



Town Hall, Castle Circus,
Torquay, Devon TQ1 3DR
Main Switchboard (01803) 201201
Fax (01803) 207006 DX 59006

Tuesday, 5 July 2011

Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Ballroom, Oldway Mansion, Torquay Road, Paignton, TQ3 2TE** on **Wednesday, 13 July 2011** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

A handwritten signature in black ink that reads 'Elizabeth Raikes'.

Elizabeth Raikes
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

Our vision is for a cleaner, safer, prosperous Bay

For information relating to this meeting or to request a copy in another format or language please contact:

June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207012

Email: democratic.services@torbay.gov.uk

(i)
THE MJ
2010
Achievement Awards
COMMENDED

Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

To confirm as a correct record the minutes of the annual meeting of the Council held on 24 May 2011.

(Pages 1 - 8)

4. **Declarations of interests**

(a) To receive declarations of personal interests in respect of items on this agenda

For reference: Having declared their personal interest members and officers may remain in the meeting and speak (and, in the case of Members, vote on the matter in question). If the Member's interest only arises because they have been appointed to an outside body by the Council (or if the interest is as a member of another public body) then the interest need only be declared if the Member wishes to speak and/or vote on the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of personal prejudicial interests in respect of items on this agenda

For reference: A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial 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 Democratic Services or Legal Services prior to the meeting.)

5. **Communications**

To receive any communications or announcements from the Chairman, the Mayor, the Overview and Scrutiny Co-ordinator or the Chief Executive.

6. **Public questions**

To hear and respond to any written questions or statements from members of the public which have been submitted in accordance with Standing Order A24.

7. Members' questions

To answer any questions asked under Standing Order A13.

8. Notice of motions

To consider the following motions, notice of which has been given in accordance with Standing Order A14 by the members indicated:

a) Palm Court Hotel

This Council notes that the Palm Court Hotel site is an eyesore and agrees to request officers to proceed with negotiations to purchase the site with a view to developing it jointly with our LABVI partner. The development will be essentially leisure business orientated, and the Council understands that officer costs incurred in the process will be recouped from the development thus not adversely affecting Torbay taxpayers.

Submitted by Councillors Darling and Baldrey

b) School Transport

We call upon the Mayor and Council to stagger the rise in the cost in school transport by instigating gradual increase over a 5 year period. The costs of this should be met by use of the Council reserves. This will help families by:

- Reducing the increase to families at a time when many are suffering from higher utility and other charges.
- Allow parents to consider their budgets and make extra provision when deciding the options for education of their children.

Submitted by Councillors Pentney and Faulkner (J)

9. Mayoral Decisions

(a) Adoption Activity Report

(Pages 9 - 20)

To note the attached report on the activity of the Adoption Service from 1 April 2010 to 31 March 2011.

(b) Adoption Activity Statement of Purpose

(Pages 21 - 36)

To make recommendations to the Mayor on the attached report.

(c) Proposal to Close Chestnut Primary School

(Pages 37 - 46)

To make recommendations to the Mayor on the attached report.

(d) Reducing Teenage Conceptions Strategy - Refreshed 2010

(Pages 47 - 78)

To make recommendations to the Mayor on the attached report.

- (e) **Granting of Long Leases to Sports Clubs** (Pages 79 - 90)
To make recommendations to the Mayor on the attached report.
- (f) **Options for Future Delivery of Tourism, Marketing and Events Support** (To Follow)
To make recommendations to the Mayor on the attached report.
- (g) **Repairs to the Banjo and Eastern Section of Princess Parade** (To Follow)
To consider a report on the above.
10. **Revenue Outturn 2010/11 - Subject to Audit** (Pages 91 - 106)
To consider the attached report on the above.
11. **Capital Plan Budget Outturn 2010/2011 (Subject to Audit)** (Pages 107 - 126)
To consider the attached report on the above.
12. **Treasury Management Outturn 2010/11** (Pages 127 - 144)
To consider the attached report on the above.
13. **Solar Photovoltaic on Public Buildings Project** (To Follow)
To consider the attached report on the above.
14. **Review of Guidance on Principal Holiday Accommodation Areas** (Pages 145 - 192)
To consider the attached report on the above.
- Please note colour copies of the maps contained in the appendix are provided in the Members Rooms and a colour copy will be available at the meeting. If Members require an individual copy please contact Democratic Services.*
15. **Match Funding for South Devon Link Road** (Pages 193 - 208)
To consider the attached report on funding for the South Devon Link Road.
16. **Health and Safety Enforcement Service Plan 2011/12** (Pages 209 - 238)
To consider the attached report and any recommendations from the Mayor on the Annual Health and Safety Enforcement Service Plan.
17. **Food Safety Service Plan 2011/12** (Pages 239 - 266)
To consider report and the recommendations of the Mayor on the annual review of the Food Safety Service Plan.
18. **Review of Political Balance** (To Follow)
To consider a report on a review of political balance of committees.
19. **Constitution Amendments** (To Follow)
To consider any amendments to the Constitution in accordance with Article 1 paragraph 1.03.
20. **Ombudsman Report on an Investigation into Complaint No 10 002 564 against Torbay Council** (Pages 267 - 282)
To note the attached report on a recent Ombudsman decision.



Minutes of the Annual Council Meeting

24 May 2011

-: Present :-

Chairman of the Council (Mr Phillips) (In the Chair)
Vice-Chairman of the Council (Mr Manning)

The Mayor of Torbay (Mayor Oliver)

Councillors Addis, Amil, Barnby, Brooksbank, Butt, Cowell, Darling, Davies, Doggett, Ellery, Excell, Faulkner (J), Hernandez, Hill, Hytche, James, Kingscote, Lewis, McPhail, Mills, Morey, Parrott, Pentney, Pritchard, Richards, Scouler, Stockman, Stocks, Stringer, Thomas (D), Thomas (J) and Tyerman

1. Opening of meeting

The meeting was opened with a prayer.

2. Apologies for absence

Apologies for absence were received from Councillors Baldrey, Bent and Faulkner (A). Councillor Stocks was absent for the adjourned meeting.

3. Minutes

The Minutes of the meeting of the Council held on 24 May 2011 were confirmed as a correct record and signed by the Chairman.

4. Declarations of interests

The following personal interests were declared:

Councillor	Minute Number	Nature of interest
Amil	18	Non Executive Director of Torbay Care Trust.
James	18	Works for Lifeways Community Care although not within Torbay, however, the company operates within Torbay.

Councillor	Minute Number	Nature of interest
Pentney	18	Mother receives some care from Torbay Care Trust.
Scouler	18	Relative uses Torbay Care Trust's services.
Stocks	18	Non Executive Director of Torbay Care Trust.

5. Election of Chairman/woman of the Council

It was proposed by Councillor Richards and seconded by Councillor Faulkner (J):

that Councillor Derek Mills be elected Chairman of the Council of the Borough of Torbay for the Municipal Year 2011/2012.

On being put to the vote, the motion was declared carried (unanimous).

(The Chairman, Councillor Mills, in the Chair)

The Chairman of the Council took the Declaration of Acceptance of Office and Oath of Allegiance and thanked the Council for the honour bestowed upon him.

The Chairman also announced that Mrs Judith Mills would be his Consort during his term of office and his charity would be the Children's Hospice South West.

6. Chairman's Chaplain and Civic Sunday

The Chairman announced that he had appointed the Reverend Ian Blyde to be his Chaplain and that the Annual Civic Church Service would be held at Churston Parish Church, Torquay, later this year.

7. Retiring Chairman and Chairman's Escort

It was proposed by Councillor Hytche and seconded by Councillor Faulkner (J):

that the Council express its sincere thanks and appreciation to Mr Matthew Phillips and Councillor Nicole Amil for the manner in which they had carried out their duties during their term of office.

On being put to the vote, the motion was declared carried (unanimous).

8. Appointment of Vice-Chairman of the Council

It was proposed by Councillor Doggett and seconded by Councillor Excell:

that Councillor Roger Stringer be appointed Vice-Chairman of the Council of the Borough of Torbay for the Municipal Year 2011/2012.

On being put to the vote, the motion was declared carried (unanimous).

The Vice-Chairman took the Declaration of Acceptance of Office and announced that Mrs Shelagh Stringer would be his Consort during his year of office.

9. Retiring Vice-Chairman and Escort

It was proposed by Councillor Addis and seconded by Councillor Excell:

that the Council express its sincere thanks and appreciation to Mr Terry Manning and Mrs Jenny Manning for the work carried out by them during the previous Municipal Year.

On being put to the vote, the motion was declared carried (unanimous).

10. Adjournment

At this juncture the meeting was adjourned until 1.30 p.m.

11. Communications

The Chairman requested all members adhere to correct procedures for Council meetings and advised that he wished to Chair Council meetings in a firm but fair way to ensure they were held in a business like manner.

On behalf of Torbay and the Council, the Mayor conveyed best wishes and success to Torquay United's forthcoming match at Old Trafford due to be held on Saturday 28 May 2011.

12. Order of Business

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable agenda item 9 (Members' Questions) to be considered after item 18 (Urgent Decisions taken by the Chief Executive under the Officer Scheme of Delegation).

13. Composition and Constitution of the Executive and Record of Delegations of Executive Functions

The Mayor presented his report as submitted with the agenda, on the above, which was noted.

14. Appointment of the Overview and Scrutiny Co-ordinator and Scrutiny Lead Members for 2011/12

The Council was requested to consider the appointment of the Overview and Scrutiny Co-ordinator and the appointment of scrutiny lead members for 2011/2012.

It was proposed by Councillor Thomas (D) and seconded by Councillor Darling:

- (i) that Councillor Thomas (J) be appointed as the Overview and Scrutiny Co-ordinator for 2011/2012 municipal year; and
- (ii) that the following Councillors be appointed as the Scrutiny Leads as indicated:

People – Councillor Bent

Place – Councillor Kingscote

Business – Councillor Pentney

Health – Councillor Barnby

On being put to the vote, the motion was declared carried (unanimous).

15. Appointments to Committees and Other Bodies for 2011/2012

The Council considered the submitted report on the appointment of committees and other bodies in the light of the political balance of the Council. A revised Appendix 2 was circulated at the meeting.

It was proposed by Councillor Morey and seconded by Councillor Stockman:

- (i) that the committees be appointed with the terms of reference set out in revised Appendix 2 of the submitted report in accordance with the political balance requirements (as set out in Appendix 1 of the submitted report);
- (ii) that nominations be received to fill the seats on the committees;
- (iii) that the proposed appointments to the outside bodies and other groups set out in Appendix 3 of the submitted report, be approved for a four year term, unless otherwise stated, subject to confirmation on the allocation of places on the Devon and Cornwall Police Authority; and
- (iv) that a Shadow Health and Wellbeing Board be established with membership and terms of reference as set out in Appendix 4 of the submitted report.

On being put to the vote, the motion was declared carried (unanimous).

Following the vote, the members to serve on each committee and other bodies were nominated by the Group Leaders.

16. Calendar of Meetings for 2011/12

The Council considered the submitted report setting out the proposed calendar of meetings for 2011/2012.

It was proposed by the Mayor and seconded by Councillor Thomas (D):

- (i) that the calendar of meetings for 2011/2012, set out in Appendix 1 to the submitted report, be approved; and
- (ii) that meetings of the Employment Committee and Appeals Committee (Student Awards, Licensing and Discretionary Housing Payments) be held on an ad-hoc basis, to be determined by the Democratic Services Manager in consultation with the relevant Chairman.

On being put to the vote, the motion was declared carried.

17. Scheme of Delegation for Council Functions

It was proposed by Councillor Thomas (D) and seconded by Councillor Excell:

that the Scheme of Delegation of Functions set out in part 3 of the Constitution in so far as they relate to Council functions, be confirmed.

On being put to the vote, the motion was declared carried (unanimous).

18. Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust

The Council considered the recommendations of former Mayor Bye on the above (as set out in the submitted Record of Decision and appended Report 76/2011), which he had put forward following consideration of the amendment that was made at the meeting of the Council held on 24 March 2011.

It was proposed by Councillor Scouler and seconded by Councillor Amil:

- (i) that the Council be recommended to approve the Annual Strategic Agreement for 2011/12 as set out in Revised Appendix 1 to Report 76/2011 circulated prior to the Council meeting on 24 March 2011; and
- (ii) that the remaining risk related to the delivery of the required performance outlined and the ability to deliver a balanced budget, given the level of resources allocated for the delivery of Adult Social Care, be deemed acceptable.

On being put to the vote, the motion was declared carried.

(Note 1: Prior to consideration of Minute 18, Councillors Amil, James, Pentney and Scouler declared their personal interests.)

(Note 2: In accordance with Standing Order A19.5, Councillor Parrott requested his vote against the motion to be recorded.)

19. Overview and Scrutiny Board Annual Report 2010/2011

The Council received and noted the Overview and Scrutiny Annual Report for 2010/2011.

20. Statutory Officer Appointment

It was proposed by Councillor Tyerman and seconded by Councillor Hill:

that Paul Looby be confirmed as the Council's statutory Section 151 Officer.

On being put to the vote, the motion was declared carried (unanimous).

21. Urgent Decisions taken by the Chief Executive under the Officer Scheme of Delegation

The Council noted the urgent decisions taken by the Chief Executive as set out in the submitted report.

22. Members' questions

Members received a paper detailing the questions, as set out at Appendix 1 to these Minutes, notice of which had been given in accordance with Standing Order A13.

Supplementary questions were asked on each of the questions and answered by the Mayor and Councillor Thomas (D).

Chairman

Minute Item 22

Meeting of the Council

Tuesday, 24 May 2011

Questions Under Standing Order A13

Question (1) by Councillor Darling to the Mayor	<p>Your ‘Intouch’ leaflet circulated during the local elections promised ‘Value for Money’.</p> <p>A by-election will now have to be held in the Cockington with Chelston Ward due to your decision to stand for election to both the Mayoral and Councillor Positions despite it being illegal to hold both posts.</p> <p>How will the Council fund this by-election in the current difficult financial climate?</p>
Mayor Oliver	Electoral Services established a by-election contingency reserve of £6,000 for this situation. Among the nine candidates for Mayor this year, five were also candidates for a seat on the Council.
Question (2) by Councillor Darling to the Deputy Mayor and Executive Lead for Strategic Planning, Housing and Energy	<p>Devon County Council has recently introduced charges for residents taking some forms of waste to their recycling centres.</p> <p>What assurances can the Cabinet member give that Torbay Council will not be introducing similar charges at Torbay’s recycling centre?</p>
Councillor Thomas (D)	Torbay Council has no intention of introducing charges at Torbay’s recycling centre. Officers are currently working with TOR2 to monitor the impact of this decision made by Devon County Council in relation to potential displacement and increased use of the Torbay recycling and waste site. If the use of the Torbay site increases and therefore results in higher landfill tonnage the recovery of additional taxes and charges will need to be considered. When considering the option of introducing charges to recover potential increased costs, the potential for increased fly tipping and resultant consequences will need to be taken into account.

<p>Question (3) by Councillor Darling to the Mayor</p>	<p>The Village Green Act gives Local Authorities the ability to voluntarily grant 'Village Green Status' to land in their area.</p> <p>Does the new administration plan to grant 'Village Green Status' to Paignton Green and Babbacombe Downs?</p>
<p>Mayor Oliver</p>	<p>The new administration would like to make such an application. However, before making such an application independent expert counsel's opinion is being sought on whether a council voluntarily registering its land is legally possible (particularly in light of the council's fiduciary duties to residents) and whether registration as town or village green would restrict current and proposed future uses of Paignton Green and Babbacombe Downs.</p>



Public Agenda Item: **Yes**

Title: **Adoption Agency Activity Report**

Wards Affected: **All Wards in Torbay**

To: **The Mayor/Council** On: **13 July 2011**

Contact Officer: **Rhona Lewis**
Telephone: **01803 207870**
E.mail: **rhona.lewis@torbay.gov.uk**

1. Key points and Summary

1.1 This report is to inform members of the Torbay Children's Services Adoption Agency activities for the period 1st April 2010 to 31st March 2011.

