process

Supplier checks include financial standing via a D&B report and companies house checks. Note, supplier checks are not required for below threshold pre award and post award if the check has been completed within the past 12 months. (exceptions are if there is a concern or failure within past 12 months) Previous checks are logged on the Financial Standing Log.

1. Receive a request for a Supplier check.
2. Complete a Companies House check on the company and directors. (See [Companies House Checks](#) for steps)
3. Obtain a D&B report for supplier(s) (see [How to Create a D&B Report](#) for steps)
4. Review the D&B report and Companies House report to compare against the failure criteria. The failure process is triggered if the supplier meets the below failure criteria:

Failure criteria:

- Failure Score of 50 or below
- Overall Business Risk Score of High-Moderate or High
- Supplier has not met the turnover requirement (for pre-award assessments)
- Failure within the company's house check

5. Add the suppliers' details, contract details and financial standing findings to the Financial Standing Log.
6. If the supplier passes the failure criteria above, they have passed the finance checks. Save the report (and alert if applicable) in the relevant Finance folder and inform the requesting officer or PCO. No further action required.
7. If the supplier fails on any of the above criteria, this will trigger a Financial Check. See below 'Failure Process' for steps

Failure Process

1. In the event the supplier has failed any of the failure criteria, either during the pre-award assessment, during contract lifetime, or we have received a D&B alert, the supplier will need to be investigated and Finance and lead officer involved.
2. Complete the Financial Check Form for the supplier- Under the Procurement Act 2023, we cannot use these checks to exclude a potential supplier for below threshold contracts, but we still carry out checks as part of our risk assessment. Due to this, we have two Financial Check forms in the event of a financial failure-

- a. For below threshold pre-award assessment or during contract lifetime use the below: [Financial Check Contract Management or pre-award below threshold.docx](#)
- b. For Pre-award Assessment above threshold use this form: [Financial Check Pre-award Above threshold.docx](#)

Folder Link: [Financial Guide](#)

3. Investigate the potential reasons for failure. Check D&B and Companies House to look for obvious reasons for failure such as overdue accounts, director turnover, financial losses, mergers & acquisitions.
4. Download the last 2 years Company Accounts from Companies House and save in the projects Finance subfolder.
5. Email the Finance Dept, forward the completed Finance Check Form along with the company accounts and D&B report. Copy in the PCO if relating to a successful

- bidder or lead officer if relating to post award. See email templates below, use the relevant template for either the pre-award above threshold or below threshold/post award financial checks.
6. Save all reports, forms and emails in the projects Finance Checks sub folder. Update the Financial Checks Log with actions taken.
 7. Once finance return the form, ensure the PCO and requesting officer receive a copy:
 - a. For a Pre-award Assessment above threshold, Finance will advise whether the contract should be awarded or not awarded, note the response on the Log and ensure Procurement officer received the completed form so they can action. If finance advised the supplier should not be awarded, the next bidder on the list will require a supplier check, the PCO will advise on this.
 - b. For approved Pre-award Assessments above threshold, finance may provide conditions, this must be noted on the log and lead officer/PCOs aware of the actions required.
 - c. For pre-award below threshold and post contract, finance cannot make recommendations whether to award contract or not however they can provide advice and recommendations. Discuss the findings with the PCO/Lead officer to ensure any risks are mitigated effectively and all involved are aware of the actions required.
 8. Financial standing scores are to be monitored closely and any actions or recommendations should be noted on the Log and progress monitored.
 9. If an action or recommendation has been made by finance, monitor the progress with the lead officer and ensure the Log is updated. Keep in contact with the lead supplier to ensure this is completed.
 10. Update the [Financial Checks Log](#) with the required details, new scores and D&B report download date.

Ongoing monitoring

- Using the Financial Standing Log, monitor the Financial Failures to ensure lead officers are managing the contract effectively. Complete regular check-ins with lead officers to ensure they are managing the risks and any finance recommendations have been completed.
- In the event the supplier failure worsens i.e. Failure score drops further below the criteria or Overall Business Risk score changes to a higher risk level, D&B will issue an alert via email. The Failure Process should be repeated to make the lead officer aware and to allow Finance the opportunity to give current advice or recommendations.
- Ensure any actions or recommendations made by finance are being processed and managed by lead officers.
- Ensure the Financial Checks Log is kept up to date with new suppliers, current scores and actions taken.
- On the Financial Standing Log, expired contracts can be archived. Before archiving expired contracts, ensure the expiry date is current by comparing to the contracts register. If the contract has been extended, update the logs expiry date. If the contract has expired, move the line to the Archive tab.

Insolvency or Administration

In the event a supplier goes into administration or insolvency, D&B will issue an alert.

Due to our current checks, the suppliers' financial difficulties should be known and previously dealt with therefore all involved parties would be aware and actions taken to mitigate risks.

- Inform the lead officer and procurement officer (where applicable) immediately.
- Update the contracts register with a note of the insolvency.

In the event we did not have any indication of the supplier's financial issues prior to insolvency, inform the lead officer and procurement officer (where applicable) immediately and update the contracts register with a note of the insolvency. Investigate thoroughly. Involve Finance and investigate whether there was an indication which was missed. Amend the process and failure criteria accordingly to avoid this happening in the future.

Email Templates

Email to Finance officer for pre-award below threshold and Post award assessments

Send to Joe While/Paul Matravers CC in the contract manager

Forward the D&B report, Financial Check form and company accounts

*SUBJECT Financial Standing Check *Supplier* *CR Number**

Good afternoon,

*We have discovered a financial risk alert regarding the supplier *supplier name*.*

You will see from the attached that their financial scores are:

*Failure Score currently at ***. The pass score for tender purposes would be 50
The Overall Business Risk Score is ****

Although there may be a simple and understandable reason for this, it is important we understand the potential risk and mitigating actions required.

*Could you kindly complete a financial check on the supplier and let myself and the contract manager, *CM Name* know the outcome and any recommendations or requirements.*

Thank you

Email to Finance officer for pre-award above threshold

Forward the D&B report, Financial Check form and company accounts

*SUBJECT Financial Standing Approval *Supplier* *CR Number**

Good afternoon,

*We have completed a financial standing check for the successful bidder *supplier name*.*

You will see from the attached that their financial scores are:

*Failure Score currently at ***. The pass score for tender purposes would be 50
The Overall Business Score is ****

*Could you kindly complete a financial check on the supplier and let myself and the procurement officer, *CM Name* know the recommendations regarding awarding the contract and any conditions or requirements at your earliest convenience.*

Thank you

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Appendix 3

Addressing Devon Audit Partnership Recommendations

The Devon Audit Partnership made a number of recommendations following a review of the Torbay Food and Music Festival.

To aid review of the Commercial Policy this document sets out where these recommendations are addressed within the Commercial Policy.

Commercial Policy Section	DAP Recommendation
A6 Authority to Undertake Commercial Activity	<ul style="list-style-type: none">• Going forward in order to avoid any potential breach of procurement regulations, it is vital that departments precisely follow any instructions given by the Procurement Team and retain full and accurate records relating to instructions and decisions made.• Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed.• Supplier evaluation and selection must clearly record and consider the suitability of the bid proposal prior to award of contract.
B1 Decision Making (B1.3)	<ul style="list-style-type: none">• Going forward in order to avoid any potential breach of procurement regulations, it is vital that departments precisely follow any instructions given by the Procurement Team and retain full and accurate records relating to instructions and decisions made.
B2 Starting a Procurement (B2.1)	<ul style="list-style-type: none">• Going forward in order to avoid any potential breach of procurement regulations, it is vital that departments precisely follow any instructions given by the Procurement Team and retain full and accurate records relating to instructions and decisions made.
B3 Planning a Procurement (B3.2)	<ul style="list-style-type: none">• Going forward in order to avoid any potential breach of procurement regulations, it is vital that departments precisely follow any instructions given by the Procurement Team and retain full and accurate records relating to instructions and decisions made.
B4 Contract Values (B4.7)	<ul style="list-style-type: none">• Contracts such as these should consider inclusion of related public recourse against financial loss incurred.
B6 Risk	<ul style="list-style-type: none">• Going forward in order to avoid any potential breach of procurement regulations, it is vital that departments precisely follow any instructions given by the Procurement Team and retain full and accurate records relating to instructions and decisions made.