2. Introduction

- 2.1 There is a requirement that Adoption agency activity is reported twice a year to the Executive and to the Adoption Panel. This report covers figures for 1/4/10 to 31/3/11. Figures are also given from previous years as comparisons.
- 2.2 There are timescales to be met when planning adoption for children. The figures include details of how these are being met.
- 2.3 The Executive Head of Safeguarding and Wellbeing made the decisions about adoption cases after he had considered the recommendation of the Adoption Panel. There have been no cases where the decision has differed from that recommended by the Panel.
- 2.4 The plan for a child will come before the Adoption Panel on two occasions: first for approval of whether a child should be placed for adoption (approval of an adoption plan) and again for the consideration of the suitability of particular prospective adoptive parents for the child (approval of placement).
- 2.5 Panel also recommends the approval of prospective adopters and applicants are invited to attend the Panel when their approval is being considered and when a match is being considered. As part of legislation the Independent Review Mechanism (IRM) has been set up, where adopters may have their applications reconsidered when the Panel has not recommended their approval and the Agency Decision Maker is minded to turn down the application. The recommendation from this Panel then goes back to the Agency Decision Maker for a decision. A fee is paid by the agency for each case referred to the IRM (currently £2,418) regardless of whether or not the recommendation of the IRM supports the agency's view.

2.6 Under the legislation, the Adoption Panel can also consider a brief assessment report, where it is felt that the assessment should not continue. Applicants can also apply to the IRM if the Agency Decision Maker is minded to turn down an application in these circumstances. Applicants have forty working days to make this decision. There were no applications to the IRM during the period 1/4/10 to 31/3/11.

Rhona Lewis
Adoption Team Manager

Appendices

N/A

Documents available in members' rooms

N/A

Background Papers

The following documents/files were used to compile this report:

N/A

1. Plans for children

- 1.1 From 1/4/10 to 31/3/11, there were 15 children who the Adoption Panel recommended should be placed for adoption. Of these 15 children, one has now been adopted, three are placed but not yet adopted, one is awaiting the outcome of legal proceedings and placements are being sought for the 10 remaining children, including three sibling groups. The plans for four of these children were only made at the end of the reporting period, so searches are at a very early stage. However, the ages and complexities of their needs, indicate that these children will be difficult to identify suitable placements for easily. One plan for adoption (approved during the previous year) was changed during the court proceedings. (See table 1).

Table 1
Plans for Children

Adoption Plans approved													
Children for whom a formal decision has been made that they should be placed for adoption	98/99	99/00	20/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11
White British	5	12	9	16	12	6	14	12	20	15	12	9	13
Other ethnicity		4	1					1	1	1		7	2
Aged 0 to 2 years	4	6	7	8	11	4	10	7	10	8	12	8	6
Aged 3 to 5 years	1	4	2	5	1	2	2	5	7	5		4	6
Aged 6 to 10 years		6	1	3				1	3	3		4	3
Aged 11 years plus							2		1				
Total	5	16	10	16	12	6	14	13	21	16	12		15

Placements

- 1.2 Panel approved eight placements during this period.
- 1.3 Placements for children are being met in a number of different ways. Torbay does not have a large enough pool of prospective adopters to offer placement choice for Torbay children needing placements. Adopters who live within Torbay are not usually considered appropriate for Torbay children, and because of this, Torbay Adoption Team are also recruiting from neighbouring areas. Prospective adopters from these areas are now coming to Torbay as a result of word of mouth advertising from other Torbay adopters.

Arrangements have been put in place to secure the most cost effective placement for each specific child, dependent on their individual needs, which are substantially less than the usual interagency fee. This includes a reciprocal arrangement with three other unitary authorities, involving a straight exchange of placements with no

costs. This also enables Torbay prospective adopters to stand a better chance of getting a placement for a young child, as they would not be considered for Torbay children and most local authorities do not need to purchase placements for pre school children. Adopters who live in Torbay have also been successfully matched with children from other areas not covered by our reciprocal arrangement, generating income from the interagency fee payable for such placements. (See table 2).

Table 2

Number of children placed from 1/4/10 –31/3/11, by age and the agency providing the placement

Age of child	Torbay	Reciprocal arrangement (no cost)	Other L.A/Voluntary Adoption agency	Total
0-2 years	3		1	4
3-5 years	1		1	2
6-10 years	1		1	2
11+ years				
All	5		3	8

Adoption Orders

- 1.4 The percentage of children who are adopted from local authority care is based on the number of Adoption Orders made in the year. In the period 1/4/10 to 31/3/11 eleven children were adopted.
- 1.5 The percentage of children adopted during the year is also based on the total number of children looked after (for over six months) on the thirty first of March and it is this percentage that is reported. However, almost two thirds of these children are in the ten to eighteen age range and adoption is not likely to be a realistic option for these children, who have close attachments to their birth families.

The numbers of children adopted in recent years, other than the year ending 31st March 2004 which was exceptionally high at seventeen, has remained between ten and thirteen per year. The number of children adopted for the year 2010-2011 is, at eleven, within this range, but as the number of children looked after is higher, the percentage rate is therefore lower. However with such small numbers and a fluctuating number of children looked after, the percentage rate appears to suggest a much sharper rise and fall than there has actually been.

- 1.6 The aim of Torbay Council should be, and is, to consider adoption for all children who cannot remain in or return to their birth families (see table 3).

Table 3

Percentages of children adopted from care

Date	Total number of children looked after	Percentage of all children adopted	Children aged 0-9 years	Percentage of children aged 0-9 years adopted
31/3/99	221	0.90%	87	2.29%
31/3/00	216	3.24%	76	9.21%
31/3/01	238	2.1%	100	5%
31/3/02	205	6.8%	86	16.3%
31/3/03	184	2.7%	50	10%
31/3/04	177	9.6%	55	30.9%
31/3/05	176	6.25%	60	18.33%
31/3/06	149	8.72%	55	23.63%
31/3/07	151	6.6%	61	16.39%
31/3/08	164	6.1%	69	13.0%
31/3/09	156	7.69%	62	19.35%
31/3/10	149	10.06%	50	33.55%
31/3/11	167	6.58%	61	18.03%

Performance regarding this percentage figure can be translated according to the following table

Under 3%	3%-6%	6%-7%	7%-8%	8%-25%
	Ask questions about performance	Acceptable, but possible room for improvement	Good	Very good

Timescales

1.7 The National Adoption Standards which came into effect in April 2003 set very clear timescales regarding adoption plans for children and assessments of prospective adopters:

- 1) The time between adoption being identified at a review and the plan being considered at Adoption Panel for a child is 2 months.

In the period 1/4/10 to 31/3/11 compliance with these timescales is 87.5% with 14 out of 16 children.

- 2) The timescales for children being matched with prospective adopters are now measured from the date the decision for adoption is made following Panel to the Panel where a match is agreed. This timescale is 6 months for children where there are court proceedings and 3 months where there are no proceedings. Previously this was measured from the date the court made the Order which authorised the Local Authority to place the child for adoption. This was difficult to achieve and was often just outside at between

7 and 9 months, but is now even more difficult to achieve as there is no control over the length of time taken for the Court proceedings.

- 3) Only one of the children where there were court proceedings was matched within this timescale, and one just outside at 7 months. Two children had such specific needs that it took over 12 months to identify placements for them and the foster carers for two other children wanted to adopt them, the assessment process for this taking it over the timescales for the children.
- 4) Of the two children not in proceedings, one was matched well within the three month timescale, and the other just outside at 4 months. This was only outside the timescales due to attempts to match the ethnicity of the child.
- 5) The timescales for matching children are being closely monitored and an emphasis put on matching children as quickly as possible. Two posts from the permanency planning team have been transferred to the adoption team so that these workers can focus specifically on preparing children for adoption placements, family finding and matching. Once this is fully established, it is hoped that this will speed up the process and children will be matched and placed more quickly. However, there will always be some children for whom it is difficult to identify a placement, others where there are protracted legal proceedings and others with whom work needs to be done prior to placement which cannot be started until the legal proceedings have concluded.

1.8 There are timescales for prospective adopters with regard to sending out information and dealing with initial enquiries, all of which are 100% compliant. There are also timescales between the acceptance of an application and it going to the Adoption Panel. These timescales have changed with the Adoption and Children Act 2002, and are not reported on in detail. They are largely being met, other than unavoidable circumstances such as staff sickness leading to a delayed panel date and requests by prospective adopters to slow down the assessment process.

Prospective Adopters

- 1.9 Torbay's Adoption Team, set up to recruit and assess prospective adopters, was not set up until the beginning of 2004 and prior to that any prospective adopters, other than foster carers, were approved by Families for Children and were dealt with by their Adoption Panel.
- 1.10 The Adoption Team commenced their first assessments at the end of May 2004, and figures for these adopters showed in the figures for 2004/2005 but were low (seven), as the team had been newly created and the basic foundations needed to be set up for the service before being able to recruit prospective adopters. These figures then showed an increase and sixteen adopters were approved during 2005/2006. This remained at a similar level for 2006/2007 with fifteen being approved as well as two inter-country adopters. Two prospective adopters were not approved. In 2008/2009 ten prospective adopters were approved and one withdrew following approval. One withdrew during the assessment.

During the period 1/4/10 to 31/3/11, only seven prospective adopters were approved. One set of prospective adopters withdrew (having been approved in a previous year). Numbers approved this year are low. The number of enquiries fell dramatically. This was reflected throughout the region and was felt to be caused by the financial crisis and people's uncertainties about this. Enquiries have started to increase again, and more emphasis is being put on recruitment with specific areas being targeted on a regular basis. However, only about 20% of enquiries result in approvals and taking account of the time to undertake assessments, the numbers for next year are likely to be lower as well.

In response the Adoption Service have increased recruitment activity and have held several recruitment events, including South Devon College and at local businesses in Plymouth and Exeter. Advertising posters have been sent to various faith organisations, GP surgeries, veterinary centres and animal rescue centres in target areas to be displayed and these will continue to be sent on a twice yearly basis. Informal information days are held bi-monthly and these events are advertised on local radio stations and posters are on display in various locations in Plymouth and Exeter and surrounding areas. These events were moved to a more accessible location for prospective adopters travelling from the Plymouth and Exeter areas to increase attendance. Other planned recruitment campaigns include the Torbay Council consultation caravan in Exeter in July, following a successful event last year and Plymouth Drake Circus during National Adoption Week. The Adoption Service is also investigating the costings of several ideas including advertising on buses, school newsletters, leaflet drops and an advert on pay slips of staff in large organisations.

Once the adoption orders are made on their children, adopters are then offered adoption support. Despite an increase in staffing in the post adoption service, the demands for this service have seen a dramatic increase in recent years and the service is up to capacity and often has a waiting list for referrals. This led to two of the recommendations from the most recent inspection, one to ensure there are sufficient resources to respond promptly to requests and another to ensure in all cases an allocated worker is available for birth parents as soon as a plan for adoption is identified. Despite the appointment of further staff in August 2010 these issues continue to some extent as the demand for services increases and the needs of children being placed for adoption are more complex. The issue continues to be monitored. (See table 4).

Table 4

**Prospective adopters approved
(Excluding overseas adopters)**

Age of Child	98 /99	99 /00	20 /01	20 /02	2002 -3	2003 -4	2004 -5	2005 -6	2007 - 2008	2008 - 2009	2009 - 2010	2010 - 2011
0 to 2 years	2	1	2		2	2	4	7	2	7	7	1
3 to 5 years		2	1				1	5	4	1	4	3
6 to 10 years							1	4	3	2	3	3
11 years plus	1						1					
Total	3	3	3	0	2	2	7	16	9	10	14	7

Families are counted in the age range corresponding to the *maximum* age of children for whom they can be considered. One of the applicants approved was single. One family, approved in a previous year, withdrew following a lengthy wait during which no appropriate placement was identified.

- 1.11 Of the seven adopters approved, five have had children placed (one with Torbay children and four with a child from another local authority). One is currently being considered for a child from Torbay and one is still available for placements.

The adoption social workers actively seek appropriate placements for Torbay Council prospective adopters and there are currently seven available families (including some approved outside the dates within this report).
(See table 5).

Table 5

Prospective adopters matched 1/4/09-31/3/10

Where there was more than one child placed, the placement is indicated by the age of the oldest child

Age of child	Torbay	Reciprocal arrangement (no cost)	Other L.A/Voluntary Adoption agency	Total
0-2 years	3	1	2	6
3-5 years			2	2
6-10 years	1		2	3
11+ years				
All	4	1	6	11

There has been one disruption of a child from another local authority placed with Torbay adopters.

Intercountry Adoptions

- 1.12 Assessments of people wishing to adopt a child from abroad used to be undertaken by social workers employed on a sessional basis. This is the only adoption work for which local authorities can make a charge, and applicants were charged for this. This is so that the work does not take up resources which could be used for placing local children. Having only dealt with two of these assessments since Torbay became a unitary authority, since April 2006, there were then three assessments. Whilst these were charged for, this does not cover all the costs involved and because of the rapidly changing criteria of all the countries involved, it was difficult to keep up to date and to provide a good service. For these reasons, it was decided to contract this work out from the first of April 2007 to a voluntary agency, Parents and Children Together (PACT). For an annual fee, PACT now deals with all intercountry adoption work from enquiry through to placement. They charge the applicants directly for the assessment. Dealing regularly with these cases gives applicants the specialist information and advice it has been difficult to provide. The last of the assessments undertaken by Torbay Council was approved during the

year 2007/2008 but there is still one family waiting for a match (a relative of one of the applicants). Work involved once the applicants are matched and a child is placed cannot be charged for. This work is currently undertaken within the Adoption Team.

Post adoption work

- 1.13 The Adoption Support Services Regulations came into effect in November 2003, placing duties on adoption agencies to provide counselling, advice and information, support groups for adoptive families, a modernised system of financial support, assistance with contact arrangements, therapeutic services for adopted children and services to ensure continuance of adopted relationships. The adoption support service has undertaken all these requirements.

Work with Birth relatives

- 1.14 The National Adoption Standards require that birth parents have access to independent support when adoption is planned and for support both pre and post adoption. In order to secure this independent support, Torbay contracted this work to the South West Adoption Network (SWAN) from 1st August 2004. This complied with one of the requirements, which was not fully met at the time of the inspection in July 2004. This contract was not renewed from the end of March 2006, as it was not found to be cost effective. There was a large increase in demand for this service since it was brought back in house. Numbers decreased in the year 2008-2009 from 34 to 20, increasing again to 36 in April 2010. However, the level of support and complexity of work has significantly increased and staffing levels meant that a waiting list had to be held, leading to one of the recommendations from the November 2009 inspection. This has been addressed and the waiting list is now minimal. The recent appointment to vacant posts will further address this issue. Three members of the team have completed a certificate in counselling to undertake this work.

Birth relative support groups were suspended due to lack of take up and in the year 2009-2010 were replaced with a set of courses designed to equip birth relatives with the skills to cope with loss and grief, support the child in moving on, participating in post adoption contact and making positive choices for themselves. This worked well initially, but at the end of the year attendance dropped off and the viability and format of the group is being re-evaluated following consultation with service users.

- 1.15 The workers have also been running a group for children who have had a sibling adopted. Whilst there is no requirement under the regulations to provide a group for these children, it was identified as a need as a lot of these children had been referred for support. With an increase in numbers the aim is to split this group into two groups of different ages but current staffing levels means this is not yet possible.

Two social workers trained in therapeutic techniques are working directly with a number of children, which has been beneficial in helping placement stability and preparation for moving on to adoption.

A therapy clinic is run on a weekly basis, involving one of the community care workers in conjunction with CAMHS. This offers an assessment of attachment between parent and child and strategies to improve this.