	<ul style="list-style-type: none"> • Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed. • Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.
D1 Tender Packs (D1.1, D1.2 and D1.4)	<ul style="list-style-type: none"> • Supplier evaluation and selection must clearly record and consider the suitability of the bid proposal prior to award of contract.
D4 Assessment Criteria	<ul style="list-style-type: none"> • Supplier evaluation and selection must clearly record and consider the suitability of the bid proposal prior to award of contract.
E3 Tender Assessment	<ul style="list-style-type: none"> • Supplier evaluation and selection must clearly record and consider the suitability of the bid proposal prior to award of contract.
E4 Supplier Due Diligence (E4.4 to E4.6 and E4.8 to E4.9)	<ul style="list-style-type: none"> • Due diligence must include a current financial check on the supplier and any related companies regardless of whether it is following a successful tender process or as a result of a waiver process. • Financial checks must be undertaken and repeated throughout the Procurement processes through to contract award and final signing to address the risk of decisions being made on out-of-date financial information. • To support accurate decision making, all financial check reports must be shared with all relevant parties. • Financial Regulations must be reviewed in light of this matter and the new waiver process to ensure there is no risk of misinterpretation of authority to contract award and approval. In addition, consideration should be given to strengthening the waiver due diligence to ensure it as at least as robust as the tender process e.g., requiring exemplar contract information. • Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.
E5 Contract Award (E5.1 and E5.2)	<ul style="list-style-type: none"> • Going forward in order to avoid any potential breach of procurement regulations, it is vital that departments precisely follow any instructions given by the Procurement Team and retain full and accurate records relating to instructions and decisions made. • Supplier evaluation and selection must clearly record and consider the suitability of the bid proposal prior to award of contract.
E5 Contract Award (E5.7, E5.8 and E5.11)	<ul style="list-style-type: none"> • When contracting, all company information must be consistent throughout to ensure that related due diligence is undertaken on the correct company(ies).

F1 Managing a Contract	<ul style="list-style-type: none"> Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed. Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.
F3 Contract Review Meetings	<ul style="list-style-type: none"> Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed. Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.
F4 Contract Performance	<ul style="list-style-type: none"> Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed. Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.
F6 Defaults, Disputes and Remedies	<ul style="list-style-type: none"> Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed. Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.
F7 Poor Performance and Breach of Contract	<ul style="list-style-type: none"> Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed. Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.
F9 Contract Compliance Documentation	<ul style="list-style-type: none"> Contract monitoring must ensure that all contractual obligations are met by the supplier and any non-compliance is recorded and addressed. Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.
H Waiver Procedure (H1.2)	<ul style="list-style-type: none"> When wording supporting narrative within a waiver, care must be taken to ensure the narrative is clear and reduces the risk of misinterpretation. To ensure robust waiver approval, the information contained within it must be complete and accurate, which may be achieved through the provision of evidence supporting the waiver content. The information stated within the waiver must be accurate and challenged by all involved in the approval.

Page

	<ul style="list-style-type: none">• Financial Regulations must be reviewed in light of this matter and the new waiver process to ensure there is no risk of misinterpretation of authority to contract award and approval. In addition, consideration should be given to strengthening the waiver due diligence to ensure it as at least as robust as the tender process e.g., requiring exemplar contract information.
Appendix 2 – Financial Checks Guide	<ul style="list-style-type: none">• Due diligence must include a current financial check on the supplier and any related companies regardless of whether it is following a successful tender process or as a result of a waiver process.• Financial checks must be undertaken and repeated throughout the Procurement processes through to contract award and final signing to address the risk of decisions being made on out-of-date financial information.• To support accurate decision making, all financial check reports must be shared with all relevant parties.• In addition to company financial checks, due diligence could include Procurement checks of Companies House information on the supplier and any related companies.• Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.• Financial Regulations must be reviewed in light of this matter and the new waiver process to ensure there is no risk of misinterpretation of authority to contract award and approval. In addition, consideration should be given to strengthening the waiver due diligence to ensure it as at least as robust as the tender process e.g., requiring exemplar contract information.• Contract monitoring must ensure that supplier financial resilience flags are robustly considered and actioned accordingly.

Meeting: Cabinet **Date:** 17 December 2024

Wards affected: All

Report Title: Procurement of Education other than at School (EOTAS) Programme

When does the decision need to be implemented? Procurement activity is planned to take place from Spring 2025, which the new contracts commencing from 1 September 2025.

Cabinet Member Contact Details: Nick Bye, Cabinet Member for Children's Services, nick.bye@torbay.gov.uk

Director/Divisional Director Contact Details: Nancy Meehan, Director of Children's Services, Nancy.meehan@torbay.gov.uk

1. Purpose of Report

- 1.1 To seek approval for the procurement and subsequent award of contracts to provide a set EOTAS education programme for children and young people (CYP), who have an Education, Health and Care Plan (EHCP) and are unable to attend school.
- 1.2 The proposal is for the following:
 - Lot 1- Block Contract with one provider for core curriculum education
 - Lot 2 – Block Contract with one provider for community inclusion and preparing for adulthood
 - Lot 3 – Framework for vocational and interest-based curriculum to enhance the educational offer to meet CYP aspirations
- 1.3 It is requested that once the procurement process is concluded, delegated authority is given to the Director of Children's Services to award the contracts upon the completion of a satisfactory procurement exercise.

2. Reason for the Contract and its benefits

- 2.1 Torbay Children's Services currently commissions EOTAS packages with alternative providers to meet the needs of CYP who are unable to attend school and who have an EHCP. This is currently done on a spot purchased basis.
- 2.2 The EOTAS packages that CYP currently receive are often dependent on the availability of provision and the hours and offer being accessed can vary hugely.
- 2.3 There are a high number of alternative providers which are commissioned by Torbay Children's Services with varying impact and outcomes for the CYP who access them. By having set providers to work with who have been contracted for specific outcomes will increase the monitoring abilities of Torbay Council.
- 2.4 Torbay Council want to ensure that all CYP who are unable to access education within a registered school can continue to access an impactful and high-quality provision to ensure that they can continue to get their best out of their education journey.
- 2.5 Torbay Council want to ensure that CYP who are unable to access school, can be supported successfully into adulthood, by having a robust educational offer despite not attending school.
- 2.6 Torbay Council want to ensure that when families and their children are offered an EOTAS education programme, that this is a streamlined process which clear provision in place and available for a smooth and successful transition into this provision.
- 2.7 By implementing these contracts, it meets legislative requirements which stipulate that the local authority undertakes a relevant procurement process to award contracts.

3. Recommendation(s) / Proposed Decision

1. That authority be delegated to the Director of Children's Services, in consultation with the Cabinet Member for Children's Services, to award the contracts following the subsequent successful completion of the procurement process.

Appendices

Appendix 1: Provisional Procurement Timeline

Background Documents

EOTAS Data Analysis

1. Introduction.

- 1.1 Torbay Children's Services commissions EOTAS packages for CYP with an EHCP where it has been agreed by the LA that they are unable to successfully receive their education within a registered school.
- 1.2 For the academic year 2023/24, Torbay Council funded a total of 97 CYP who accessed EOTAS packages at some point over that year at a total cost for the year of £1,168,844.70.
- 1.3 For this academic year, 2024/25 there have been 59 CYP accessing their education via an EOTAS package as of end of October 2024, at a current projected cost so far of £1,029,498.90.
- 1.4 Placement costs at each provider vary hugely, which is down to the flexibility in offer and the variation in hourly costs requested by each provider. The hourly cost, although often standardised, may vary depending on the needs of the CYP accessing. This creates challenging in financial forecasting whilst also creating additional resource in approving the individually priced packages.
- 1.5 The packages for each of the CYP vary hugely with the highest cost for one this year being £58,171.25 per annum and accessing three different providers and the lowest cost for one CYP at a cost of £6,780.00 and only accessing one provider.
- 1.6 For this academic year, 18 providers in total have been commissioned, out of 30 providers which have been Quality Assured and individually contracted to enable spot purchasing to occur. 1 provider has 31 CYP placed for part of their EOTAS package, and there are 10 providers who are supporting 5 CYP or less.
- 1.7 The price of one provision varies hugely also, with the cost per place ranging from £3,304 per annum to £27,930 per annum.
- 1.8 There is a need for Torbay Council to have more control over the provision that is on offer for CYP, and to be able to implement an equitable offer for the vulnerable CYP who require their education via an EOTAS package. The contracts being proposed will enable these huge variations to be reduced and for CYP to access what they are entitled to.
- 1.9 It is a statutory duty of LAs to ensure that CYP can access suitable education, and for those who have an EHCP, the LA has a duty to ensure that the provision listed within the EHCP is in place. To ensure that Torbay Council can swiftly and successfully meet this duty, it is felt that having this provision allocated with contracted providers would support this legal duty.

2. Options under consideration

- 2.1 Other options for delivery have been considered.
- 2.2 Do nothing: This will result in a continued inequitable offer and high-cost spot purchased placements. This presents challenges with financial forecasting along with not having the provision available to meet the needs of the CYP due to relying on a spot purchasing process.
- 2.3 Framework only: This will enable Torbay Council to have more control over the provision that is being used for CYP who require a package for EOTAS however will not resolve the sufficiency issue in having placements readily available in high quality provision.
- 2.4 Block contracts only: This will result in increased control over the provision used however restricts the flexibility of the EOTAS programme by limiting the number of providers which are available and therefore removing aspirational factors from the CYPs education.