Contact arrangements

- 1.16 Following formation of Torbay’s adoption service, the team took over responsibility for setting up systems and running the contact arrangements, which had been very ad hoc. Few plans for children being placed for adoption include no ongoing contact, whether face to face or “letterbox” (the exchange of information), with a birth family member, and most include a number of different family members. There has been a dramatic increase in activity since the facility was established in 2004 when there were 8 exchanges. Letterbox activity increased to 380 in 2008, 421 in 2009, 473 in 2010 and by April 2011 was at 567. In 2010 the exchanges involved 290 people. This number rose to 343 by April 2011. All exchanges are monitored and help is given to all parties involved to ensure that the contents are positive and appropriate. The inspection in November 2009 commented favourably about the way this service is being run.

The number of direct contact arrangements has also been rising with plans being made for children often including at least one direct contact per year. These increased from 32 in 2008, to 39 in 2009, and to 45 in 2010. The number of direct contacts facilitated and supervised by the team has doubled since 2007 and like the letterbox has increased dramatically since the team was established in 2004. This year, however, the number has dropped back to 35, with arrangements for some children changing due to their changing needs. The numbers of people involved in each contact varies, but some of the arrangements are for large groups – two involve at least ten people. Contacts involving large sibling groups are becoming more common and require at least two supervisors. Each of the direct contacts takes an average of 15 hours work each time. It includes pre and post contact support for all parties, as well as arranging the venue and supervising the actual contact. A lot of contacts involve school age children and cannot all be done during school holidays, so a lot take place at the weekend. (See table 6).

Table 6
Contact arrangements

	2008	2009	2010	2011
Letterbox-number of exchanges	380	421	473	567
Letterbox-number of people involved			290	343
Direct contacts	32	39	45	35

Work with adoptive families

- 1.17 Work with families following a post adoption assessment of need have increased dramatically from 10 in 2007, 33 in 2008, 37 in April 2009, 47 in April 2010 to 59 in April 2011. The majority of these referrals relate to children and young people who require direct work and support with life story work. These figures do not include other work also undertaken, such as support for children during placement difficulties and individual work with siblings who are not being adopted.

Social groups for adopters continue to be held three times a year. Adopters are also offered training on a variety of topics, which during 2010-2011 included trauma and loss in the adoption process, lifestory books and the family finding and matching process.

A group for adopted young people started in 2010 proved to be so successful it was split into two different age groups. Membership currently stands at 11 young people between the ages of 13 and 18 and 9 aged 8 to 12.

Work with adults

- 1.18 Changes to work with adults who have been adopted have resulted from the Adoption and Children Act 2002 coming into effect on 30 December 2005. The service for those people required to have counselling can only be undertaken by trained adoption counsellors of whom there are only three during the year 2009-2010. This work can not always be prioritised due to undertaking assessments of prospective adopters and the placement of children which must be prioritised. Numbers increased dramatically and resulted in delays for people requiring this service. Following the inspection, a number of measures were taken to address the delays. 9 additional staff undertook training to become adoption counsellors and sessional workers were used to deal with cases on the waiting list. Some of these pieces of work can be very short, sometimes only one counselling session, but others can take a lot of time over a long period. Because the time commitment is not known before starting the work, this has implications for the allocation of the work. Some of the trained counsellors have since left Torbay Council and their cases have had to be reallocated, meaning there is still a waiting list for this service, but this has reduced. It is anticipated that numbers will continue to rise due to increased coverage of adoption issues by the media.
- 1.19 The Adoption team also deal with self-referrals and referrals from birth relatives. Where these referrals are requests for help and advice in tracing family members they are being advised that, as Torbay Council is not registered as an intermediary agency, we are not able to help. We still offer counselling, but not help or advice in tracing. This does not reflect any work done prior to referring people on to a registered intermediary service, or the accessing of information from files to provide to the intermediary. This can be a time consuming piece of work. The decision not to register at this time was taken due to no additional funding being made available which would have meant that cases would only have been able to be dealt with at the expense of assessments of prospective adopters and planning for children. Torbay Council would have been unable to provide the levels of service people are entitled to and require. The decision about registration is kept under review but staffing levels do not indicate that this will be able to change in the foreseeable future.

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Public Agenda Item: **Yes**

Title: **Adoption Service Statement of Purpose**

Wards Affected: **All Wards in Torbay**

To: **The Mayor**

On: **13 July 2011**

Key Decision: **No**

Change to Budget: **No**

Change to Policy Framework: **No**

Contact Officer: **Rhona Lewis**

☎ Telephone: **01803 207870**

✉ E.mail: **rhona.lewis@torbay.gov.uk**

1. What we are trying to achieve and the impact on our customers

1.1 Information for people living in Torbay about the aims and objectives of Torbay Council in relation to the adoption service, the staffing, structure and services provided.

2. Recommendation(s) for decision

2.1 **That the Mayor be recommended to agree that the Statement of Purpose set out in Appendix 1 to this Report covers the required information and accurately reflects the services provided.**

3. Key points and reasons for recommendations

3.1 Schedule 1 of the Local Authority Adoption Service (England) Regulations lists information to be included in the Statement of Purpose. The statement of Purpose needs to be agreed and reviewed annually.

For more detailed information on this proposal please refer to the supporting information attached.

**Rhona Lewis
Adoption Service Manager**

Supporting information

A1. Introduction and history

A1.1 There is a requirement under the Local Authority Adoption Service (England) Regulations to provide a Statement of Purpose which is reviewed annually.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 If Torbay Council does not meet the requirement to produce and review a Statement of Purpose under the regulations, it does not meet one of the Standards under which the Adoption Agency is inspected.

A2.2 Remaining Risks

A2.2.1 None

A3. Other Options

A3.1 There are no alternative options.

A4. Summary of resource implications

A4.1 None

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 None

A6. Consultation and Customer Focus

A6.1 None

A7. Are there any implications for other Business Units?

A7.1 No

Appendices

Appendix 1 Statement of Purpose for the Adoption Service (Information to be included in the report as per regulations).

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

None

Torbay Council

Children's Services

Statement of Purpose for the Adoption Service

This Statement of Purpose has been prepared in accordance with the requirements of the Local Authority Adoption Service (England) Regulations 2003, and fulfils the Agencies duties and responsibilities as set out in Standard 1 of the accompanying Adoption National Minimum Standards, published under the provisions of Sections 23(1) and 49(1) of the Care Standards Act 2000. It will be reviewed annually.

Aim:

Our overall aim is to help children and young people to attain the highest possible standards of health, development and educational attainment. We do this by providing a range of services, which includes adoption.

Aims of the Adoption Service

- To ensure that the needs, wishes, welfare and safety of the child are at the centre of the adoption process.
- To ensure that where it is not possible for looked after children to be reunited with their birth families they are provided with a permanent, stable, alternative family. One way of achieving this is through adoption.
- To ensure that people who are interested in becoming adoptive parents are welcomed without prejudice, responded to promptly and given clear information about recruitment, assessment, approval and support services.
- To ensure that birth families are treated fairly, openly and with respect throughout the adoption process and have access to adoption support services.

Objectives of the Adoption Service

- To ensure that adoption is considered as an option for every child who is unable to live with their birth family.
- To increase the number of children adopted from the care system, in line with government targets.
- To recruit a sufficient pool of prospective adopters to meet the assessed needs of the children needing adoptive families.
- To develop a range of adoption support services, including practical, financial and therapeutic services, in partnership with other relevant agencies.
- To ensure that the adoption agency employs staff with appropriate and sufficient skills, knowledge and experience to deliver the adoption service.

- To ensure that applicants for inter-country adoption are provided with an appropriate service from skilled and experienced workers.

Principles

- The child's welfare is paramount in all decisions about her/his future.
- The child's wishes and feelings should be taken into account according to their age and understanding.
- Every child is entitled to a permanent family throughout their childhood, which should meet all the needs of the child in terms of religion, ethnicity, language, physical, social and emotional development and that promotes a supportive lifelong relationship.
- All adoptive applicants will be treated fairly, openly and with respect throughout the adoption process.
- Children and young people should not be in public care throughout their childhood.
- A child's birth heritage, religious, cultural and linguistic backgrounds are all-important factors to consider in finding a new family. The adoptive family should reflect this, if this can be found without unnecessary delay. No child should be denied loving adoptive parents solely on the grounds that the child and parents do not share the same racial or cultural background.
- The local authority will work in partnership with birth families to ensure that effective plans are made and implemented for their child.
- Every effort will be made to find adoptive homes where brothers and sisters can live together, unless this will not meet their individually assessed needs.
- Drift is not acceptable. Delay may be unavoidable but should be accounted for.
- Every child is entitled to information about her/his birth family in order to promote her/his sense of identity.
- There will be arrangements for ongoing contact, direct or indirect, between the child and birth family or significant persons, where this is in the best interests of the child.
- The local authority will work in partnership with other agencies to ensure that the needs of all parties in the adoption process are met.
- All the parties to the adoption process will have access to the Department's Complaints procedure.

Organisational Structure in Torbay

- The manager with overall responsibility for the adoption service, the Agency Decision Maker and the Adoption Support Services Adviser is the Executive head for Safeguarding and Well Being.
- The adoption service is delivered through :
 - Childcare teams whose responsibilities include making and implementing plans for children looked after and the provision of reports in non-agency adoptions. These teams are managed by Service Managers, through Team Managers.
 - The Adoption Team, whose responsibilities include the recruitment, preparation and assessment of prospective adopters, adoption support functions and the central adoption agency functions. This team is managed by the Adoption Team Manager and Adoption Support Services Team Manager, who are managed by the Service Manager, Accommodation Services. Adoption support functions include acting as the first point of contact for accessing adoption support, advice and information, assistance to access services, the management of contact arrangements and post adoption counselling of adopted adults and their relatives. The team also has a role in providing advice and guidance to Childcare Social Workers making adoption plans for children and for family finding and matching once there is authority to place, either by consent or on the making of a Placement Order. The Adoption Service Manager manages the archived adoption records, access to, and disclosure from closed adoption files.
 - The Independent Review Team has a responsibility, alongside Childcare and adoption Team Managers, for monitoring the implementation of adoption plans for children and ensuring that timescales are adhered to.

Staffing

- The designated manager of the Adoption Service for the purposes of Regulations 5 to 8 of the Local Authority Adoption Service (England) Regulations 2003 is the Service Manager, Accommodation Services - Georgina Dunk, 1st Floor, Commerce House, Abbey Road, Torquay TQ2 5PJ
 - Georgina Dunk has worked for Torbay Council since Local Government Reorganisation and was appointed to the post of Service Manager for Accommodation Services in May 2004. Her experience prior to that includes work in childcare teams and in a fostering and adoption team. She has a recognised social work qualification (Dip SW H.E. with distinction) and a diploma in Management. In her current role of Service Manager, she manages the Team Managers for Fostering and Adoption. She is line managed by the Executive Head, Specialist Services. Georgina has worked within Torbay and South Devon since 1985.
- The Adoption Team Manager, also based at Commerce House, has worked as a qualified social worker within Torbay since 1981, working in childcare teams and has worked specifically in the field of adoption since 1994. She holds a Certificate of Qualification in Social Work and an NVQ level 5 in Operational Management. She is registered with the General Social Care council. The Adoption Team Manager manages the recruitment and assessment team which comprises:

- Four Adoption Social Workers, with primary responsibility for the recruitment and assessment of prospective adopters and adult post adoption counselling. All post holders have social work qualifications, are registered with the General Social Care Council and have in excess of three years post qualifying experience. They all have experience of working in childcare teams placing children for adoption as well as assessing prospective adopters. Two current post holders are adoption counsellors. One of the social workers has post qualifying awards (PQ1). One of the social worker posts which has been vacant has recently been appointed to and this social worker (who also has a PQ1 and the Child care Award) will join the team in October 2011.
- Two part time Adoption Coordinators, with responsibility for the administration of the Adoption Panel, business support needs of the team, including the management of administrative staff, taking referrals from prospective adopters and a lead role in the marketing/recruitment of prospective adopters. One coordinator has qualifications including NVQ level 3 business administration, NVQ level 3 IT, RSA level 3 typing, word processing and Pitmans shorthand. The other Co coordinator has ILM Level 3, a GNVQ in business and a GCSE in business that includes a typing qualification. She is about to complete a management training course. They have both undertaken various in house training, such as attendance at the adopters' preparation course, child protection training and other administrative related training.
- The Adoption Support Team Manager post is currently filled by an adoption social worker who is acting up since the post holder left in May 2011. She is also based at Commerce House, has a social work qualification, is registered with the General Social Care Council, and has more than three years post qualifying experience. She has experience of working in a childcare team placing children for adoption and of assessing prospective adopters. She is an adoption counsellor and also has previous management experience in a residential setting. She has responsibility for adoption support assessments and developing post adoption services, in line with the Adoption Support Regulations 2003. She also has responsibility for managing all "letterbox" and direct contact arrangements. She also manages the social workers who work specifically on family finding and matching.

This team comprises:

- Two half time Adoption Support Social Workers (these posts were appointed to in August 2010). Both workers are qualified Social Worker's and registered with G.S.C.C. They have responsibility for assessment and direct work with children, young people and families, together with implementing and facilitating specific support groups and therapeutic workshops for adoptive families.

One worker has 4 years experience as a Social Worker and has a BA degree in social work and is currently completing a qualification in Play Therapy. The other worker has 15 years experience as a qualified Social Worker together with an MSC in Applied Social Studies and a Post Graduate Diploma in Psychoanalytic Observational Studies.

- Two full time and one half time Adoption Social Workers. These posts were created in the Adoption Team from posts within the Childcare team, in order to focus on progressing the plans for adoption for children. The Adoption social workers will work alongside the childcare social workers as soon as adoption is identified as the plan for a child. Once authority to place the child for adoption has been obtained, the adoption social worker will take on full case responsibility. They will prepare the child for adoption and undertake all the functions of family finding, matching, placing and supervision, right up until the making of an Adoption Order.

One of the full time posts is currently vacant as the post holder is acting as the Team manager. The other post holder is a qualified experienced social worker, registered with the General Social care Council and is an adoption counsellor. The half time post holder has recently been appointed and is due to join the team in October 2011. She is also a qualified and registered social worker with experience of placing children.

➤ Three full time Community Care Workers.

One has a City and Guilds qualification, a NCFE level 3 certificate in counselling skills and theory and 21 years varied experience. This includes working with children with learning disabilities, children with physical disabilities, work with teenagers, school mentor, secure unit and preventative work with children to avoid them being looked after. She has also worked as a CCW in a childcare team, working with children placed for adoption and with their adoptive and birth families. She is currently undertaking a NVQ level 4 in Health and Social Care.

One has BSc (hons) Social Science with Social Policies Diploma in applied Social Science, Advanced Diploma in Childcare and Education, NNEB, Triple P accreditation, experience in working in playgroup/nurseries/family centres with children under 5, children with disabilities and parents care.

One has a GNVQ qualification in Health and Social Care, NVQ Level 2 & 3 in Social Care and is currently undertaking NVQ Level 4 in Health and Social Care, and 15 years varied experience. This includes working with children with learning disabilities, physical disabilities, working with children and teenagers in youth work. She also worked as a CCW in a childcare team working with children looked after, families and undertaking in-depth Life Story work for those children. She is currently undertaking a Social work course. This post holder is currently on maternity leave and her post is being covered by the secondment of one of the administrators, whose knowledge and experience has been gained through working alongside the post holder and the team for a number of years, as well as attending relevant training courses.

➤ The team also has access to sessional youth workers

- Both teams share the following administrative support, managed by the Adoption Co-ordinators
- Two full time Administrators. One has qualifications including a degree in sociology, RSA stage 3 typing and word processing. The other has RSA stage 1 typing and RSA bookkeeping, stage 1. Both have experience of working in different office environments and dealing with members of the public. One of the post holders is currently seconded to a Community Care worker post and her post is filled by a temporary administrator.