3. Contract term and budget

- 3.1 It is proposed that all contracts will be awarded for 5 years, starting from September 2025, to ensure that the consistency of offer can be in place for the CYP accessing EOTAS and working through their educational journey until they reach post 16 education.
- 3.2 A budget envelope for the commissioning of these services is being developed, taking into consideration opportunities to reduce spot-purchase costs where possible and increase value for money.
- 3.3 As part of the procurement market engagement, interested parties will be requested to submit their indicative proposed costings for the contracts which will be up for tender, to enable Torbay Council to identify each contract worth.
- 3.4 The contracts will outline the maximum which each contract could be worth, based on the costing analysis which is underway, however the providers awarded the contracts would only be funded for the service and the hours that Torbay CYP access.
- 3.5 It is possible that, in ensuring that the education package for the CYP is enhanced and made more robust, that this may result in additional costs from the High Needs Budget. This is because some CYP are currently receiving an inadequate package of education at present and is not offering them the breadth of provision that is now being sought under these contracts. By increasing the availability and quality of provision that is used, CYP may be able to increase their access to this provision over time, potentially resulting in higher costs.
- 3.6 There is the potential for making costs savings by the implementation of group options within the EOTAS package. At present, the offers in place are 1:1 and rarely include the

opportunity for peer contact. By enhancing the offer to include group work, this will reduce the 1:1 cost currently being experienced.

4. Procurement routes to market

- 4.1 Consideration was made to wait until the Procurement Act 2023 comes into force on 28 February 2025, however as the majority of suppliers that will be bidding for this opportunity are local suppliers who may not have previously engaged with a procurement process, it may be overwhelming for them to understand their duties and navigate PA23 whilst participating in a new process.
- 4.2 The route to market will be an Open Above Threshold Tender, utilising the Light Touch Regime under the Public Contract Regulations 2015.
- 4.3 This is the preferred route as it complies with the Public Contract Regulations and will enable more suppliers to access the opportunity.
- 4.4 The contract will be lotted, both to encourage SMEs and structure the contract in a way that has specific focus on each element.

5. Best value duty

- 5.1 Consideration will be made into the split between cost, quality and social value as part of this procurement. Due to educational and often social vulnerabilities of the CYP accessing EOTAS packages, there is a need to ensure that the providers have the right impact and can keep the CYP safe.
- 5.2 Social Value will be considered in the contract through the Council's standard Social Value process, i.e., requesting suppliers to identify which social value indicators they are capable of delivering and how they will deliver against them.
- 5.3 As part of this work, the transport used for CYP to access their EOTAS programme is being considered to ensure that we include a system that enables CYP to successfully access the offer available, whilst also considering ways in which to support the climate challenges.

6. Engagement and consultation

- 6.1 Hybrid event carried out with parents and carers of CYP who are currently in receipt of an EOTAS package. This was to offer an overview of Torbay's proposed plans to enhance the EOTAS offer and to gain families lived experiences and their views on the proposal.
- 6.2 Analysis on the needs and provision in place for those currently accessing EOTAS to understand the programme that is needed.

- 6.3 The voice of the CYP has been gained as part of their annual reviews to assist in understanding what they would be benefit from and how we need to further develop and enhance their education offer.
- 6.4 Development work has been underway with the providers, prior to this procurement proposal, which Torbay Council currently work with, to understand their experiences and improvements that can be made across the sector to ensure that there is an impactful provision in place.
- 6.5 Market engagement with the current and wider market is planned for the end of the Autumn term to ensure that awareness is raised on the procurement proposal and to take away any further learning from their feedback to support the development of the contract requirements.

7. Equality Impact Assessment

The Council has a Public Sector Duty under the Equality Act 2010 to have 'due regard' to equality and to ensure that it considers equality when taking decisions and throughout its business activities.

Our Public Sector Equality Duty requires us to:

- Eliminate unlawful discrimination, harassment, victimisation, and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not, and
- Foster good relations between people who share a protected characteristic and people who do not.

The Equality Act says that we must consider equality and understand the possible impacts that our decision may have on different groups of people (the protected characteristics)

It is important that you carefully and thoroughly consider the different potential impacts that the decision being taken may have on people who share protected characteristics.

It is not enough to state that a proposal will affect everyone equally. There should be thorough consideration as to whether particular groups or individuals are more likely to be affected than others by the proposals and decision. Please complete the table below. If you consider there to be no positive or negative impacts state 'there is no differential impact anticipated'. Where there are adverse impacts being identified this should be raised with your director and the Partnerships and Inclusion Manager for further discussion.

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	18 per cent of Torbay residents are under 18 years old.	This decision is anticipated to positively impact children and young people. The decision will	Not applicable	Not applicable

	55 per cent of Torbay residents are aged between 18 to 64 years old. 27 per cent of Torbay residents are aged 65 and older.	support young people to access education and learning.		
Carers	At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.	No adverse impacts are anticipated. It is anticipated that there will be a positive impact on those who have caring responsibilities for children and young people accessing this provision due to having a more consistent education offer.	Not applicable	Not applicable
Disability	In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.	No adverse impacts are anticipated. It is expected that there will be a positive impact for those accessing EOTAS who have a disability. Services will continue to be delivered in a child centred way so children with an ECHP continue to get their individual needs met.	Not applicable	Not applicable
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar	No adverse impacts are anticipated.	Not applicable	Not applicable

	to the Southwest and is lower than England.			
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.	No adverse impacts are anticipated.	Not applicable	Not applicable
Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.	No adverse impacts are anticipated.	Not applicable	Not applicable
Race	In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher	No adverse impacts are anticipated.	Not applicable	Not applicable

	<p>proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.</p>			
Religion and belief	<p>64.8% of Torbay residents who stated that they have a religion in the 2021 census.</p>	<p>No adverse impacts are anticipated.</p>	<p>Not applicable</p>	<p>Not applicable</p>
Sex	<p>51.3% of Torbay's population are female and 48.7% are male</p>	<p>No adverse impacts are anticipated.</p>	<p>Not applicable</p>	<p>Not applicable</p>
Sexual orientation	<p>In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.</p>	<p>No adverse impacts are anticipated.</p>	<p>Not applicable</p>	<p>Not applicable</p>
Armed Forces Community	<p>In 2021, 3.8% of residents in England reported that they had previously served in the UK armed</p>	<p>No adverse impacts are anticipated.</p>	<p>Not applicable</p>	<p>Not applicable</p>

	forces. In Torbay, 5.9 per cent of the population have previously served in the UK armed forces.			
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		No adverse impacts are anticipated.	Not applicable	Not applicable
Public Health impacts (Including impacts on the general health of the population of Torbay)		No adverse impacts are anticipated.	Not applicable	Not applicable
Human Rights impacts		The Council is committed to Human Rights and to ensuring the Right to Education for children and young people in Torbay. No adverse impacts on human rights are anticipated from this decision.		
Child Friendly	Torbay Council is a Child Friendly Council and all staff and Councillors are	No adverse impacts are anticipated.	Not applicable	Not applicable

	Corporate Parents and have a responsibility towards cared for and care experienced children and young people.			
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8. Impact and risks

- 8.1 The risk of not putting these contracts in place is that CYP in Torbay will continue to receive an inequitable education offer.

Appendix 1: Provisional Procurement Timeline

Tender Publication goes live	Tuesday 21 January 2025 - Tuesday 11 March 2025
Tender Evaluations	Wednesday 12 March 2025 – Wednesday 23 April 2025
Award Approval	Thursday 24 April 2025 – Thursday 1 May 2025
Publish Award	Friday 2 May 2025
Voluntary Standstill	Monday 5 May 2025 – Thursday 15 May 2025
Mobilisation	Friday 5 May 2025 – Friday 29 August 2025
Contract start date	Monday 1 September 2025

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Meeting: [Cabinet, Health and Wellbeing Board, Overview and Scrutiny](#)

Date: [26 November 2024, 12 December 2024, 6 November 2024](#)

Wards affected: [All](#)

Report Title: [Annual Director of Public Health Report 2024: Women's Health](#)

When does the decision need to be implemented? [Immediately](#)

Cabinet Member Contact Details: [Cllr Hayley Tranter, Cabinet lead for Public Health, Hayley.tranter@torbay.gov.uk](#)

Director Contact Details: [Dr Lincoln Sargeant, Director of Public Health Lincoln.sargeant@torbay.gov.uk](#)

1. Purpose of Report

- 1.1 The purpose of this report is to invite endorsement of, and a formal strategic commitment to the recommendations of the Annual Director of Public Health report across all directorates and departments within Torbay Council.
- 1.2 The DPH annual report is a statutory independent requirement of the Director of Public Health and has been informed this year by interviews and engagement with a diversity of women in Torbay. Insights have been gathered through community groups and organisations, commissioned services and peer and grass-roots networks as well as individuals living in Torbay. This report has been written with the support of further robust research and evidence.
- 1.3 The findings and report content were presented on Wednesday 9th October 2024 at an event in Paignton. The audience was made up of key local stakeholders and report contributors and was well attended.
- 1.4 The report which combines text and videos is being prominently featured as part of the launch of a new website: [Torbay Public Health - Torbay Health Partnerships \(www.torbayhealthpartnerships.co.uk\)](http://www.torbayhealthpartnerships.co.uk)

2. Reason for Proposal and its benefits

- 2.1 The proposals in the report help us to collectively deliver our vision of a healthy, happy, and prosperous Torbay. The Directors Annual report strategically aligns to all key themes of Community and People, Pride in Place and Economic growth.
- 2.2 Women make up 51.3% of the Torbay population. Despite progress made, unacceptable inequalities persist. By taking a focus on women, girls and gender and sex-based barriers to health, economic prosperity, community safety, community wellbeing, health and care barriers can be directly addressed.
- 2.3 Colleagues and leaders across Torbay are all invited to commit to principles and actions which will see the recommendations become an area of distinct measurable focus for all, notably within the corporate planning cycles and business plans.
- 2.4 The recommendations within the annual Public Health Directors report are intended to be broad, strategic, and inclusive to all directorates and departments within Torbay Council, and the health and Wellbeing Board, including external strategic partners.
- 2.5 The key themes are:
 - Women, employment, and household labour
 - Working with vulnerable women
 - Discrimination, inclusion, and exclusion
 - Connecting with communities
 - Reproductive Health
 - Barriers to being physically active

The report recommendations are:

- a) To develop flexible and inclusive employment practices to reflect and encourage women into education and employment.
- b) To commit to actions which raise awareness of Domestic and Sexual Violence and directly address of the impact of domestic abuse on women who experience it.
- c) To improve access, experience, and outcomes for women's healthcare through Torbay's women's health hub.
- d) To recognise and supporting grass roots women's groups and activities as integral components of mental health and wellbeing provision.
- e) To develop integrated service delivery pathways for women's health care, reducing the need to attend multiple appointments across health care.