Professional Advisers

Specialist advisors to the adoption service include:

- Legal adviser - a Torbay Council Childcare Solicitor.
- Medical adviser - carries out medical assessments of children and reviews medical reports on prospective adopters, providing written advice to the Local Authority in every case. The

medical adviser is also a member of the Torbay Adoption Panel and that of another Local Authority and has many years experience of adoption.

The Adoption Panel

Torbay Council's Adoption Panel is constituted in accordance with the Adoption and Children Act 2002

- The Agency's Adoption Panel has three main functions:
 - Recommending that a child should be placed for adoption.
 - Recommending the approval of prospective adoptive parents.
 - Recommending the 'match' of a child with prospective adopters.
- The membership of the Adoption Panel comprises:
 - An independent chair – a qualified Social Worker who works for a voluntary adoption agency, with a vast experience in all aspects of work, including policy and planning.
 - 2 Social Workers

One social worker is the Family group Conference Manager and has also been involved in moving children on to adoption in his role as a foster carer. This social worker is also vice chair.
One social worker works with the specialist assessment and therapy service and has had a lot of experience working with children being placed for adoption.
 - 2 Independent Members
 - An adopted person whom in adulthood made contact with birth family members.
 - A birth mother that relinquished a baby for adoption and has participated in on going letterbox contact. She has had a successful reunion with her child when he reached adulthood.
 - 2 Additional Members
 - - One who has personal experience of adoption within the family and has served on the adoption panel for a number of years in the previous role of Councillor.
 - One who is the lead for diversity and equality and has personal experiences of these issues. She also has a background in social care.
 - 1 Medical Adviser - a community paediatrician who undertakes adoption medicals and also is a member and vice chair of another Adoption Panel.
 - 1 Health Visitor - who has a long career in nursing with a variety of experiences and is now also involved in training.
 - There is currently a vacancy which needs to be filled by an adoptive parent, preferably male, in order to ensure a balance of knowledge, skills and gender.

Arrangements are being considered regarding the recruitment to a pool of panel members following new regulations in April 2011.

- In addition, the Panel has:
 - A Legal Adviser - a Solicitor from the Council's Legal Department attends panel and provides legal advice, such as when children's plans are first considered by Panel.
 - A Professional Adviser - the Adoption Service Manager, who attends panel and liaises between the Panel and the Agency Decision Maker.
 - A minute taker - the Adoption Co-ordinator, who records the issues discussed by the panel members and their recommendations, as required.
- Torbay is a member of the South West Adoption Consortium, which comprises of 14 local authorities and 3 voluntary adoption agencies. SWAC is used to increase the range of placement possibilities for children and adopters, and for the sharing of good practice. The Adoption Team Manager is the link person with the Consortium.

Services Provided

- A range of information is available for the general public, prospective adopters and birth parents and children. Information sheets/leaflets include:
 - Information for birth parents.
 - Information for prospective adopters.
 - Adoption Letterbox Service – leaflets for different parties involved.
 - Torbay's Adoption Panel.
 - Children's guide to adoption
- The Adoption Team recruit, trains, assesses and provides support to prospective adoptive parents. Those wishing to adopt a child from overseas are referred to Parents and Children Together (PACT) who provides this service under a contract with Torbay Council.
- Childcare Social Workers and Adoption Social Workers undertake the task of planning for permanence and preparing children for adoption.
- Childcare Social Workers work alongside the Adoption Social Workers with the child's birth parents during the decision making process for adoption until the local authority obtains consent to placement. The Adoption Social Worker then takes on case responsibility and is responsible for the statutory functions as well as homefinding, matching, supporting adoptive placements and in contact arrangements until the Adoption Order is made.
- The Adoption letterbox service and direct contact is managed in the Adoption Support Services Team to enable adopted children to maintain contact with their birth families.

- A counselling service for adopted adults who wish to find out about their birth parents and details about their adoption is provided by the Adoption Team. This does not include acting as an intermediary service for those people who wish to trace birth relatives, as Torbay Council has not registered to provide this service.
- Support services to adoptive families are provided by the Adoption Team, including an assessment of need for post adoption support services.
- Support and counselling to birth parents is offered by the Adoption Support Services Team, independent of the child's social worker. This is both during the decision making process and post adoption.
- Financial support is provided to adoptive families in accordance with the Adoption Support Services (Local Authorities) (England) Regulations 2003. This includes single sums and where necessary, regular payments.
- Children and adopters are actively referred to the National Adoption Register and the South West Adoption Consortium, if it has not been possible to find a local or a regional placement. National advertising is used when necessary to identify a suitable placement.
- The Department works within the requirement of relevant policies that it produces e.g. Complaints Policy, Recording Policy, and Access to Records Policy, Supervision and File Auditing Policy.

Systems for Monitoring and Evaluating Service Provision

- A six monthly report on adoption activity is written, including statistical information, and is presented to the Executive and the Adoption Panel.
- There is a 3 yearly review of the Adoption Service undertaken, with recommendations for improvements to the service.
- The Adoption Panel receives regular reports every two months on the progress of children with a plan for adoption whether placed or not. Reports are also made on approved prospective adopters.
- Adoption Team staff receive regular supervision and annual appraisals of their performance. Training needs are identified and are met either through in-house training or through the use of a trainer from the British Association of Adoption and Fostering (BAAF)
- There is an annual training day for the Adoption Panel, sometimes facilitated by BAAF, and sometimes with members from other adoption Panels which helps to ensure Panel members are kept up-to-date with current issues in adoption. Adoption Panel members also have an annual appraisal.
- The Spring and Autumn 'Position Statements' for the DFES provide information on the achievement of government adoption targets.
- The Adoption Panel reports back to the Agency Decision Maker on any cases involving poor practice, so that these can be taken up through the line management system.

- The South West Adoption Consortium produces six monthly reports of its work, which are circulated to all member agencies, including information on the number of children and adopters from each agency for whom a placement is achieved.
- Opportunities to publicise the adoption service are taken to raise public awareness of the children needing adoption and the sorts of support that adoptive families can expect to receive in order to help them with this challenging task.
- A Management Information System is in place, which ensures reporting of accurate information about adoption to Managers and the government.
- Multi-agency involvement in the provision of adoption support services are being developed and encouraged. For example to improve the access of adopted children and adoptive parents to the CAMHS service.

The Service to Prospective Adopters

The procedures for recruiting, preparing, assessing, approving and supporting prospective adopters are set out in detail in our Adoption Agency Procedures.

- The Adoption Social Workers will look at ways of encouraging people to consider adoption.
- All enquirers are sent an information pack about adoption.
- Enquirers are invited to attend an open session about adoption to meet adopters and Adoption Team staff to learn more about adoption.
- An appointment is made with a Social Worker from the Adoption Team for a personal discussion.
- Prior to each Preparation Course a more in depth information session is held and a decision is made about who to invite. These are prioritised on the needs of children awaiting placement.
- An Adoption Social Worker is allocated to work through the process with applicants This involves a number of home visits, CRB and other checks, references and a medical.
- Applicants receive a copy of their assessment report and are invited to comment on it.
- Applicants are invited to attend Adoption Panel when their approval is being considered and where a match is being considered. Written information is given to them about what this involves and it is made clear that a decision not to attend will not prejudice their application. Advice is given about the number, age range and gender of the children for which they are considered suitable.
- Following approval, the Adoption Social Worker will keep in touch with them and ensure they have access to information about the children needing placements, locally, regionally and nationally. The Adoption Social Worker will actively seek to find an appropriate placement.
- There are reciprocal arrangements in place with neighbouring local authorities to take up applications from staff who wish to adopt, thus ensuring independence and confidentiality.

The Complaints Procedure

Torbay Council Children's Services Directorate believe that service users, their carers, and families, have the right to express their views, make complaints, suggestions or representations about the services it purchases and provides, and that, by doing so, it can improve quality and effectiveness.

Changes to the complaints procedure came into effect in September 2006 and new areas are now considered under the complaints procedure. Areas of complaint relating to Adoption Services include:

- Assessments and related decisions for adoption support services (section 4, Adoption and Children Act 2002)
- Placing children for adoption, including parental responsibility and contact issues (sections 18,19,22,25,26, and 27, Adoption and Children Act 2002)
- Removal of children who are or may be placed by adoption agencies (sections 30-35, Adoption and Children Act 2002)
- Removal of children in non-agency cases section 36-40, Adoption and Children Act 2002)
- Duties on receipt of a notice of intention to adopt (section 44, Adoption and Children Act 2002)
- Duties set out in regulations to be made under the Adoption and Children Act 2002 in respect of:
 - A local authority considering adoption for a child (part 3 of Adoption Agency Regulations)
 - A proposed placement of a child with prospective adopters (part 5 of Adoption Agency Regulations)
 - Placement and Reviews (part 6 of Adoption Agency Regulations)
 - Records (part 7 of Adoption Agency Regulations)
 - Modification of the Children Act 1989, parental responsibility and contact (part 8 of Adoption Agency Regulations)
 - Financial support for adoptive parents
 - Support groups for adoptive parents
 - Assistance in relation to arrangements for contact between and adoptive child and another person
 - Services in relation to the therapeutic needs of an adoptive child
 - Assistance to ensure the continuance of the relationship between the child and his adoptive parent
 - Assistance where disruption of an adoption placement/arrangement has occurred or is in danger of occurring
 - Provision of adoption support services (as prescribed in regulation 3 of the Adoption Support Services Regulations 2005) insofar as these enable adoptive children to discuss matters relating to adoption;
 - Assessments and related decisions for adoption support services as prescribed in regulation 3 of the Adoption Support Services Regulations 2005 (parts 4 and 5 of the Adoption Support Services Regulations 2005);
 - Placing children for adoption, including parental responsibility and contact issues (sections 18 to 29 of the 2002 Act);
 - Removal of children who are or may be placed by adoption agencies (sections 30-35 of the 2002 Act);
 - Removal of children in non-agency cases (section 36-40 of the 2002 Act);
 - Duties on receipt of a notice of intention to adopt (section 44 of 2002 Act);

- Duties set out in regulations in respect of:
 - a local authority considering adoption for a child (part 3 of Adoption Agency Regulations)
 - a proposed placement of a child with prospective adopters (part 5 of Adoption Agency Regulations 2005)
 - placement and reviews (part 6 of Adoption Agency Regulations 2005)
 - records (part 7 of Adoption Agency Regulations 2005)
 - contact (part 8 of Adoption Agency Regulations 2005) and
- parental responsibility prior to adoption abroad (part 3 of Adoptions with a Foreign Element Regulations 2005).

Other changes include changes to timescales and the constitution of Review Panels.

The introduction of the Independent Review Mechanism (IRM) also provides prospective adopters with an opportunity to have their case heard by an independent body where Torbay Council is minded not to approve an application.

Summary of Complaints Procedure

Stage 1

- When a complaint is received, either verbally or in writing, the details will be recorded. The complainant must be a qualifying individual. If the complainant is not eligible to make a complaint through this procedure, they will be directed to Torbay Council's Corporate Complaints Procedure.
- A written acknowledgement will be sent to the Complainant within two working days, including an undertaking to respond within 10 working days, this period may be extended by a further 10 working days, and a copy of the complaints leaflet
- The manager for the appropriate service will look into the Complainants concerns.
- A response will be made within 10 working days of receipt of the complaint, , this period may be extended by a further 10 working days, including details of how to proceed to Stage 2 (Formal Complaint) if the Complainant is dissatisfied

Stage 2

- If the Complainant is dissatisfied with the outcome of Stage 1, they should notify the Customer Services Support Officer in writing that they wish their complaint to be considered under the formal Children's Services Complaints and Representations Procedure, within 20 working days of the Stage 1 response.
- The complaint will be acknowledged within 5 working days of receipt.
- The complaint is then passed to the Head of Service to commission an independent investigation.
- The Head of Service (as Commissioning Officer) appoints an Investigating Officer to investigate the complaint and report back within 25 working days, this period can be extended by up to a further 40 working days.
- Where the complaint relates to the provision of services to a child or children under Part111 of the Children Act, the Head of Service will appoint an Independent Person to work with the Investigating Officer.
- The report from the Investigating Officer (and Independent Person, where appropriate) is received by the Head of Service who should make a response to the Complainant within 25 working days of receipt of the complaint, , this period can be extended by up to a further 40 working days.

- (If there is likely to be a delay, the Complainant will be notified).
- The Complainant will be advised that if they are dissatisfied with the result of the Stage 2 Complaint, they have the right to appeal, but to do so they must make a request for a Review Panel hearing, within 20 working days of the date of the response.

Stage 3

- A date for the Review Panel Hearing will be set within 30 working days of receipt of the request, and persons required to attend will be notified.
- The Complainant will be notified at least 10 days prior to the Hearing, will be given names and status of Panel members, and informed of their right to provide a written submission at least 7 days prior to the date set for the Hearing, and an oral submission at the Hearing.
- Review Panel takes place
- Findings and recommendations are recorded within 5 working days and forwarded to the Director.
- The Director makes the final decision, taking into account the recommendations of the Panel.
- The Director notifies the Complainant in writing of the decision and the reasons for it, within 15 working days of receiving the Review Panel's findings, including the possibility of further investigation by the Local Government Ombudsman.
- If the Complainant is satisfied, no further action will be taken.
- If the Complainant is not satisfied, they will be provided with information on making a complaint to the Local Government Ombudsman.

Complaints from children who are looked after by Torbay Council Children's Services

- Children and Young People, who are looked after by Torbay Council Children's Services, will be encouraged to use the Complaints and Representations Procedure to make any concerns known. However, it is recognised that they may not wish, nor feel able, to talk with people who are caring for them. In such instances, they may use a Contact Card (pre-addressed-Freepost) to register their concerns. Each child's social worker will ensure that they have a Contact Card.
 - On receipt of a Contact Card, the Director will commission a member of staff, unconnected with the child and the case, to visit within 5 working days to clarify the areas of concern.
 - A brief report will be sent to the Director within 18 days of the date of acknowledgement of the Contact Card.
 - On receipt of this report, the Director will decide on what further action, if any, is needed.
- This method of communication and investigation replaces Stage 1 of the Complaints and Representation Procedure.*

The time limits for making a response are the same as for Stage 1 of the complaints procedure.

If a Complainant has difficulty in making a complaint, they will be offered help in arranging for someone with the appropriate skills to assist them such as:

- A specialist worker
- Interpreter
- An Advocate

A copy of the Department's Complaints Procedure is available on request.

Any questions regarding complaints can be answered by the Customer Services Support Officer, telephone 01803 208410.

The Registration Authority

Ofsted is responsible for monitoring, regulating and inspecting adoption services.

The address for Ofsted is:

**North
3rd Floor,
Royal Exchange Buildings
St Ann's Square
Manchester
M2 7HULA**

Tel: 08456 404040

Website: www.ofsted.gov.uk

Date Statement of Purpose Reviewed – **27/6/11**

Information to be included in the Statement of Purpose extracted from the Local Authority Adoption Service (England) regulations 2003.
Schedule 1

1. The aims and objectives of the local authority in relation to the adoption service.
2. The name and address of the Manager.
3. The relevant qualifications and experience of the Manager.
4. The number, relevant qualifications and experience of the staff employed by the authority for the purposes of the adoption service.
5. The organisational structure of the adoption service.
6. The system in place to monitor and evaluate the provision of services to ensure that services provided by the adoption service are effective and that the quality of those services is of an appropriate standard.
7. The procedures for recruiting, preparing, assessing, approving and supporting prospective adopters.
8. A summary of the complaints procedure established in accordance with section 26(3) of the Children Act 1989(a) and the Complaints Procedure Directions 1990(b).
9. The address and telephone number of the Commission for Social Care Inspection.



Public Agenda Item: **Yes**

Title: **Proposal to Close Chestnut Primary School**

Wards Affected: **St Mary's with Summercombe Ward and all Brixham Wards**

To: **The Mayor/Council** On: **13 July 2011**

Key Decision: **Yes – Ref. X14/2011**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Matt Redwood**

☎ Telephone: **2082387**

✉ E.mail: **matthew.redwood@torbay.gov.uk**

1. What we are trying to achieve and the impact on our customers

- 1.1 The Local Authority (LA) has a statutory duty to keep under review the adequacy of provision of school places and the specific duty to reduce unfilled surplus capacity in schools. The LA is seeking approval to close Chestnut Primary to reduce the number of surplus places within the Brixham area.
- 1.2 It is recognised that surplus capacity can have a detrimental effect on schools as it poses organisational and budget difficulties for schools. This can affect school effectiveness.
- 1.3 By closing Chestnut Primary and removing a number of surplus places the LA will be minimising the detrimental effects that may be posed for all schools across Brixham when faced with numbers of surplus places in the primary schools.

2. Recommendation(s) for decision

- 2.1. **That the Mayor be recommended on behalf of the Council to cease to maintain Chestnut Primary school from 31 August 2011.**
- 2.2. **That the Mayor be recommended to authorise the Executive Head for Children, Schools and Families to proceed with closing Chestnut Primary School with effect from 31 August 2011.**

3. Key points and reasons for recommendations

- 3.1 The recommendations will allow the Council to fulfil its duty with regard to school place planning and ensure that funds are used for the direct educational benefit of pupils as far as possible.
- 3.2 Numbers on roll at Chestnut Primary are low and declining. Applications for places in the new school year were low. The pupil roll is 42 pupils for June 2011, with a budget only able to support a very constrained 3 class structure with all children in mixed age classes. The Key Stage 2 (KS2) class would have to support children aged 8-11 with a high percentage of pupils with special educational needs. There was low attainment at the end of KS2 in 2010 with a low percentage of pupils attaining Level 4+ in both English and Mathematics. Levels of attainment at the end of KS1 were well below the National average. As a small school, Chestnut will face challenges in ensuring that its pupils receive a broad and balanced curriculum. With the impending retirement of the headteacher the school may struggle to provide a capacity to improve.
- 3.3 Through reducing the number of empty places in the area there is more chance that the remaining schools will be able to fill to capacity, this will help them plan the number of teachers they need with more certainty. This will create a more secure environment for future planning.
- 3.4 The public notice outlining the Council's intent was published on 29 April 2011 and the closing date for comments was 13 June. The Council did not receive any representations on the proposal.

For more detailed information on this proposal please refer to the supporting information attached.

Matt Redwood, Head of Schools Commissioning

Supporting information

A.1 Introduction and history

- A1.1 Over the past few years the demand for primary school places in Brixham has been falling. There are now over 270 empty places spread across the 6 primary school in the area which represents over 19% of primary school places.
- A1.2 The LA did carry out a review of places in Brixham in 2005 when there were 172 surplus places in the area. This review led to Brixham Church of England School changing from an infants to all through primary school and the creation of Eden Park Primary School to replace the previous infant and junior schools – the full effect of these changes has now been realised and whilst 72 primary places have been removed the pupil numbers have fallen further so further action is needed.
- A1.3 Pupil projections also support this need for action. The table below shows the LA forecasts for pupil growth in the area and is based on trends in the birth rate and an assumption that previous levels of housing growth will continue. Whilst a forecast rising birth rate will reduce the overall number of surplus places in Brixham schools if Chestnut remains open there will be a too large surplus capacity.

Table 1

Year	Primary Pupils	Primary School Places	Empty Places	Percent Empty
2010-11 Actual	1151	1428	277	19%
2011-12 Forecast	1164	1428	264	18%
2012-13 Forecast	1205	1428	223	16%
2013-14 Forecast	1224	1428	204	14%
2014-15 Forecast	1237	1428	191	13%

- A1.4 The LA has a statutory duty to manage the provision of school places and whilst it is good practise to maintain a reasonable number of surplus places to allow for parental preference, transient pupils and to offer some margin for variations between the actual and forecasted numbers, the LA believes it should operate with between 5% and 10% surplus places as recommended by the Audit Commission.
- A1.5 In light of this information the Council began in 2008 exploring options for making changes to school organisation in Brixham to create a better match between supply and demand in the area. At the same time some of the difficulties associated with falling rolls were beginning to manifest themselves. These included: financial uncertainty for some schools, internal schools re-organisations, staff redundancies and a very uneven pattern of pupil enrolment.
- A1.6 There have been lengthy dialogues between Council officers, the heads and governing bodies of the Brixham schools and the local Diocese offices on potential solutions. The clear call has been for the Council to take some action to adjust the supply of places and manage the situation.

A1.7 By maintaining a closer match between supply and demand schools have greater certainty for financial planning, staff recruitment and retention because they can admit nearer to their planned admission number.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 The key risks of the recommendation are:

A2.1.2 The impact on schools of empty places can be detrimental and lead to:

- reduced funding as budgets are based on pupil numbers;
- empty classes which still need to be cleaned, repaired and heated
- low staff morale;
- loss of confidence in schools with low numbers;
- and, financial uncertainty so schools can only offer short term employment contracts which can lead to poor staff retention or even failure to recruit.

By taking the decisive action of removing places the LA aims to manage this situation and minimise the effect on children's education.

A2.1.3 One significant impact of the closure is the displacement of the pupils currently on roll at Chestnut Primary and it is widely recognised that pupil transitions can affect progress. This risk will be mitigated through careful planning and all of the Brixham primary schools have agreed to work together with the LA to organise an effective and smooth transition. The 42 pupils at Chestnut school have all been allocated their first or second preference school for transfer in September 2011. The schools are working together to plan transfer arrangements. The Council is working with schools on transition arrangements for pupils with Special Educational Needs.

A2.1.4 There is an inherent risk with service proposals based on population forecasts. Recent data on 2008-9 birth rates shows an increase in the number of births in the area. Whilst it is too early to say whether this is a 'blip' or a sign that the birth rate for Brixham is recovering, the LA will maintain its watching brief and review provision on a regular basis.

A2.1.5 Chestnut Primary currently provides a Children's Centre facility and nursery which serves the higher Brixham area. There will be no change to this provision. The LA will also continue to maintain the buildings and the grounds to ensure that it does not fall into disrepair and have a detrimental effect on the local area. Once the school is closed the LA will investigate the possible uses for the Chestnut site. This will take place in the autumn term 2011.

A2.2 Remaining risks

A2.2.1 The LA will continue to proactively review primary provision with the area in the light of the most recent available live birth data.

A3. Other Options

- A3.1 In preparing this recommendation the LA considered and consulted on 3 options and invited respondents to suggest other options. These options were to maintain status quo, to close Chestnut and make no other changes, to close Chestnut and relocate St Margaret Clitherow to the Chestnut site or to consider any proposals arising from the consultation. The latter option brought forward 2 very similar proposals for consideration which focused on maintaining but reducing the size of Chestnut.
- A3.2 After consultation it was agreed by the Cabinet in March 2011 that the LA would go ahead with publishing proposals to close Chestnut Primary.

A4. Summary of resource implications

- A4.1 Whatever course of action is taken there will be a resource implication. If no changes were made to school organisation then Chestnut would face contraction and the Council would face the strong possibility of the cost of staff redundancies. The Council would also have to make special arrangements to support Chestnut as a vulnerable school.
- A4.2 By closing Chestnut the Council will require resources to support staff redundancies and pupil transitions. These costs will be met from within the remaining portion of Chestnut Primary schools allocation from the Dedicated School Grant 2011/12.
- A4.3 On balance the costs of a managed closure are easier to predict and manage compared to the rather more unpredictable costs of ongoing support for a vulnerable school. Children's Services has finite resources to support schools and concentrating a significant proportion of resource on one school will reduce the capacity of the Council to support other schools.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

- A5.1 The recommended action reduces the number of community schools places but retains a good mix of diversity of provision between community, Catholic and Church of England primary schools in the area.
- A5.2 The recommendation will not have any significant effect on access for disabled pupils since the alternative schools have broadly comparable levels of physical access to that at Chestnut Primary school.

A6. Consultation and Customer Focus

- A6.1 The options for changes were explored extensively with headteachers and chairs of governors in Brixham in order to form proposals that were brought forward to a public consultation. A report on the public consultation is included as Appendix 1.
- A6.2 The statutory notice of the Council's intent to close the school was then published on 29 April. A copy of the full proposal was sent to the school, the neighbouring local authorities, the Diocese and the Department of Education.

As part of the statutory process all parties were given 6 weeks to forward representations either in support or against the proposal. The Council did not receive any representations by the closing date of 13 June. A copy of the statutory notice is attached in Appendix 2.

A7. Are there any implications for other Business Units?

A7.1 The closure of the school will require the support of the Council's Human Resources Team. The 'mothballing' of the building for the immediate future will have implications for building and grounds maintenance.

Appendices

Appendix 1	Report on Consultation Responses
Appendix 2	Statutory Notice to Close Chestnut Primary School

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

None

Report on Consultation

The form of consultation

The consultation was held jointly by the Council and the Catholic Diocese of Plymouth.

The consultation ran from 29 November 2010 to 7 January 2011.

The method of consultation was a consultation document and open meetings held at St Margaret Clitherow School on 7 December 2010 and Chestnut School on 13 December 2010. Two additional consultation meetings were held, one for staff of Chestnut School on 13 December 2010 and one for governors at Chestnut School 4 January 2011.

The consultation document was sent to all staff, governors and parents of all pupils at St Margaret Clitherow School and Chestnut School.

The method of response was by hard copy response form attached to the consultation paper. A facility to download and submit forms electronically was also made available. Respondents were permitted to append additional information to response forms.

The respondents were required to state their name so as to ensure that each person submitted a single response form.

During the consultation period comments were also received in the form of letters and emails.

Levels of Participation in Consultation

The open meetings were well attended; around 100 people attended the meeting on 7 December 2010 and around 60 attended the meeting on 13 December 2010. Some people attended both meetings.

The meetings for staff and governors at Chestnut School were well attended.

175 response forms were received.

44 letters and emails were received.

Summary of Response Forms received

Responses were invited to the following Options

Option One: status quo

Option Two: a "simple" closure of Chestnut Primary School

Option Three: the closure of Chestnut Primary School and the relocation and enlargement of St Margaret Clitherow Catholic Primary School to the Chestnut site

Option Four; any other option emerging during consultation.

The numerical summary of the response forms received is set out below:

Consultation Group	Option 1	Option 2	Option 3	Option 4	No vote	Totals
Parent/Carer/Relative	56	21	7	31	2	117
School Staff	8	2	7	2		19
School Governor	2		4	5		11
Other	7		6	15		28
TOTALS	73	23	24	53	2	175
PERCENTAGE	42%	13%	14%	30%	1%	

Option One

This option has attracted most support. This is a mixture of respondents connected with Chestnut who wish the school to remain open and some who are connected with St Margaret Clitherow who do not wish their school to relocate, or do not wish their school to be involved in any proposal affecting Chestnut.

Option Two

This option was the least popular option numerically.

Option Three

This option attracted slightly more support than Option Two

Option Four

Option Four attracted a number of positive responses. This is the “any other option emerging” and there two main other options were circulated by specific respondents.

A proposal was submitted by Mr Callahan, a class teacher at Chestnut, for the school to re-organise into three teaching classes and continue. 32 respondents expressing support for Option Four have specifically mentioned support for Mr Callahan’s proposal.

A proposal on similar lines was submitted by Mr Henderson a Brixham Town Councillor.

Other suggestions were made

- Chestnut should close and all the children should be transferred to Eden Park Primary School
- The capacity of Eden Park School should be reduced to remove surplus places
- The capacity of several Brixham schools could be reduced.

The Views of “Special Interest” Groups.

Statutory guidance on consultation identifies that certain parties must be consulted and, in addition to these, the Mayor and the Diocese decided to add two parties to the prescribed list namely, the Brixham Community Partnership and the Brixham Catholic Parish, Our Lady Star of the Sea.

Parents of pupils at St Margaret Clitherow and Chestnut Primary Schools

There were meetings held on 7 December and 13 December 2010. The option arising from discussions was the formation of a federation with another Brixham primary school but it was acknowledged that this was dependent another school agreeing to that proposal. The merits and pitfalls of small schools were discussed. There was no collective decision on a preferred option.

Governing Body at Chestnut Primary School

At the consultation meeting held on 4 January 2011 the Governing Body decided that it could not reach a collective view. It was acknowledged that the Governing Body had unsuccessfully tried to reverse the decline in numbers which had been fuelled by rumours. The potential of becoming a school based on a 3 class organisation was discussed alongside the potential issues and problems that would arise.

Staff at Chestnut Primary School

No collective response was made during the consultation meeting held on 13 December 2010. The pros and cons of the option put forward by Mr Callahan to reorganise the school into 3 mixed classes were discussed.

Governing Body at St Margaret Clitherow Primary School

The governing body has been considering its position with regard to the scenario where the Diocese might be invited by the Council to relocate its school. At the time of this report's publication, the governing body has not submitted a collective view about this.

Staff at St Margaret Clitherow Primary School

No collective response was made, but some individual staff members responded.

Other schools affected by the proposals

All Brixham schools were consulted and two letters were sent in response signed by all the headteachers of Brixham schools. The heads were collectively in support of option 3 to close Chestnut Primary and relocate St Margaret Clitherow onto that site.

The CE Diocese

Completed a response form and expressed support for Option Three.

Devon County Council

No response was received.

Brixham Town Council

The Council consider this issue on 16 December 2010 and passed a minute that they would not support the closure of Chestnut Primary and that they would ask Torbay Council to explore other options.

The local Member of Parliament, Sarah Wollaston MP

Responded by email stating that she hoped Chestnut would continue on its current site if financially viable.

Brixham Community Partnership

No response was received

Brixham Catholic Parish Our Lady Star of the Sea

Responded with a letter and a petition from parishioners. The letter stated that they would welcome the opportunity to relocate St Margaret Clitherow to the site of Chestnut Primary.

Statutory Notice to Close Chestnut Primary School

Notice is given in accordance with section 15(1) of the Education and Inspections Act 2006 that Torbay Council, Oldway Mansion, Paignton, TQ3 2TE intends to discontinue Chestnut Primary School, Chestnut Drive, Brixham, TQ5 0EQ on 31st August 2011.

The Local Authority (LA) is working closely with parents, pupils and schools to ensure that the transfer of pupils to other schools is as smooth as possible. Pupils will be offered places at other schools in the town of Brixham taking into account parental preference. The other schools in Brixham are Brixham Church of England Primary, Galmpton Church of England Primary, St Margaret Clitherow Catholic Primary, Eden Park Primary and Furzeham Primary. The LA is also liaising with the neighbouring LA (Devon) to secure places for parents who prefer to transfer their children to Kingswear Primary School. Parents have been asked to identify their preferences and once the LA has all the information it will then do its best to arrange for them to transfer to their preferred school. As there are currently sufficient primary places to accommodate the pupils from Chestnut the LA has no proposals to expand provision in the Brixham area.

Most of the pupils will be able to find places at schools within statutory walking distance from their home address. The LA recognises that some families may find it difficult to secure attendance at an alternative school without assistance and will provide support where there is evidence of hardship.

This Notice is an extract from the complete proposal. Copies of the complete proposal can be obtained from: Catherine Harris, Policy & Planning Team, Children's Services, Oldway Mansion, Torquay Road, Paignton, TQ3 2TE or catherine.harris@torbay.gov.uk

Within six weeks from the date of publication of this proposal, any person may object to or make comments on the proposal by sending them to Catherine Harris Policy & Planning Team, Children's Services, Oldway Mansion, Torquay Road, Paignton, TQ3 2TE.