- f) To develop inclusive approaches that facilitate and support girls and women to become more physically active.

3. Recommendation(s) / Proposed Decision

- 3.1 That the Director of Public Health's Annual Report, as set out at Appendix 1, be endorsed.
- 3.2 That the Director of Public Health be instructed to undertake explicit planning and activities which directly support and contribute to the achievement of the recommendations of the Annual Report, as outlined by indicative actions in appendix 2.
- 3.3 That the Overview & Scrutiny Board be requested to monitor the implementation of the Annual Report on a quarterly basis.

Appendices

Appendix 1 Director of Public Health Annual Report

Appendix 2 Indicative actions for Torbay Council departments

Appendix 3 Report of the Adult Social Care and Health Overview and Scrutiny Sub-Board

Supporting Information

1. Introduction

- 1.1 Focusing on women's health opens further opportunities to centre our understanding of the causes, opportunities, and solutions for improving outcomes for all residents. For example, women in Torbay live slightly longer than men, but are more likely to spend longer in poor health. Our rates of domestic violence and sexual assault demonstrate that women are at significantly higher risk of being subject to such behaviours, either on our streets or in homes.
- 1.2 This report is intended to go beyond describing the issues and seeks to set a course of direction which will support our local areas of strength and potential, as well as outlining opportunities to work together within the council and with external partners to address disparities amongst Torbay residents.

2. Options under consideration

- 2.1 Not applicable

3. Financial Opportunities and Implications

- 3.1 There are no direct negative implications of this report
- 3.2 By adopting the recommendations, the economic outcomes for women and families can be improved in the long term. ¹

4. Legal Implications

- 4.1 There are no direct financial implications of this report
- 4.2 By adopting the recommendations of this report, Torbay will be demonstrating its commitment to gender equality and its duties under the Equality Act 2010

5. Engagement and Consultation

- 5.1 A broad range of community organisations focussed on women and girls have been approached and engaged in co-creating and influencing the content of this report.

¹ Gender Gap: This is the state of work for women in 2024 | World Economic Forum (weforum.org)

- 5.2 The views of a range of different girls and women in Torbay have informed the report narrative, but where contributors have felt able to, we have invited them to participate in film content.
- 5.3 Film contributors were invited to the launch event to see the impact of their participation with decision makers and strategic leads in Torbay and Devon.
- 5.4 The Adult Social Care and Health Overview and Scrutiny Sub-Board (Appendix 3) also considered the Director of Public Health's Annual Report 2024: Women's Health and recommended that the Cabinet be requested to support the recommendations contained therein.
- 5.4 Further engagement with contributors and groups is intended to continue throughout 2024/25. This will raise the profile of this report and continue the momentum and support for its recommendations.

6. Procurement Implications

- 6.1 There are no direct or immediate procurement implications because of this report
- 6.2 It is possible that by committing to actions around the report recommendations, this would have a positive social value impact

7. Protecting our naturally inspiring Bay and tackling Climate Change

- 7.1 There are no direct environmental or climate change impacts as a result of this report.

8. Associated Risks

- 8.1 There are no significant associated risks because of this report

9. Equality Impact Assessment

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	<p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p>	<p>This report and its recommendations are likely to have a positive impact on women of all ages and stages of the life course.</p>		
Carers	<p>At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.</p>	<p>This report and its recommendations are likely to have a positive impact on women.</p>		
Disability	<p>In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.</p>	<p>This report and its recommendations are likely to have a positive impact on women</p>		
Gender reassignment	<p>In the 2021 Census, 0.4% of Torbay's community</p>	<p>This report and its recommendations are likely to have a positive impact on</p>		

	<p>answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.</p>	<p>women, trans, and non-binary people in Torbay.</p>		
<p>Marriage and civil partnership</p>	<p>Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.</p>	<p>This report and its recommendations are unlikely to have either a positive or negative impact on those in a marriage or civil partnership or none. No differential impact.</p>		
<p>Pregnancy and maternity</p>	<p>Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.</p>	<p>This report and its recommendations are likely to have a positive impact on women and pregnant people.</p>		
<p>Race</p>	<p>In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.</p>	<p>This report and its recommendations are likely to have a positive impact on women from minority ethnic groups and populations.</p>		

Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	This report and its recommendations are unlikely to have either a positive or negative impact upon populations with a stated faith or religion, or none. No differential impact.		
Sex	51.3% of Torbay's population are female and 48.7% are male	This report and its recommendations are likely to have a positive impact on women. It is likely to improve outcomes for men too, but the report is focussed on females in Torbay.		
Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	This report and its recommendations are likely to have a positive impact on women, including Lesbian and Bisexual Women.		
Armed Forces Community	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously served in the UK armed forces.	No differential impact.		
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		This report and recommendations are likely to have a positive impact on women, girls, and support deeper solutions to addressing generational poverty and deprivation.		

Public Health impacts (Including impacts on the general health of the population of Torbay)		This report and its recommendations are likely to have a positive impact on the social and wider determinants of health, specifically those of women and girls in Torbay.		
Human Rights impacts		This report and its recommendations are likely to have a positive impact on Human Rights, particularly gender and sex-based rights.		
Child Friendly	Torbay Council is a Child Friendly Council, and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	This report and its recommendations are likely to have a positive impact on girls and women and families across Torbay.		

10. Cumulative Council Impact

- 10.1 A potential cumulative impact for the council is the possibility of improving lives and outcomes for women in Torbay. This can have a positive knock on for revenue and benefits, adult social care, children's social care, place based and community and environmental services and demand
- 10.2 By all directorates and departments committing to recommendations and actions to improve outcomes for girls and women, this demonstrates a cohesive commitment to Public Health as well as addressing health and social inequalities in Torbay.

11. Cumulative Community Impacts

- 11.1 A potential cumulative impact for communities could be improved community cohesion, social mobility, and mutual impact for small and large grass roots and VCSE (Voluntary, Community and Social Enterprise) organisations within Torbay.

Director of Public Health report 2024

Women's Health

[Introduction from Dr Lincoln Sargeant: Public Health Annual Report 23/24 \(youtube.com\)](#)



My annual report this year focuses on women's health. The starting point for public health is the population and the decision to highlight a particular group in the population raises questions as to why this group and not another. This is especially the case when the overall measures of population health (life expectancy and healthy life expectancy) suggest that women live longer and healthier lives on average compared to men.

There are at least three reasons why a focus on women's health is justified in Torbay. The first is that despite the progress made in the legal protections of women from discrimination and the improvement in societal attitudes that have enabled their empowerment, there remain barriers to access for services and opportunities that promote the health and wellbeing of women. Debates about the status of transgender people indicate that there are still sectors of society that have not accepted gender equality and find movement from one gender to another transgressive. Bias and prejudice, whether conscious or unconscious, persist and continue to impact negatively on the physical, mental, social, and economic wellbeing of women. Even where genuine progress is evident it takes times for the negative effects of gender discrimination to be fully overcome.

The second reason for the focus on the health of women follows from the first. The stereotype of the woman's role being in the home meant that many of the tasks related to the care, nurture and education of children fell to women. While there is general acceptance that both men and women have an equal and shared role for bringing up their children these duties fall disproportionately to women in the home. Professions such as nursing, childcare and primary school education are

predominantly female. The influence of women on the health of children in their early years is therefore substantial. The health of women is therefore important for the health of our children and especially for those children with special needs and disabilities.

The third reason is that women often also take on responsibility for the health of others, including men in their lives. Women aged 16 to 60 years are more likely to seek medical attention than similarly aged men (Wang Y, Hunt K Nazareth I, et al. BMJ Open 2013¹) and have a positive influence on the health seeking behaviours of their male partners. While these relationships are complex, a focus on the health of women is likely to have positive impacts not only on the health and development of children but also on men and others who women may have a caring role with.

While Torbay and the UK are further on the path to gender equality and the empowerment of women and girls, this United Nations Sustainable Development Goal is still relevant here and justifies the focus of the annual report on this half of our population.