Signed:



Richard Williams, Executive Head Children, Families & Communities

Publication Date: 29th April 2011

Explanatory Notes

The demand for primary places in Brixham has been falling in the past few years. There are now 270 empty places spread across the 6 primary schools in Brixham and this is starting to have a detrimental effect on some schools. The LA has a statutory duty to manage the provision of school places and is therefore proposing the closure of Chestnut to reduce the number of empty places within the area.



Title: **Reducing Teenage Conceptions Strategy - Refreshed 2010**

Public Agenda Item: **Yes**

Wards Affected: **All wards are affected, however the wards with the highest rates of Teenage Conceptions are Tormohun, Roundham with Hyde and Watcombe**

To: **The Mayor** On: **13 July 2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Kim Flemming**
Telephone: **01803 208903**
E.mail: **Kim.flemming@torbay.gov.uk**

1. **What we are trying to achieve and the impact on our customers**

- 1.1 Reducing the number of young women under 18 who become pregnant in Torbay has been identified as a priority within Torbay Council, Torbay Care Trust and partner organisations. Teenage conceptions/pregnancies include live births, still births and abortions.
- 1.2 Torbay Care Trust and Torbay Council have welcomed the latest figures for teenage conceptions, which show a drop in rates in Torbay. The latest figures for conceptions in those under the age of 18 have seen a 15 percent reduction from 2008 to 2009. The rate fell from 64.9 per 1000 in 2008 to 55.3 per 1000 in 2009. In actual numbers there were 131 conceptions in 2009 compared to 159 conceptions in the previous year.
- 1.3 We know the key factors for reducing teenage conceptions are good quality and consistent sex and relationships education, easy access to effective contraception and sexual health services, early intervention and support for those young people most at risk and helping parents/carers to talk to their children about sexual health and relationships. Our commitment to young people, their families and the wider community is that we will continue to work closely with our partners to focus on and improve all these area so that our younger generation are given the best opportunities for full and healthy teenage years.
- 1.4 Torbay' strives:
 - To empower all young people to have the skills, confidence and motivation to look after their sexual health and delay parenthood until they are in a better position – emotionally, educationally and economically – to face its challenges;

- To have the skills, confidence and motivation to look after their sexual health and avoid unwanted teenage conceptions.

2. Recommendation(s) for decision

- 2.1 **That the Mayor be recommended to approve the Reducing Teenage Conceptions Strategy Refreshed December 2010 set out at Appendix 1 to this report.**

3. Key points and reasons for recommendations

- 3.1 The Reducing Teenage Conceptions Strategy Refreshed 2010 continues to focus on the National Teenage Pregnancy Strategy Unit “Deep Dive” recommendations for an effective reducing in teenage conception rates. The Deep Dives were a series of in-depth reviews carried out in a number of areas with both good and poor performance in reducing teenage pregnancy, looking at the key features of local strategies in areas where rates had reduced significantly and comparing and contrasting their experience with what was happening in statistically similar areas where rates were static or increasing.

- 3.2 The Reducing Teenage Conceptions Strategy Refresh Meeting held December 2010 agreed to continue with the four priority areas as outlined in the original Reducing Teenage Conceptions Strategy.

1. Young people focused contraceptive / sexual health services: Trusted by teenagers and well known by professionals working with them
2. Strong Delivery of Sex and Relationships Education (SRE)/ Personal Social Health Education (PSHE) by schools
3. Targeted work with ‘at risk’ groups of young people; in particular Looked After Children and Care Leavers.
4. Work with parents and carers

- 3.3 The following issues are also outlined in the Refreshed strategy. Key elements include the following:

- Why teenage pregnancy matters: The majority of teenage pregnancies are unplanned and around a half end in abortion (1). As well as the emotional cost to individuals and families, abortions represent an avoidable cost to the NHS. Where teenage pregnancies result in a birth, evidence shows that having children at a young age can damage young women’s health and well-being and severely limit their education and career prospects. And while young people can be competent parents, longitudinal studies show that children born to teenagers are more likely to experience a range of negative outcomes in later life, and are up to three times more likely to become a teenage parent themselves.
- What works? International evidence, as well as the lessons from areas where teenage pregnancy rates have fallen fastest, show that all young people need effective sex and relationships education – which helps young people to deal with pressure to have sex, as well as equipping them with the knowledge and skills to avoid unplanned pregnancies and Sexually Transmitted Infections – alongside easy

1 Social Exclusion Unit (1999) *Teenage Pregnancy*. London: HMSO), (National Statistics (2010) *England under-18 conception statistics*, 2008)

access to young people-centred contraceptive and sexual health services, when they need them.

But it is also clear that as well as giving all young people the means to avoid early pregnancy, sustained reductions in teenage pregnancy rates will only be possible if action is taken to address the underlying factors that increase the risk of teenage pregnancy, such as poverty, educational underachievement, low aspirations and lack of engagement in learning post-16.

- Child Poverty and Worklessness (2) Teenage pregnancy is both a contributory factor and an outcome of child poverty. Teenage parent families have at least one parent under the age of 18 with responsibility for a dependent child aged under five. These families are at increased risk of the biggest causes of poverty (worklessness and low pay); while under-fives make up 44 per cent of all children in poverty (3).

Poverty, like teenage pregnancy, follows intergenerational cycles with children born into poverty at increased risk of teenage pregnancy, especially for young women living in workless households when aged 11-15 (4). The majority of teenage parents and their children live in deprived areas and often experience multiple risk factors for poverty, experiencing poor health, social and economic outcomes and inter-generational patterns of deprivation. Teenagers who become pregnant are more likely to drop out of school, missing a key phase of their education, leading to low educational attainment and no or low-paying, insecure jobs without training.

- Safeguarding. Many young women experience a high level of violence and abuse in their relationships and many of the young women vulnerable to teenage pregnancy may have much older male partners. International research findings demonstrate connections between sexual abuse, coercion, intimate partner violence and teenage conception rates. Recent research in the UK has shown clear links between teenage pregnancy and non-consensual sex (5)
- Infant Mortality. The infant mortality rate for babies born to teenage mothers is 60% higher than for babies born to older mothers; children born to teenage mothers have higher mortality rates under 8 years and are more likely to have accidents and behavioural problems. A reduction in teenage pregnancy makes a significant contribution to reducing Infant Mortality.
- Health Inequalities. Teenage pregnancy does not affect young people equally and higher rates are found in areas that experience generally poor health. Teenage pregnancy also increases health inequalities and leads to poor long-term outcomes for young parents and their children.

3.4 The Reducing Teenage Conceptions Strategy Refreshed December 2010 links to all quarters of the Turning the Tide Community Plan, particularly the stronger communities section that identified one of the priorities as promoting the health and social well being of young people to reduce the number of teenage pregnancies. Teenage pregnancy is

2 DfE Briefing (2010)

3 DWP (2008) 'Ending child poverty: everybody's business.'

4 Ermisch, J., Francesconi, M and Pevalin, D. J. 2001) '*The outcomes for poverty of children*' DWP Research Report 15.

5 A MISSING LINK?: AN EXPLORATORY STUDY OF THE CONNECTIONS BETWEEN NON-CONSENSUAL SEX AND TEENAGE PREGNANCY Executive Summary July 2010 Maddy Coy, Kerry Lee, Liz Kelly and Colleen Roach Child and Woman Abuse Studies Unit London Metropolitan University

strongly associated with the most deprived and socially excluded young people and together with other key aspects outlined in the strategy, raising the aspirations of young people and families is an important factor in the reduction of teenage conceptions. This relates strongly to the vision and priorities for Torbay as outlined in The Community Plan.

For more detailed information on this proposal please refer to the supporting information attached.

Carol Tozer,

Commissioner of Children Schools and Families and Director of Children's Services.

Supporting information

A1. Introduction and history

- A1.1 Reducing the number of young women under 18 who become pregnant in Torbay has been identified as a priority within Torbay Council, Torbay Care Trust and partner organisations. Teenage conceptions/pregnancies include live births, still births and abortions.
- A1.2 Torbay Care Trust and Torbay Council have welcomed the latest figures for teenage conceptions, which show a drop in rates in Torbay. The latest figures for conceptions in those under the age of 18 have seen a 15 percent reduction from 2008 to 2009. The rate fell from 64.9 per 1000 in 2008 to 55.3 per 1000 in 2009. In actual numbers there were 131 conceptions in 2009 compared to 159 conceptions in the previous year.
- A1.3 We know the key factors for reducing teenage conceptions are good quality and consistent sex and relationships education, easy access to effective contraception and sexual health services, early intervention and support for those young people most at risk and helping parents/carers to talk to their children about sexual health and relationships. Our commitment to young people, their families and the wider community is that we will continue to work closely with our partners to focus on and improve all these areas so that our younger generation are given the best opportunities for full and healthy teenage years.
- A1.5 Torbay strives:
- To empower all young people to have the skills, confidence and motivation to look after their sexual health and delay parenthood until they are in a better position – emotionally, educationally and economically – to face its challenges.
 - To have the skills, confidence and motivation to look after their sexual health and avoid unwanted teenage conceptions.
- A1.6 Torbay is committed to:
- Build on evidence informed practice, by implementing what we know has made a difference elsewhere.
 - Provide young people with the knowledge, skills and confidence to prevent pregnancy and manage their sexual health.
 - Improve young people's access to advice and support on contraception and sexual health.
 - Helping facilitate open discussions between parents / carers and their children on sex and relationships.
 - Ensure that advice on contraception is an integral part of the support provided to young women who have had a prior conception (either leading to abortion or birth) to avoid the risk of second and subsequent conceptions.
- A1.7 Research shows that the vast majority of teenage pregnancies are unplanned and most young parents wish they had waited. In 2009, in Torbay 54% of conceptions led to abortion, indicating that many local young people have unwanted pregnancies.
- A1.8 The Mayor's agreement of the Refreshed Strategy would be appreciated in order to help drive the agenda forward.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.2 If the Refreshed Reducing Teenage Conceptions Strategy is not implemented teenage conceptions are unlikely to continue to reduce.

A2.3 The Teenage Pregnancy Grant is no longer ring fenced and will be subject to Council budget setting process, year on year.

A2.4 Actions to mitigate risk would be for Torbay Care Trust and Torbay Council to continue to prioritise reducing teenage conceptions.

A3. Other Options

A3.1 Torbay Reducing Teenage Conceptions Strategy, Refreshed Dec 2010 was agreed by the Teenage Pregnancy Strategy Executive (TPSE) June 2011. The TPSE is chaired by Dr Carol Tozer, the People Commissioner for Torbay Council). Its members include: Elizabeth Raikes (Chief Executive, Torbay Council); Anthony Farnsworth (Chief Executive, Torbay Care Trust, Torbay Council); Debbie Stark (Director of Public Health, Torbay Care Trust and Torbay Council) and two elected councillors, Cllr Chris Lewis and the other currently to be agreed

A4. Summary of resource implications

A4.1 None as resources are within existing multi agency budgets.

(Although there are no implications from a procurement perspective, the Corporate Procurement Manager wanted it noted that Procurement best practice must be undertaken and a proper procurement process conducted when any expenditure is envisaged. This is also applicable to any money received from grants, central funding, lottery funding or any other means which is used to fund third party activities for the Council. Financial regulations, Standing Orders and EU Directives (Public Contract Regulations) will have to be applied if any aggregated 'spend' is above the financial threshold applicable to these rules.)

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 There is promotion of equality and reduction of discrimination in the following ways:

- Ongoing reviews of services ensure those most at risk will be identified and services developed appropriately, in particular services for boys and young men.
- Communications strategy ensures that all residents are taken into consideration when targeting messages.
- Issues specific to Lesbian, Gay, Bisexual and Transsexual young people and young people with a disability are addressed within sexual health services.
- Improvement of Sex and Relationships Education within schools improves equality of access to teaching for all young people.
- Monitoring the ethnicity of those young people who have conceived to ensure current service provision meets their needs.

A6. Consultation and Customer Focus

The following consultations were taken into consideration during the Reducing Teenage Conceptions Strategy Refresh Event in December 2010 and will inform subsequent detailed action plans.

A6.1 Consultation with young people 'at risk' of teenage conceptions:

- Concern about confidentiality.
- Alcohol led to risky sexual activities.
- They want access to full sexual health services in youth settings.
- They want staff who are young people friendly, well trained and knowledgeable about sexual health – both male and female workers.
- Homophobia and fear of homophobia prevented LGBTQ (Lesbian, Gay, Bisexual, Transgender and Questioning) young people from accessing services.

A6.2 Young View/Student Focus group on health relationships

- Successful relationships must be modelled by adults.
- Peer support can aid healthy relationships.

A6.3 APAUSE (Added Power and Understanding in Sex Education)

- Young people are not confident about accessing local services or about their confidentiality.
- There was a lack of experiential teaching.
- Want more on positive aspects of sex and sexual activity.

A6.4 TellUs 4

- 58% reported their Sex and Relationships Education had been helpful.
- 59% reported their alcohol education helpful.

A6.5 Consultation on Sex and Relationships Education (SRE) using 'Are we getting it right?' toolkit

- Young people prefer single sex SRE lessons.
- Young people prefer smaller classes.
- Young people prefer experiential learning.
- Delivery by confident and relaxed professionals.
- Up to date resources.
- Young people want to discuss issues around masculinity and pornography.
- Young people stressed the importance of well trained professionals.

A6.6 Thoughts on the Teenage Pregnancy Strategy from Year 10 Peer Listeners Peer Listeners thoughts on SRE;

- Teachers need more training on Personal Social Health Education (PSHE) because they put on whoever's available like Maths teachers who don't really know what they are talking about. And they get really embarrassed about it and they imply that all of us are having sex when it's not true; they need more training and more teachers.
- We just feel like they're talking to us like we're all having sex, and ought to be. It should be done by professionals rather than our teachers because we know the teachers too well and they don't take the lesson seriously, so we don't.

Peer Listeners thoughts on targeted groups;

- I think it doesn't matter where you come from you should get the same support as everyone else, like building up the confidence to say no, because I think, if you're put under enough pressure, even if you've had a good background, then you could still give in. So, we shouldn't just focus on certain individuals we should focus on everyone in the community.
- I feel that providing a service to build people's self-confidence and self-esteem will help because there will be less pressure on young people because they'll have the confidence to say no.

Peer Listeners thoughts on Communications

- As peer listeners we think we should focus more on communications because everything stems from it. Whether that's bad communication coming from the media or peers about the wrong things or it's the lack of information through education.

A6.7 Parents views.

- Parent's knowledge on accessing help and advice for young people is limited, in terms of directing the young people appropriately. Where are the services and what are they saying to our young people?
- To explore possibility of providing an advice centre for parents so they can access information on how to deal with their young people on all these topics. This would encompass all areas within reason of parental needs.

A6.8 Views of Staff and Volunteers who attended Teenage Pregnancy Refresh Meeting. What should be the Reducing Teenage Conceptions priorities for next 2 years?

- De-Silo and Integrate but make sure teenage pregnancy issues are not lost
- Standardise SRE delivery in schools across Torbay and to include discussions of reality of teenage pregnancy/parenthood. Workforce training and mapping
- Stronger focus on reducing second conceptions
- Sexual Health services sites eg. Schools
- Are we targeting right and do we need to increase universal?
- Raise aspirations in target areas.
- Vulnerability is around life chances – not lifestyle behaviours
- Parenting–'understanding your teenager' or 'living with your teenager'. Take away emphasis on Teenage Pregnancy
- Same priorities as in previous TP Strategy – to be embedded in 12 months time

A7. Are there any implications for other Business Units?

A7.1 Reducing teenage pregnancy in Torbay needs to be viewed (in varying degrees) as 'everyone's business'. Whether this is becoming aware of the issues, knowing how to support young people to access appropriate services or helping the young people of Torbay to become healthy adults. However, no other specific Business Unit will be directly affected by the Reducing Teenage Pregnancy Strategy Refreshed December 2010

Appendices

Appendix 1: Torbay Reducing Teenage Conceptions Strategy Refreshed December 2010

Documents available in members' rooms

None



TORBAY TEENAGE PREGNANCY PARTNERSHIP

REDUCING TEENAGE CONCEPTIONS STRATEGY

Refreshed December 2010



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TORBAY TEENAGE PREGNANCY STRATEGY: REFRESHED DECEMBER 2010

Foreword – Dr Carol Tozer (Torbay People Commissioner and Director of Children’s Services)



Torbay Care Trust and Torbay Council have welcomed the latest figures for teenage conceptions, which show a drop in rates in the Bay.