[Women's Health in Torbay: Public Health Annual Report 23/24 \(youtube.com\)](#)



1. Women, employment, and household labour

The division of labour in the workplace and home continues to disadvantage women in Torbay with women often engaged in lower-paid or part-time work, alongside unpaid caring duties.

Despite much progress, the division of household labour continues to reflect historic gender roles. In most wealthy countries, even when women engage in paid employment, they often still perform much of the household labour ¹.

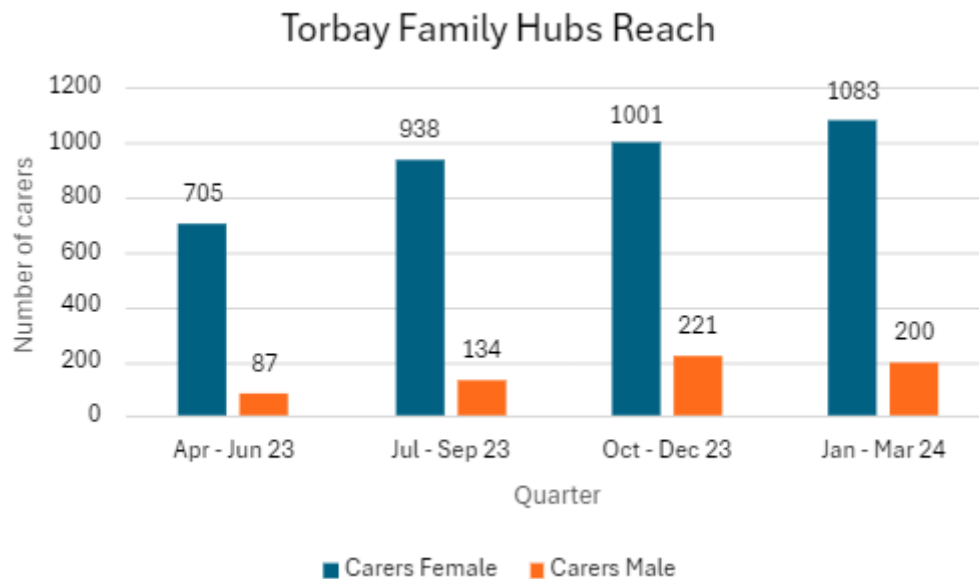


Figure 1: Torbay Family Hubs Reach over the fiscal year 2023/2024. Reach reports count an individual member once, no matter how many times they are recorded. Data source: Torbay Family Hubs.

The impact of an ageing society means that in addition to bringing up their own family, many women will also care for older relatives, often after their children have become independent adults. In 2019, there were 1.25 million ‘sandwich carers’ in the UK, of whom, 68% were women². Carers UK use census data from 2021³ asserts that 59% of unpaid carers are women, and that women are more likely to become carers and to provide more hours of unpaid care than men. In addition, more women than men provide high intensity care at ages when they would expect to be in paid work⁴. These carer responsibilities impact upon the employment opportunities and options for many women.

In Torbay, women are more likely than men to provide unpaid care to others in relation to long-term physical or mental health conditions or aging. 13% of females (aged over 5) compared to 9.5% of males provide unpaid care to other Torbay residents. This is across all age ranges and the proportion of women in Torbay providing unpaid care is significantly higher than England at 10.3%. This is highlighted in the latest local Joint Strategic Health Assessment (JSNA)⁵.

Torbay has consistently lower average salaries than the national and regional average with women often doing lower paid or part-time work, alongside unpaid caring duties. Organisational policies and culture often play their part in decisions within the home about

¹ [The extreme gendering of COVID-19: Household tasks and division of labour satisfaction during the pandemic - Haney - 2022 - Wiley Online Library](#)

² [Carers at breaking point: The social care burden on women | Age UK](#)

³ [Key facts and figures | Carers UK](#)

⁴ [Petrillo Bennett Pryce 2023.pdf \(bham.ac.uk\)](#)

⁵ [Provisional TORBAY JOINT STRATEGIC NEEDS ASSESSMENT 2024/25 \(southdevonandtorbay.info\)](#)

who should work and who should stay at work which can be the difference between continuing traditional gender roles or a more equal household. The impact of caring responsibilities as is not only in felt workplaces and education settings, but also across can create expectations and norms about the role of women in families, communities, and all of Torbay. The impact being felt beyond the workplace, shaping societal norms and individual perceptions of gender roles within the context of family life.

Torbay has an ambitious economic growth strategy which calls for investment in our tech sector, our visitor economy as well as the strong potential for smaller tech companies and creative digital. By supporting women to develop skills, knowledge, qualifications, and confidence to establish, develop and grow employment opportunities, Torbay has the potential to unlock its entire workforce and support women and families to thrive.

Recommendation:

Develop flexible and inclusive employment practices to reflect and encourage women into education and employment

2. Working with vulnerable women

Women more commonly experience domestic abuse and sexual violence in their lives than men. Limited housing options makes it more difficult to escape abuse. It is important to consider the intersectional experiences of women, including sex, gender, disability, ethnicity, sexuality, and experiences of violence.

Patchwork House: Public Health Annual Report 23/24 ([youtube.com](https://www.youtube.com/watch?v=...))



Finding yourself in a vulnerable position can happen to anyone at any time, whether through loss of financial security, employment, relationship status, bereavement, health and wellbeing or other circumstance. Vulnerability for women can present differently than for men.

Violence against women and girls can take place within the home and within the community. Violent acts themselves can incur short-and-long-term impacts on women's physical health with all forms of abuse and harassment impacting women's emotional health. Women disproportionately bear the burden of sexual violence and domestic abuse nationally, and in Torbay.

Extrapolating from national data, we estimate that around 552 women aged 16 – 59 years in Torbay were victim of rape or assault by penetration (including attempts) between March 2017 and March 2020^{6 7}. Of these, around 348 (63%) of these women are likely to have experienced mental or emotional problems as a result⁸. Women have also reported having to take time off work, losing their job, or being forced to give up work, and trying to kill themselves because of being a victim of rape or assault.

Difficult relationships, especially those involving coercive behaviour, and dealing with home and family pressures contribute to poor mental health in women. 59% of respondents identified violence and abuse as a top issue, surpassing money worries, loneliness, hormonal health, and work or exam pressures⁹.

Torbay suicide coroner audit findings: 42% of women who died by suicide in Torbay (2018-2022) were noted to have experienced domestic abuse, sexual violence, or childhood abuse in their lifetime.

Torbay's commitment to protecting women and girls in our community is seen in two multi-agency strategies: the Serious Violence Strategy and Domestic Abuse and Sexual Violence Strategy. These pick up the dangers for women and girls within their homes and within their communities, often at the hand of male members of these homes and communities. The Torbay Safeguarding Children Partnership reinforces these efforts by overseeing key processes including the prevention of exploitation of children and young people.

Safer Torbay **Serious Violence**¹⁰ Strategy has noted for the Torbay community:

- Stalking & Harassment incidents increased by 12% within 2021/22 compared to the previous two years. Trend indicates incidents within 2022/23 will increase by approximately 8%.
- Devon and Cornwall Police were involved in 2,148 separate serious violence incidents occurred across Torbay (April 2019 to October 2022)
 - 1,841 of these incidents identified an offender/suspect responsible for the incident.
 - 70% of offenders were male.
- Following analysis of data in respect of youth violence in Torbay key points have been determined.
 - Higher rate of violent offences per 1000 population in Torbay than the national average and
 - higher rate of hospital admissions due to violence, including sexual violence.

⁶ [population_torbay_2018.pdf \(southdevonandtorbay.info\)](#)

⁷ [Sexual offences prevalence and victim characteristics, England and Wales - Office for National Statistics \(ons.gov.uk\)](#)

⁸ [Nature of sexual assault by rape or penetration, England and Wales - Office for National Statistics \(ons.gov.uk\)](#)

⁹ <https://www.rcpsych.ac.uk/news-and-features/latest-news/detail/2024/03/08/violence-and-abuse-are-driving-mental-illness-in-women-and-girls--psychiatrists-warn>

¹⁰ [Safer Torbay Serious Violence Strategy 2024/29 - Torbay Council](#)

Torbay Domestic Abuse Headlines ¹¹:

- 2,005 police incidents of domestic abuse in Torbay (2020/21).
- Domestic abuse accounts for 22% of all crimes in Torbay.
- 24% of domestic violence and abuse (DVA) related crimes are for stalking and harassment.
- 72% of victims reporting to the police over the past 3 years have been female (2018-21)
- 84% of domestic abuse offenders were male (2020/21)
- 63 Victims of domestic abuse were placed in homelessness temporary accommodation (2023/24)
- Estimated only 33% of people experiencing DVA in Torbay are known to services.

Sexual harassment and online sexual abuse:

- Includes being sent unsolicited explicit sexual material and being pressured to send nude pictures ('nudes')
- 90% of girls said being sent explicit pictures or videos of things they did not want to see happens a lot or sometimes to them or their peers ¹².

"Girls told us that sexual harassment and online sexual abuse, such as being sent unsolicited explicit sexual material and being pressured to send nude pictures ('nudes'), are much more prevalent than adults realise. For example, 90% of girls ... said being sent explicit pictures or videos of things they did not want to see happens a lot or sometimes to them or their peers. Children and young people told us that sexual harassment occurs so frequently that it has become 'commonplace.'¹⁶

In recognition of sexual violence such as this is not being confined to women in any specific age groups, in 2020, a website called Everyone's Invited, was launched. This allows people to anonymously log their experiences of sexual harassment and assault within education settings. This site includes logs for Torbay primary and secondary schools for alleged incidents.

Of 200 already homeless households in Torbay, between January and March 2022, 20% of these households lost their last settled home due to domestic abuse¹³.

Many women have told us that because of domestic abuse they have had to choose between living in poor accommodation or returning to their perpetrator. The difficulties are exacerbated by having to navigate a complex local housing situation, which is also in crisis. While housing is an issue across the UK, Torbay is facing a particularly severe shortage. Torbay Council declared a housing crisis in 2021¹⁴. The rate of homelessness in Torbay is over twice the national average¹⁵. Given the increased likelihood of women also removing children from violent domestic situations, this housing crisis is particularly felt by women and children, exacerbating vulnerability.

Support systems for women are crucial, providing much needed assistance and advocacy. Often the support being sought is within a single-sex safe community. Examples of available support are the housing and cost of living surgeries have been set up within Family Hubs to improve access to housing support and early help for families. Also, to help women eat healthily Ladies Lounge have

¹¹ [Breaking the Chain Domestic Abuse and Sexual Violence Strategy](#)

¹² [OFSTED, Review of sexual abuse in schools and colleges June 2021](#)

¹³ [Housing in Torbay \(southdevonandtorbay.info\)](#)

¹⁴ [Empty Homes - Torbay Council](#)

¹⁵ [Housing in Torbay \(southdevonandtorbay.info\)](#)

¹⁶ [Housing Strategy 2023 to 2030 - Torbay Council](#)

investigated support for women on how to make meals more nutritious when you only have a kettle.

[Leonard Stocks Centre: Public Health Annual Report 23/24 \(youtube.com\)](#)



Recommendation: Commit to actions which raise awareness of Domestic and Sexual Violence and directly address the impact of domestic abuse on women who experience it.

3. Discrimination, inclusion, and exclusion

Women and those with physically female sex reproductive characteristics are disadvantaged by a medical bias towards male physiology as well as the disparity of experience amongst diverse groups of women.

Women and those with physically female sex reproductive characteristics experience different challenges to biological males. Managing menstrual cycles, contraception, maternity and menopause are unique and require women to navigate healthcare systems, media and advertising influences, community, and cultural norms. However, women face frequent discrimination in healthcare, due to their sex, sexual orientation and / or gender identity.

Firstly, there is a bias towards male physiology built into medicine. The vast majority of medical (and other) trials are conducted solely on biological men, as women's hormones, menstrual cycles and reproductive changes across the life course are seen as 'too complicated' to study¹⁷. Results

¹⁷ [A framework to analyse gender bias in epidemiological research | Journal of Epidemiology & Community Health \(bmi.com\)](#)

of clinical trials on men are extrapolated to women and treatments are assumed to have the same effect on women as men¹⁸. Medical investigations and therapies are designed and administered based on how diseases manifest in men and may therefore be ineffective in women.

Furthermore, when we investigate health outcomes and experiences of Black, Asian and Minority Ethnic Women we see more inequalities, such as an increased risk of maternal death (almost four times higher for Black women and twice as high for Asian women as their white counterparts¹⁹). Disparities also exist across sexual orientation, disability, and other protected characteristics. Examples include, Lesbian and Bisexual women have a higher proportion of current smokers (at 31%, compared to heterosexual women who are current smokers is 16%) [20]. Trans and non-binary people experience worse mental health outcomes compared to their lesbian and gay counterparts and more frequently report negative interactions with healthcare professionals²⁰. Rates of obesity are higher among disabled adults compared to those not reporting a disability. Additionally, rates of obesity are higher amongst women with a learning disability compared to men with a learning disability, (45% compared to 31% respectively) ²¹. Where there is no evidence of an improvement or decline in outcomes, this is because sex-disaggregated data is unavailable.

Women's healthcare needs change over time, and at all stages, there are opportunities to promote good health, prevent negative outcomes and restore health and wellbeing. Doing this well for women in Torbay means improving all our systems to account for sex, sexuality, gender identity and other protected characteristics in a way that informs and drives addressing health inequalities. By taking this crucial step, we will start to understand the needs of our populations and how we can make a difference across not only healthcare, but also in social care, housing, economic development, and industry.

Recommendation:

Improved access, experience, and outcomes for women's healthcare through Torbay's women's health hub.

4. Connecting with communities

Mental health and wellbeing are an issue across the life course for women and girls in Torbay. Connecting with groups and activities in the communities to improve people's mental health is as important to them as accessing services.

[Girls Against Anxiety: Public Health Annual Report 23/24 \(youtube.com\)](#)

¹⁸ [Full article: bias Gender in clinical research, pharmaceutical marketing, and the prescription of drugs \(tandfonline.com\)](#)

¹⁹ [Black maternal health - Women and Equalities Committee \(parliament.uk\)](#)

²⁰ [review of lesbian, gay, bisexual, trans and intersex \(LGBTI\) health and healthcare inequalities | European Journal of Public Health | Oxford Academic \(oup.com\)](#)

²¹ [health-inequalities-briefing-2 \(nice.org.uk\)](#)



Women and girls are three times more likely to experience **common mental health conditions** such as depression and anxiety and traumatic stress related disorders than men and boys. Several risk factors explored throughout this report are known contribute to this higher prevalence: caring responsibilities, poverty, unemployment and debt, isolation, and domestic and sexual violence²².

We also know young women who have a probable mental health condition in Torbay far outweigh the numbers of young men, see figure below. (Figure 2)

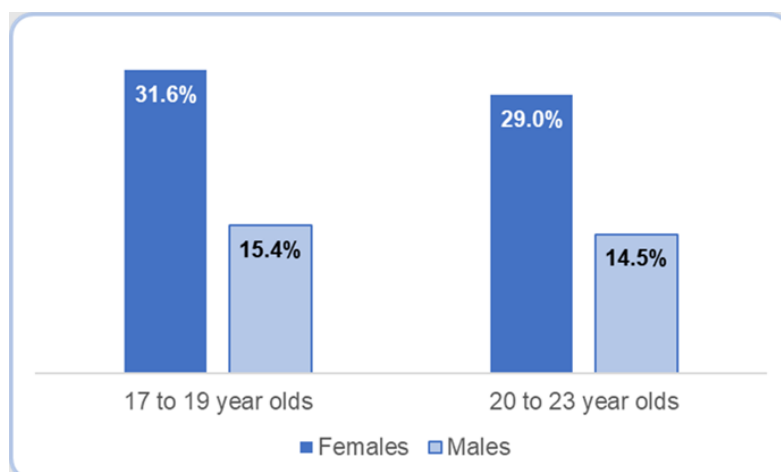


Fig 2: Percentage of young people with a probable mental disorder – England (2023)

Source: NHS England – Mental Health of Children and Young People in England, 2023, using the Strengths and Difficulties Questionnaire

²² <https://www.mentalhealth.org.uk/explore-mental-health/a-z-topics/women-and-mental-health>

Self-harm is a significant public health issue in Torbay and nationally. Data suggests that self-harm prevalence amongst young people has increased significantly in England over the past 20 years^{23 24}. However, the exact numbers of people affected by self-harm can be difficult to quantify as available data is taken from those who seek medical assistance and not those who do not.

Hospital admission rates show a concerning trend in Torbay, where hospital admission rates for self-harm and eating disorders among females exceed the national average for England²⁵. While the number of hospital admissions with a primary diagnosis of anorexia, bulimia, or other eating disorders amongst under 18s is small, only the most severe cases receive hospital interventions. Torbay has had a consistently significantly higher rate of admissions of under 18s (all persons- male and female combined) with a primary diagnosis of an eating disorder than England from 2017/18 onwards. In 2021/22 the Torbay rate was 90.3 per 100,000 (England- 32.8). Most hospital admissions for an eating disorder were young women. Local estimates for self-harm suggest that hospital admissions only represent around 5% of the children and young people who are self-harming in Torbay²⁶.

The challenge of loneliness is keenly felt by women, who are 1.2 times more likely than men to be chronically lonely²⁷ and is not exclusive to older women. Underlying reasons connecting to other disparities highlighted in this report such as caring responsibilities or economic exclusion and poverty. Another factor that comes into play in Torbay are those who move into the area, often following retirement who have few, if any social and community links.

[Women's Institute: Public Health Annual Report 23/24 - YouTube](#)

²³ [Responding to the rising prevalence of self-harm - The Lancet Psychiatry](#)

²⁴ [Intentional self-harm in adolescence: An analysis of data from the Health Behaviour in School-aged Children \(HBSC\) survey for England, 2014](#)

²⁵ [Provisional TORBAY JOINT STRATEGIC NEEDS ASSESSMENT 2024/25 \(southdevonandtorbay.info\)](#)

²⁶ [2024 Torbay Health Needs Assessment for Children and Young People, Part One- A Quantitative Analysis \(southdevonandtorbay.info\)](#)

²⁷ [Investigating factors associated with loneliness in adults in England - GOV.UK \(www.gov.uk\)](#)



In Torbay there are 311 registered charities ²⁸ and an unknown number of community interest companies. For those focused purely on women and girls, they can focus on activities or are support based groups, all support women's health, and wellbeing. In addition to these, further services will be offered specifically to women through commissioned services or directly provided by our partners. Each is unique in their offer.