The latest figures for conceptions in those under the age of 18 have seen a 15 percent reduction from 2008 to 2009. The rate fell from 64.9 per 1000 in 2008 to 55.3 per 1000 in 2009. In actual numbers there were 131 conceptions in 2009 compared to 159 conceptions in the previous year.

Reducing teenage conceptions remains a top priority in Torbay and I am pleased that the measures we have taken are starting to have a positive effect. We have sought best practice from other areas and implemented what we know has made a difference elsewhere.

We know the key factors for reducing teenage conceptions are good quality and consistent sex and relationships education, easy access to effective contraception and sexual health services, early intervention and support for those young people most at risk and helping parents/carers to talk to their children about sexual health and relationships. Our commitment to young people, their families and the wider community is that we will continue to work closely with our partners to focus on and improve all these areas so our younger generation are given the best opportunities for full and healthy teenage years.

1. Our Vision

Torbay’ strives:

- To empower all young people to have the skills, confidence and motivation to look after their sexual health and delay parenthood until they are in a better position – emotionally, educationally and economically – to face its challenges;
- To have the skills, confidence and motivation to look after their sexual health and avoid unwanted teenage conceptions.

Torbay is committed to:

- Build on evidence informed practice, by implementing what we know has made a difference elsewhere.
- Provide young people with the knowledge, skills and confidence to prevent pregnancy and manage their sexual health
- Improve young people’s access to advice and support on contraception and sexual health
- Helping facilitate open discussions between parents / carers and their children on sex and relationships
- Ensure that advice on contraception is an integral part of the support provided to young women who have had a prior conception (either leading to abortion or birth) to avoid the risk of second and subsequent conceptions.

Torbay remain committed to transforming children's lives by working together to provide locally delivered, high quality children's services that are responsive to the needs of the people we serve (CYPP 2009/10).

2. Local Data

What's in a word? ***** Conception / pregnancy *****

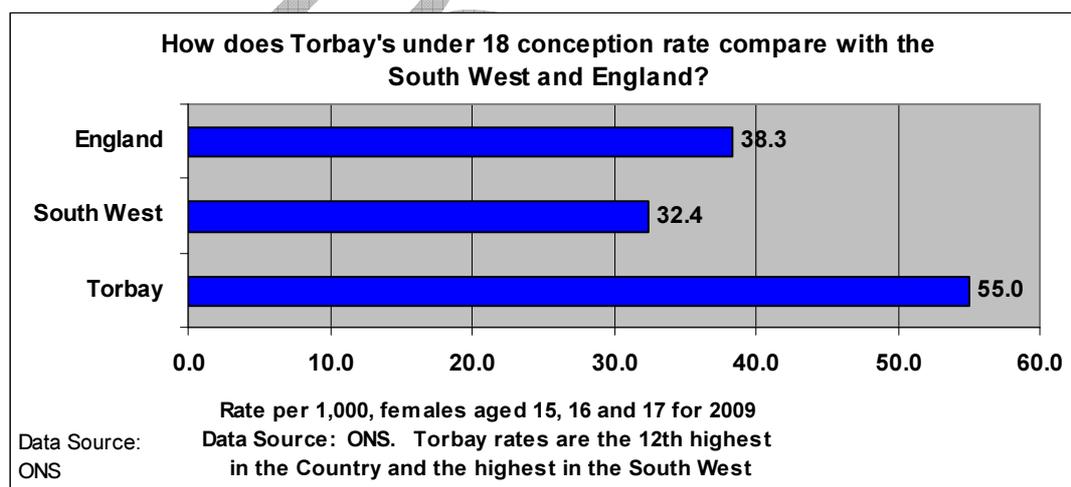
Teenage conception/pregnancy rates include women who conceived aged 15 – 17 and includes live births, still births and legal abortions.

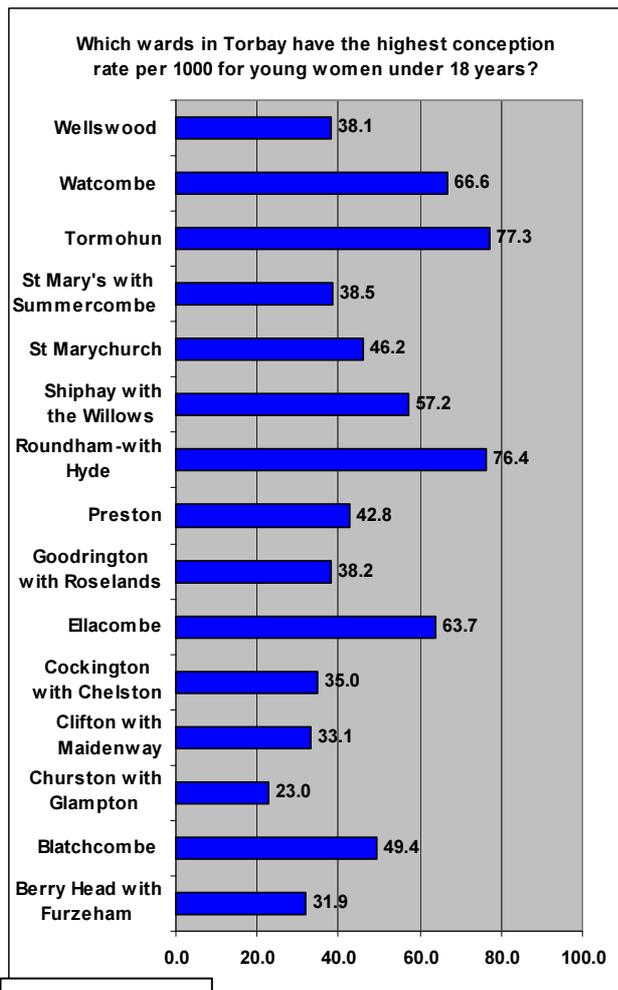
The strategy is about reducing the number of teenagers under 18 who become pregnant – no matter what the outcome.

The following table is a summary of annual teenage pregnancy rates and numbers for Torbay, South West and England.

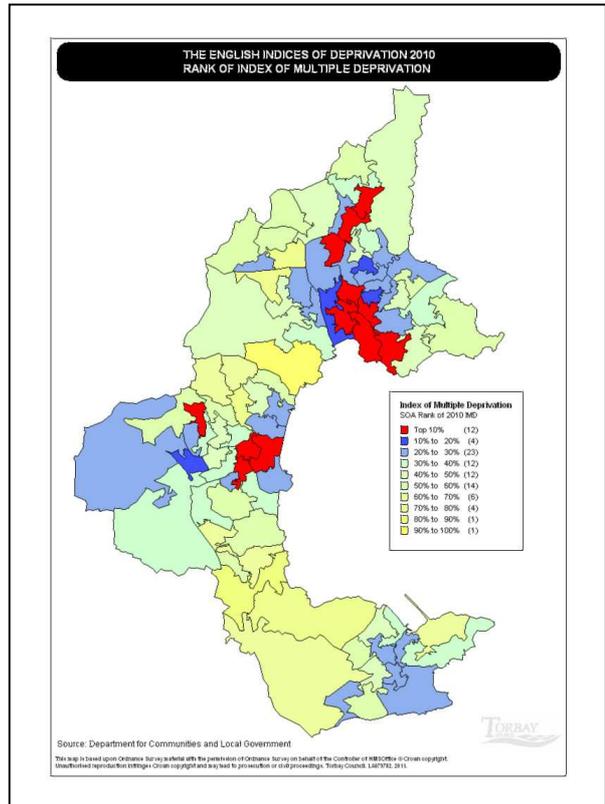
Year	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Number of official teenage pregnancies												
Torbay	89	106	105	92	115	99	123	118	122	138	159	131
Rate per 1,000 females aged 15 to 17												
England	46.6	44.8	43.6	42.5	42.7	42.2	41.6	41.3	40.6	41.7	40.4	38.3
South West	39.4	37.5	36.3	37.1	35.3	34.1	34.3	34.0	33.0	36.1	34.7	32.4
Torbay	44.2	52.7	48.9	40.6	49.6	41.2	50.0	48.6	51.1	57.4	64.9	55.3
% leading to abortion												
England	42.4	43.5	44.8	46.1	45.8	46.0	46.0	46.9	48.9	50.5	50.0	49.0
South West	44.8	46.1	44.6	46.1	46.3	46.6	47.2	47.9	50.2	48.9	51.0	49.0
Torbay	47.2	45.3	45.7	56.5	49.6	45.5	48.8	53.4	49.2	55.8	54.0	55.0

Data Source: ONS



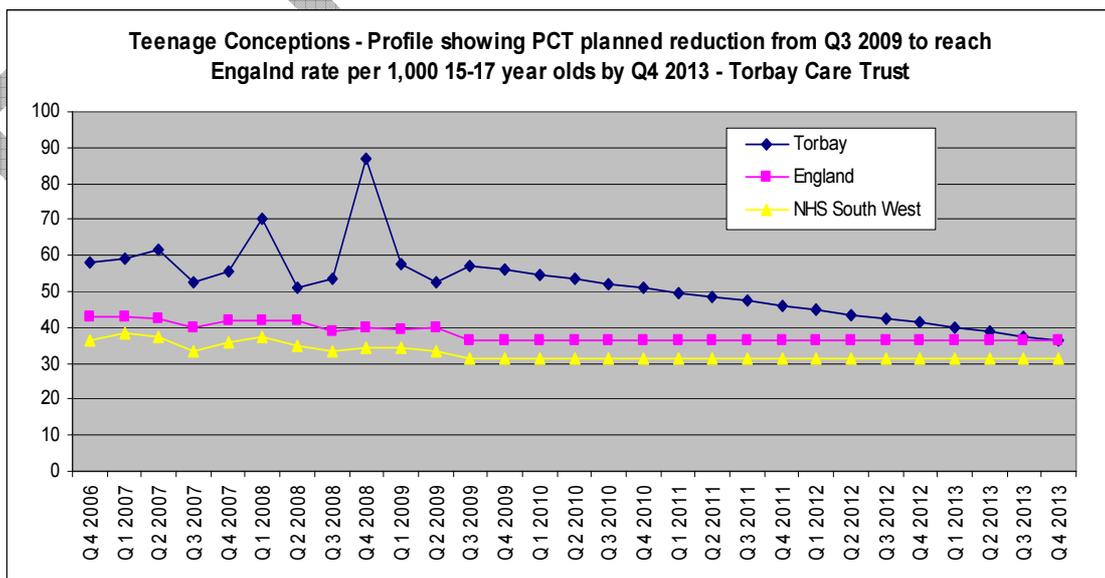


Data Source: JSNA 2007



The map above shows the 2010 Index and Multiple Deprivation plotted against electoral wards. Source: Dept of Communities and Local Government. Areas of deprivation match wards with high teenage pregnancy rates.

Torbay has set a target of 36.3 per 1,000 15-17 year olds conceiving by quarter 4 in 2013. This target is based on the quarterly England average. The graph below provides a trajectory for the next two years.



3. Torbay Priorities for Reducing Teenage Conceptions

The Teenage Pregnancy Strategy Refresh Meeting held December 2010 agreed to continue with the four priority areas as outlined in the original Reducing Teenage Conceptions Strategy agreed April 2009. The details underpinning these priority areas are detailed in the Teenage Pregnancy Action, Appendix 1.

Priority areas for Torbay		Evidence of What works – based on ‘deep dive’ recommendations.
1	Young people focused contraceptive / sexual health services: Trusted by teenagers and well known by professionals working with them	<ul style="list-style-type: none"> • Accessible services are tailored for young people • Full range of high quality services offered • Services are visible and highly promoted • Involvement by a range of knowledgeable service providers • Services are adequately resourced
2	Strong Delivery of SRE/PSHE by schools	<ul style="list-style-type: none"> • Strong delivery by well trained professionals • Broad thorough content • Clear commitment to SRE • Whole school environment contributes • Sustained provision throughout school years
3	Targeted work with ‘at risk’ groups of young people; in particular Looked After Children and Care Leavers.	<ul style="list-style-type: none"> • Strong use of data and evaluation • Specific preventative interventions targeted a range of vulnerable groups • Interventions tailored to suit specific needs • Effective interventions involve a range of professionals and voluntary and community groups and complement existing programmes
4	Work with parents and carers	<ul style="list-style-type: none"> • Make the most of existing programmes • Range of stakeholder organisations contribute • Provision reflects local characteristics • General as well as targeted provision
Other areas to support the priorities		Evidence of What works – based on ‘deep dive’ recommendations.
5	Strategic: Senior local sponsorship and engagement of all key partners	<ul style="list-style-type: none"> • There is clear commitment / teenage pregnancy is a priority • Teenage pregnancy is integrated into planning • Progress is driven by performance management

6	Data: Detailed, accurate and up to date data and information	<ul style="list-style-type: none"> • There is clear commitment / teenage pregnancy is a priority • Teenage pregnancy is integrated into planning • Progress is driven by performance management • There is a systematic approach to knowing the local population and its needs in relation to teenage pregnancy. • Data and information are used to inform provision of local services • Performance management is led by accurate data and information
7	Communication	<ul style="list-style-type: none"> • Partners receive appropriate information • Parents and communities are engaged and informed • Young people – including those most at risk – are involved and informed • There is a strategy for dealing with the media
8	Workforce Training on sex and relationship issues within mainstream partner agencies	<ul style="list-style-type: none"> • Engagement with / guidance for all those working with young people • Staff follow good practice
9	Integrated Youth Support Services (IYSS) with a clear remit to tackle teenage pregnancy.	<ul style="list-style-type: none"> • Commitment • Well trained youth workers (SRE) • Provision of advice and contraception • Sign posting to specialist services
10	Working on raising aspirations	<ul style="list-style-type: none"> • Work combines raising awareness and raising self-esteem • Work reaches young people most at risk • Schools are engaged in raising aspiration for most at risk young people • Engagement with young people • Community engagement
11	Supporting Young Parents	<ul style="list-style-type: none"> • Supporting teenage parents to achieve better outcomes • Improving child health outcomes • Improving teenage mothers emotional health and well being • Support for young fathers • Effective supported accommodation for teenage mothers.

5. Stakeholder Consultations

More information on the views of stakeholders (including from young people, parents/carers and professionals) can be found in Appendix 2.

What Young People have told us

Consultation with young people 'at risk' of teenage conceptions:

- Concern about confidentiality
- Alcohol led to risky sexual activities
- They want access to full sexual health services in youth settings
- They want staff who are young people friendly, well trained and knowledgeable about sexual health – both male and female workers
- Homophobia and fear of homophobia prevented LGBTQ (Lesbian, Gay, Bisexual, Transgender and Questioning) young people from accessing services.

Development of Sexwise Branding

- To have small credit card size leaflet
- People liked the idea of website
- Young people liked 'things' eg. Pens
- We need to ensure map of services on leaflets and website.

Young View/Student Focus group on health relationships

- Successful relationships must be modelled by adults
- Peer support can aid healthy relationships

APAUSE (Added Power and Understanding in Sex Education)

- Young people are not confident about accessing local services or about their confidentiality
- There was a lack of experiential teaching
- Want more on positive aspects of sex and sexual activity

TellUs 4

- 58% reported their Sex and Relationships Education had been helpful
- 59% reported their alcohol education helpful

Consultation on Sex and Relationships Education (SRE) using 'Are we getting it right?' toolkit

- Young people prefer single sex SRE lessons
- Young people prefer smaller classes
- Young people prefer experiential learning
- Delivery by confident and relaxed professionals
- Up to date resources
- Young people want to discuss issues around masculinity and pornography
- Young people stressed the importance of well trained professionals

6. Why teenage pregnancy matters

The majority of teenage pregnancies are unplanned and around a half end in abortion¹. As well as the emotional cost to individuals and families, abortions represent an avoidable cost to the NHS. Where teenage pregnancies result in a birth, evidence shows that having children at a young age can damage young women's health and well-being and severely limit their education and career prospects. And while young people can be competent parents, longitudinal studies show that children born to teenagers are more likely to experience a range of negative outcomes in later life, and are up to three times more likely to become a teenage parent themselves.