There remains unmet need however, and public services and the voluntary sector are challenged to meet the full range of needs for our populations. We have heard often that there are gaps in mental health support, with much focus on high end support, which means that women often must either access private support or go without. The stories from women we have spoken to highlight the importance of community-led peer support.

Recommendation:

Recognising and supporting grass roots women's groups and activities as integral components of mental health and wellbeing provision.

5. Reproductive health

The opportunities to maintain good reproductive took a hit during the Covid-10 pandemic. Partnership work is happening to re-establish and go further in creating joined up systems and experiences.

²⁸ [Search the register of charities \(charitycommission.gov.uk\)](https://www.charitycommission.gov.uk)

Maintaining good reproductive health outcomes throughout the life course has profound long-term effects on individuals and communities. We know that women and girls experience poor reproductive health outcomes, with almost half of all pregnancies being ambivalent or unplanned across the UK. In Torbay, this is also true and local data indicates that while rates have significantly fallen, Torbay remains an outlier for teenage conceptions, abortions amongst all ages and repeat abortions. This suggests that awareness and uptake of contraception may be an issue for some women locally.

For some years, and particularly since the Covid-19 pandemic, some services did not bounce back as we had hoped in general practice. LARC (Long-Acting Reversible Contraception) is one of them, and access to LARC in general practice across the Bay is mixed. In terms of access to contraception, there is an offer for Long-Acting Reversible Contraception in each Primary Care Network, but this could be improved. The specialist contraception services at Castle Circus in Torquay are supporting more women than ever in Torbay and provide a high-quality service to all our local community. We know that to improve outcomes, women need a choice of where to get contraceptive care, and value having a range of choices in their local surgery.

Access for women to get Intra-Uterine Devices (IUDs) to support heavy menstrual bleeding and other reproductive health conditions is supported by joint working with Primary Care, NHS Devon ICB (Integrated Care Board) and Torbay Council's Public Health Team. As part of this national Women's Health strategy, NHS Devon ICB has been provided with non-recurrent funding to establish a Women's Health Hub. Across all of Devon, including Torbay, the ICB are working with Public Health to develop a networked hub model with menopause and long-acting reversible contraception (LARC) as the two main priorities. This ambition is aligned with the [NHS Devon Joint Forward Plan](#).

Work is taking place to deliver a pilot menopause service across Devon which provides Torbay GPs (General Practice) with advice and guidance from British Menopause Society (BMS) specialist trained clinicians. This means that women in Torbay will have better access to specialist menopause knowledge in the management of complex cases. Partners are also delivering a programme of education events throughout the year, to support GPs in gaining a better knowledge of the management of menopause.

The development of a digital gateway for Women's Health on the MyHealth Devon website²⁹ will provide women in Torbay access to digital resources on a range of women's health conditions, allowing them to better self-help, seek local support and to inform better conversations with their GPs.

Recommendation:

To develop integrated service delivery pathways for women's health care, reducing the need to attend multiple appointments for routine health care.

6. Barriers to being physically active

Addressing the barriers that contribute to lower rates of physical activity among women and girls is crucial for improving public health and well-being.

²⁹ [My Health Devon - Managing Your Health & Wellbeing \(myhealth-devon.nhs.uk\)](https://myhealth-devon.nhs.uk)



According to Sport England in 2024, more men (at 65.9%) are more likely to be active than women (at 61.2%), although activity levels have increased in both groups over the last seven years³⁰. Data from the Adult Active Lives Survey and Children & Young People's survey shows that 1 in 4 Adults in Torbay ³¹and 1 in 4 Children and Young People ³²are physically inactive. The differences in physical activity levels across those from lower income backgrounds exacerbates these inequalities further.

The reasons behind women achieving less time for sport and physical activity are complex and multi-faceted. In a recent systematic review and thematic analysis ³³ findings highlighted barriers such as a lack of time, body image and societal beauty standards, family duty and social support, religious and cultural norms, organisation and community facilities and environment, safety issues and physical environment. These factors are intertwined and affect women's participation in physical activity at various levels, suggesting the need for a holistic and multi-level approach to address these challenges.

³⁰ [Long-term increase in activity levels positive but further action needed to tackle inequalities | Sport England](#)

³¹ <https://fingertips.phe.org.uk/>

³² [Active Lives | Children And Young People Activity Data \(sportengland.org\)](#)

³³ [Barriers and facilitators to physical activity for young adult women: a systematic review and thematic synthesis of qualitative literature - PMC \(nih.gov\)](#)

In Torbay there are some excellent green and blue spaces, which creates opportunities to be in nature and improve physical and mental health. Local sports and health initiatives³⁴ are available to support local women to engage with more local physical activity.

Addressing the barriers that contribute to lower rates of physical activity among women and girls is crucial for improving public health and well-being. Efforts to promote inclusivity in sports can lead to more active communities and help mitigate the long-term effects of inactivity and obesity. Torbay on the Move is a multi-agency initiative which aims to have ‘more people, more active, more often.’ The strategy takes a place-based approach to population health improvement by focussing on eight themes.



Recommendation:

Developing inclusive approaches that facilitate and support girls and women to become more physically active

A note on language within this report:

Within this report, we use the terms ‘women’ and ‘women's health.’ However, it is important to acknowledge that it is not only people who identify as women or girls who access women's health and reproductive services to maintain their health and wellbeing. The terms ‘woman’ and ‘women's health’ are used for brevity, on the understanding that trans and non-binary individuals assigned female at birth also require access to these services. Delivery of care must therefore be

³⁴ [Sports and health initiatives - Torbay Council](#)

appropriate, inclusive, and sensitive to the needs of those individuals whose gender identity does not align with the sex they were assigned at birth.

Conclusion and next steps

Thank you for reading my 2024 Director of Public Health report on women's health. This report is intended to support conversations about the health and wellbeing challenges facing women in society today. It highlights the sex and gender-specific challenges for all women and girls, emphasising the unique opportunities to address inequalities and their impacts on health.

Our challenge now across Torbay is to take decisive action and make the right decisions in all areas to achieve equality and improve outcomes for women.

The broad recommendations in this report are:

1. To develop flexible and inclusive employment practices to reflect and encourage women into education and employment.
2. To commit to actions which raise awareness of Domestic and Sexual Violence and directly address the impact of domestic abuse on women who experience it.
3. To improve access, experience, and outcomes for women's healthcare through Torbay's women's health hub.
4. To recognise and supporting grass roots women's groups and activities as integral components of mental health and wellbeing provision.
5. To develop integrated service delivery pathways for women's health care, reducing the need to attend multiple appointments for routine health care.
6. To develop inclusive approaches that facilitate and support girls and women to become more physically active.

The next steps are to co-produce an action plan with leaders, decision-makers, and communities across Torbay to progress these recommendations. This will be initiated at the launch in October 2024 and will be a key focus over the next 12 months as we strive for system-wide improvements together.

I will keep our partners and stakeholders updated to keep momentum and share progress and learning. To ensure accountability to our communities, we must maintain a focus on measures and evidence which demonstrate the changes made. Therefore, I invite everyone to use the information and evidence base presented in this report to guide actions over the coming year to show our collective capacity to enact meaningful progress.

Individuals and organisations play a crucial role, and I am inviting you to be active in improving the health of women through:

- **Advocacy for Equality:** Using your voice, power and influence to support policies and initiatives that promote gender equality and address health disparities.

- **Creating Supportive Environment:** Creating a workplace culture that supports the health and wellbeing of all employees, with a focus on gender-specific needs.
- **Policy Development:** Implementing policies that promote gender equality and address health disparities within your organisation and the community.
- **Data Collection and Analysis:** Collecting and analysing data on health outcomes to identify areas of need and measure the impact of your initiatives.
- **Leading by Example:** Demonstrating inclusive and supportive behaviour in your daily life. Small and large actions can inspire others to follow suit.

By taking these steps, we can collectively help create a more equitable and healthier community for everyone in Torbay.

Dr Lincoln Sargeant

Director of Public Health for Torbay,

October 2024

Acknowledgements

Editorial team

Bruce Bell, Consultant in Public Health

Sarah Aston, Public Health Specialist

Joey Needham, Public Health Specialist

Lu Wills, Public Health Practitioner

Claire Tatton, Public Health practitioner

Claire Truscott, Public Health Intelligence Analyst

Specialist input

Beth Hill, Creative Design Manager

Jo Cochrane, Communications and Engagement Officer

Darren Curnow, Analyst Programmer

Hannah Murphy, Team Support Officer, and PA to Dr Lincoln Sargeant

Web company

Insignia Creative <https://insigniacreative.co.uk/>

Film maker

Carly Aston <https://carlyaston.com/>

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Girls Against Anxiety

Girl Guiding

Patchwork House

Torbay Family Hubs – Ramble Club

Torbay Learning Disability Partnership Board Ambassadors

Proud 2 Be - Resourcefull

Women's Circles CIC

Ladies Lounge

Brixham Does Care – Ladies Group

Women's Institute - Preston and Chelston branch

She and Us

Chinese Community Wellbeing Society

Phoenix Rising

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Appendix 2

Indicative actions for Torbay Council departments

Theme	Recommendation	Department/s	Potential actions
Women, employment, and household labour	To develop flexible and inclusive employment practices to reflect and encourage women into education and employment.	<p>A) Torbay Council HR, Adult Social Care commissioning, Public Health commissioning</p> <p>B) Pride in place economic development.</p>	<p>A) Develop and champion flexible employment practices. Embed within standard commissioning templates and tenders.</p> <p>B) Promote business benefits of including more 'family friendly' employment practices.</p>
Working with vulnerable women	To commit to actions which raise awareness of Domestic and Sexual Violence and directly address of the impact of domestic abuse on women who experience it.	Adult Social Care - Community Safety, Childrens Services, Public Health, Corporate services, elected members	<p>A) To renew commitment and actions which support the delivery of outcomes for the Torbay Domestic Abuse and Sexual Violence Strategy 2023-2030 'breaking the chain'.</p> <p>B) Invite all front-line staff to have awareness and capacity to deliver basic DA and SV interventions to families and children, including appropriate signposting</p>

Discrimination, inclusion, and exclusion	To improve access, experience, and outcomes for women's healthcare through Torbay's women's health hub.	<ul style="list-style-type: none"> A) Torbay Public Health B) Adult Social Care – housing need 	<ul style="list-style-type: none"> A) Raise awareness and encourage ICB to implement national WHH specification and communicate offer explicitly across Torbay. B) Reassess thresholds of need where DASV is a contributing factor in homelessness
Connecting with communities	To recognise and supporting grass roots women's groups and activities as integral components of mental health and wellbeing provision	<ul style="list-style-type: none"> a. Commercial Services and commissioning across all departments b. Public Health 	<ul style="list-style-type: none"> a. Ensure that recommendations are included and promoted within the proposed social value framework for tenders in 2025. b. To develop regular women's health networking for grass roots and community organisations during 2025
Reproductive Health	To develop integrated service delivery pathways for women's health care, reducing the need to attend multiple appointments for routine health care	<ul style="list-style-type: none"> a) Public Health b) Childrens Services 	<ul style="list-style-type: none"> a) To mobilise improved GP and specialist contraceptive services b) To ensure workforce receive training, support, and capacity to deliver basic advice and

			signposting interventions
Barriers to being physically active	To develop inclusive approaches that facilitate and support girls and women to become more physically active	<ul style="list-style-type: none"> A. Spatial planning B. Cultural events 	<ul style="list-style-type: none"> A. To explore planning applications which support physical activity and account for appropriate street lighting and best evidence (e.g. transport, housing) B. Ensure Cultural and sporting events are inclusive in terms of gender, access, community safety and promote diversity and inclusion for women of all abilities.

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Director of Public Health Annual Report – Women’s Health – Report of the Adult Social Care and Health Overview and Scrutiny Sub-Board

Report to Cabinet on 26 November 2024

Background

1. The Adult Social Care and Health Overview and Scrutiny Sub-Board met on 5 September 2024 to consider Director of Public Health Annual Report – Women’s Health. The Director of Public Health and Public Health Specialist provided an overview of the key themes and recommendations from the forthcoming Director of Public Health Annual Report which focused on health and wellbeing of women as set out in the submitted report. The key themes were:
 - Women, employment and household labour;
 - Working with vulnerable women;
 - Discrimination, inclusion and exclusion;
 - Connecting with communities;
 - Reproductive Health; and
 - Barriers to being physically active.
2. Members asked questions around the lack of detailed information presented in the report; it was known that men were reluctant to go to the GP when they should have done so, was this the same for women; a lot of younger people were getting seriously ill e.g. people with cancer in their 30s, what was being done to encourage people to seek help and go to their GP; were people from LGBTQ+ groups actively involved in providing feedback as part of the evidence gathering; what were women’s health hubs; and the Council’s Economic Development Team were developing an Employment and Skills Plan was there work that this Team could contribute to help Public Health with their data and inform the plan in a joined up way.
3. The Chief Executive of Healthwatch Torbay advised that Healthwatch had undertaken a survey on men’s health as part of a pilot but the funding was withdrawn. Women usually had more contact with medical professionals due to contraceptives and pregnancy but there was a need to ensure an integrated approach to meet the needs of both men and women. Ms Harris raised concern that Healthwatch Reports were shared with the Council but they did not always receive feedback on the impact their reports had.

4. In response to questions Members were advised that the detailed report was still being developed ready to present to the launch event on 9 October 2024, which all Members had been invited to attend. The Director of Public Health felt that it was important to bring the overview to the Sub-Board to enable them to feed into the final report, with a view to Members monitoring the progress against the action plans which will emerge from the report later in the year, in the same way they were monitoring Cardiovascular Disease which was an action from last year's Annual Report. Women's Health had been chosen this year to highlight that although progress had been made there were still areas for improvement and to focus on issues such as culture and heritage, sexuality and gender identity that may present barriers in women's access and experience of healthcare services. Women tend to access healthcare more than men and a focus on the health of women could benefit the whole family. Key data around this was included in the Joint Strategic Needs Assessment, which was another key piece of work carried out by Public Health.
5. Members were informed that Torbay was an outlier for poor health of working age people as well as having an aging population with high relatively high proportion of people with disabilities and poor health in poorer areas. There needed to be a more joined up approach looking at the whole population when dealing with health and wellbeing as well as looking at sub-groups where disparities may exist.
6. Members were informed that there was a huge disparity between health services for men and women with more funding for women's health than men and there needed to be a more joined up approach looking at the whole body when dealing with health and wellbeing. Torbay was an outlier for poor health of working age people as well as having an aging population. With high numbers of people with disabilities or poor health in poorer areas.
7. The Sub-Board noted that many different groups had been consulted and engaged with but that people from the LGBTQ+ community felt that they had been over consulted, however, views were obtained from non-binary individuals as well as discussions around transgender. Members acknowledged the need to show sensitivity around gender and show compassion for those involved.
8. Members were advised that part of the Government's National Women's Health Strategy 2022 was the creation of Women's Health Hubs with two year's funding provided to the Integrated Care Board (ICBs). One Devon ICB was working with Public Health Teams across Devon to give better pathways for women's health across the County through GP services in Torbay as Devon was too small an area to create individual Women's Health Hubs.
9. In response to questions Members were advised that the support for women in employment required a holistic approach to supporting women with childcare to enable them access to health services, working with employers to support women who were returning to work. This was one of the proposed workstreams which would be developed over the year.

10. Conclusion

- 10.1 The Sub-Board reflected and debated the information provided to them, both verbal and written and formed the following recommendations to the Cabinet. On being put to the vote, the motion was declared carried unanimously.

11. Recommendations

- 11.1 That the Cabinet be recommended:

to note that the Adult Social Care and Health Overview and Scrutiny Sub-Board noted the Director of Public Health's Annual Report 2024: Women's Health and that the Cabinet be requested to support:

- development of flexible and inclusive employment practices to reflect and encourage women into education and employment;
- raising awareness of the impact of domestic abuse on women who experience it, and the sensitivity of response needed to meet their needs;
- improvement to access, experience and outcomes for women's healthcare through Torbay's women's health hub;
- recognition and support of grass roots women's groups and activities as integral components of mental health and wellbeing provision;
- development of integrated service delivery pathways for women's health care, reducing the need to attend multiple appointments for routine health care; and
- development of inclusive approaches that facilitate and support girls and women to become more physically active.

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Meeting: Cabinet

Date: 17 December 2024

Wards Affected: All Wards

Report Title: Appointment of Member Champion

Is the decision a key decision? No

When does the decision need to be implemented? as soon as possible

Cabinet Member Contact Details: Councillor David Thomas, Leader of the Council, david.thomas@torbay.gov.uk

Supporting Officer Contact Details: Anne-Marie Bond, Chief Executive, anne-marie.bond@torbay.gov.uk, (01803) 207015

1. Proposal and Introduction

- 1.1 Member champions are elected members who act as an advocate or spokesperson for a specific area of the Council's business. The main responsibility of each member champion is to encourage communication and positive action over the issue they represent. A full job description for Member Champions is set out in Annex 1 to the Local Protocol on Member Champions within the Council's Constitution.
- 1.2 At the Cabinet meeting on 11 July 2023, the Cabinet appointed Councillor Tranter as the Member Champion to champion key aspects of the Council's work in respect of the Armed Forces.

2. Reason for Proposal and associated financial commitments

- 2.1 To change the Member appointed as the Member Champion for Armed Forces for the remainder of the current four-year term of office.
 - 2.2 There are no financial commitments in respect of the proposals contained in this report.
-

3. Recommendation(s) / Proposed Decision

- (i) That Cabinet give thanks to Councillor Tranter for the work she has undertaken to date, to champion the Council's work in respect of the Armed Forces; and
- (ii) That Councillor Spacagna be appointed as the Armed Forces Champion until May 2027.

Appendices

None

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