7. What works?

International evidence, as well as the lessons from areas where teenage pregnancy rates have fallen fastest, show that all young people need effective sex and relationships education (SRE) – which helps young people to deal with pressure to have sex, as well as equipping them with the knowledge and skills to avoid unplanned pregnancies and sexually transmitted infections – alongside easy access to young people-centred contraceptive and sexual health (CASH) services, when they need them.

But it is also clear that as well as giving all young people the means to avoid early pregnancy, sustained reductions in teenage pregnancy rates will only be possible if action is taken to address the underlying factors that increase the risk of teenage pregnancy, such as poverty, educational underachievement, low aspirations and lack of engagement in learning post-16.

8. How investment in teenage pregnancy prevention and improving outcomes for teenage parents and their children can support wider local strategies

Tackling Teenage Pregnancy is a vital part of local initiatives to address:

- Child Poverty and Worklessness
- Safeguarding
- Infant Mortality
- Health Inequalities
- Poor sexual health
- Poor emotional wellbeing and mental health

Child Poverty and Worklessness²

Teenage pregnancy is both a contributory factor and an outcome of child poverty. Teenage parent families have at least one parent under the age of 18 with responsibility for a dependent child aged under five. These families are at increased risk of the biggest causes of poverty (worklessness and low pay); while under-fives make up 44 per cent of all children in poverty³.

As a result:

¹ Social Exclusion Unit (1999) *Teenage Pregnancy*. London: HMSO), (National Statistics (2010) *England under-18 conception statistics*, 2008)

² DfE Briefing (2010)

³ DWP (2008) 'Ending child poverty: everybody's business.'

- children of teenage mothers have a 63% increased risk of being born into poverty compared to babies born to mothers in their twenties⁴
- at age 30, teenage mothers are 22% more likely to be living in poverty than mothers giving birth aged 24 or over, and are much less likely to be employed.

Poverty, like teenage pregnancy, follows intergenerational cycles with children born into poverty at increased risk of teenage pregnancy, especially for young women living in workless households when aged 11-15⁵. The majority of teenage parents and their children live in deprived areas and often experience multiple risk factors for poverty, experiencing poor health, social and economic outcomes and inter-generational patterns of deprivation. Teenagers who become pregnant are more likely to drop out of school, missing a key phase of their education, leading to low educational attainment and no or low-paying, insecure jobs without training.

Teenage mothers are 20% more likely to have no qualification at age 30 than mothers giving birth aged 24 or over. Young mothers are also more likely to be lone parents with their children raised in a home with one income and often living in sub-standard housing or temporary accommodation. Teenage mothers are more likely to partner with men who are poorly qualified and more likely to experience unemployment.

Safeguarding

Many young women experience a high level of violence and abuse in their relationships and many of the young women vulnerable to teenage pregnancy may have much older male partners. International research findings demonstrate connections between sexual abuse, coercion, intimate partner violence and teenage conception rates. Recent research in the UK has shown clear links between teenage pregnancy and non-consensual sex⁶

Girls who have been sexually abused are more likely to become sexually active at a young age and be at specific risk of teenage pregnancy. The NHS Taskforce on Violence against Women and Children refers to teenage pregnancy as one of many impacts of abuse. Alcohol is often cited by young people as one of the factors that contribute to sexual activity they have subsequently regretted.

Infant Mortality

The infant mortality rate for babies born to teenage mothers is 60% higher than for babies born to older mothers; children born to teenage mothers have higher mortality rates under 8 years and are more likely to have accidents and behavioural problems. A reduction in teenage pregnancy makes a significant contribution to reducing Infant Mortality.

Health Inequalities

Teenage pregnancy does not affect young people equally and higher rates are found in areas that experience generally poor health. Teenage pregnancy also increases health inequalities and leads to poor long-term outcomes for young parents and their children.

Poor Sexual Health Outcomes - Abortion and Sexually transmitted infections

They key actions needed to reduce teenage pregnancy rates – effective Sex and Relationships Education and improved access to contraceptive and sexual health services – will also impact on the likelihood of young people suffering poor sexual health. Health Protection Agency figures on sexually transmitted infections (STIs) in 2009 show an upward trend in the levels of infection in young people.

⁴ Mayhew E and Bradshaw J (2005) 'Mothers, babies and the risks of poverty' Poverty, No.121 p13-16.

⁵ Ermisch, J., Francesconi, M and Pevalin, D. J. 2001) 'The outcomes for poverty of children' DWP Research Report 15.

⁶ A MISSING LINK?: AN EXPLORATORY STUDY OF THE CONNECTIONS BETWEEN NON-CONSENSUAL SEX AND TEENAGE PREGNANCY Executive Summary July 2010 Maddy Coy, Kerry Lee, Liz Kelly and Colleen Roach Child and Woman Abuse Studies Unit London Metropolitan University

Left untreated, sexually transmitted infections can lead to infertility as well as a range of other health problems⁷.

Addressing teenage pregnancy alongside work to reduce sexually transmitted infections is a government public health concern. Access to Contraceptive and Sexual Health Services, advice and clear messages about using both a condom and the most appropriate effective contraception is necessary to achieve both outcomes.

Poor emotional wellbeing and mental health

Teenage mothers have three times the rate of post-natal depression of older mothers and a higher risk of poor mental health for three years after the birth. A lack of self-esteem can affect a young woman's ability to resist peer pressure, abusive relationships, unwanted sexual activity and to negotiate the use of contraception.

9. Leadership and Governance

The Teenage Pregnancy Strategy Refresh Meeting held December 2010 agreed to continue with the Delivery Structure as outlined in the original Reducing Teenage Conceptions Strategy agreed April 2009. The long term aim would be to mainstream the governance and accountability framework for reducing teenage pregnancy, but for the present time the current structure was needed to ensure a detailed focus.

Torbay Teenage Pregnancy Strategic Executive

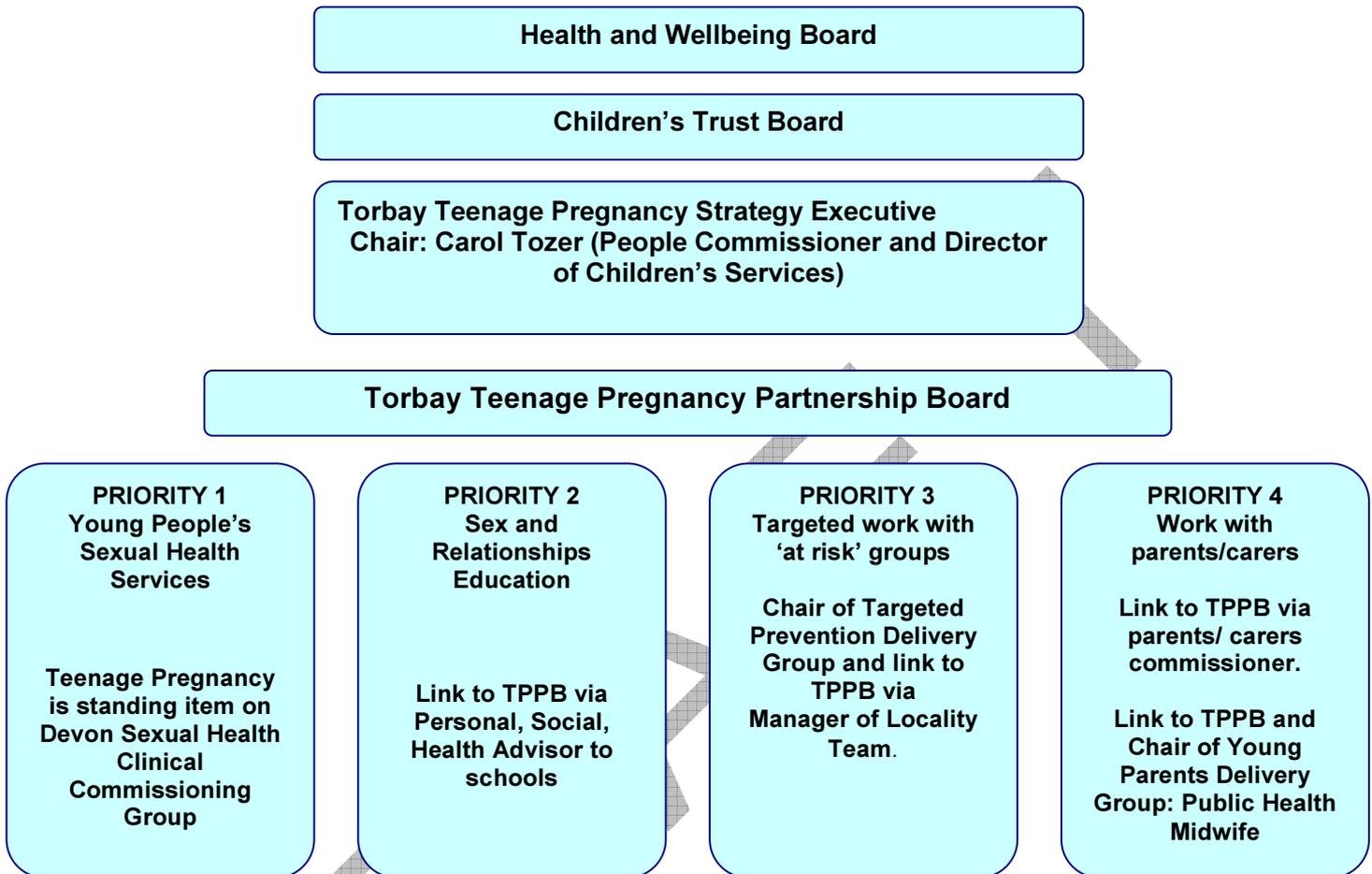
In order to provide the most senior engagement in making sure that Torbay Council and the NHS accord priority, focus and resources to our work in reducing teenage conceptions, we have established a Strategic Executive Chaired by Dr Carol Tozer, the People Commissioner for Torbay Council. Its members include: Elizabeth Raikes (Chief Executive, Torbay Council); Anthony Farnsworth (Chief Executive, Torbay Care Trust, Torbay Council); Debbie Stark (Director of Public Health, Torbay Care Trust and Torbay Council) and two elected councillors: Lead member for Children and Champion for Staying Safe.

Torbay teenage pregnancy partnership board

The Torbay Teenage Pregnancy Partnership (TPPB) is a multi-agency partnership responsible for developing and implementing the local Teenage Pregnancy Strategy. The TPPB is overseen by the Teenage Pregnancy Executive and underpinned by specific groups that focus on the priority areas within the plan.

⁷ Health Protection Agency: Health Protection Report, Volume 4 Number 34 Published 27 August 2010

LOCAL DELIVERY STRUCTURE



10. Review of Achievements for the Priority Areas

Young People Focused contraception / sexual health services

- Young People's sexual health needs assessment in place
- Post natal follow up (under 18 at delivery) in place to provide contraception
- British Pregnancy Advisory Service contract amended to require provision of Long Acting Reversible Contraception (LARC) in addition to other contraception.
- Emergency Hormonal Contraception available in 31 pharmacies. New window sticker (based on Sexwize brand), sent to participating pharmacies to advertise the scheme.
- Increased number of GPs trained and offering implants to their patients. ,
- C-card (condom card) – Electronic system for registering young people to scheme and distributing condoms developed. Torbay providing advice to NHS Sexual Health South West with a view to extending the Torbay system to a regional level.
- Maternity service has set up early flagging system to numbers of under 18 years booking pregnancy.

- Sexwize materials being updated for another print run and website information also updated. Video project with South Devon students is in progress. When finalised, this will be uploaded onto website. Questions asked will be used for the FAQ section of the website.
- Dashboard fully operational with Sexual Medicine Service (SMS) to provide data on numbers of young people accessing GU and Contraception services and young people specific clinics
- Sexual Health Outreach team in place.
- Pharmacy sexual health campaign – campaign ran during November 2010. Training incorporated having difficult conversations (about sexual health) with young people, Chlamydia screening and signposting to Sexwize.
- You're Welcome Quality Standards: – current accredited sites are Health Wize, TIC TAC (Waterleat Road site), TIC TAC (Borough Rd), Parkhill Medical Practice, Sherwell Valley Practice, Dewerstone Surgery, Chatto Rd Surgery, tSMS Castle Circus Health Centre.
- Brook audit report of sexual health provision in Further Education Colleges in the South West identifies South Devon College providing on site, specialist sexual health service. Recommendations made in the report.
- Sexual Health Outreach Youth Worker leading a consultation programme with young people to gather their views and experiences of using sexual health services.

Strong Delivery of Sex and Relationships Education in Schools

- Leading PSHE Practitioners Network development continued. Domestic abuse training delivered at PSCC & Brixham C of E. Very positive evaluations. 10 schools now engaged with training plus youth workers. All school based training followed up by session with appropriate staff member to ensure work becomes embedded in curriculum. Links made in training to sexual bullying. Second session concentrates on classroom strategies to develop healthy relationships.
- Challenging Social Norms Project peer surfers training completed. First stage of evaluation process complete. Herald Express young people's supplement published. All in place for its launch.
- Healthy Schools & Healthy Schools Plus ceased to be a national programme from March 2011. 95% (41) of Torbay's schools will be Healthy Schools at this point. Work likely to be subsumed in to work on child poverty & healthier communities.
- 5 candidates retained on National PSHE Continued Professional Development Programme. Outstanding practice being developed & shared. Peer support in place
- Primary PSHE Leads meeting facilitated – 01/11
- Student Focus Group/Young View continued to be embedded. Autumn term composite report on anti-bullying shared with all relevant stakeholders including chairs of governing bodies. Spring term focus is gender to link with sexual bullying agenda.
- Over view of consultations with young people shared with Participation/MPC Boards
- Assist Programme evaluation complete.
- Resource for combating homophobia in primary schools, "Different Families," disseminated to all schools along with briefing paper detailing available support & in partnership with Stonewall, as part of their Education Champions Programme.
- Engagement of Adviser with TellUs 5
- Needs led Relationships and Sex Education training in schools continued.
- Primary Relationships and Sex Education toolkit now facilitated in 6 schools. Most deprived schools targeted
- Strategic plan for work with 14 – 19 Partnership around meeting the sexual health needs of young people on apprenticeship & foundation learning programmes in early stages of development.

Targeted Work with 'at risk' groups of young people.

- Implemented early identification via 'risk factors' tool through presentations to individual teams and incorporating in sexual health training which is accessed by staff working with YP.
- Provided targeted support to those young people most at risk via locality teams, targeted teams, sexual health outreach, Youth Services and other services working with young people
- Established supported access to contraception via Sexual Medicine Outreach Service and other services for those young people most at risk of teenage pregnancy.
- Young people looked after who agree to initial or annual health assessments received sexual health input.
- Drug and alcohol staff trained in sexual health.
- Implemented system so that young parents are followed up to ensure contraception in place to avoid second pregnancies.
- Multi agency staff teams working with 'at risk' young people regularly updated in order to promote the concept that reducing TP is 'everyone's business'; they are provided with information on how to improve service; individual work and all staff are encouraged to access training.
- Youth Service provided sexual health sessions in areas of deprivation in Torbay.

Work with parents/carers

- Triple P (Positive Parenting Programme) focused on enabling parents to build better communication and positive relationships with their children; who will help them to discuss issues in relation to sexual health and teenage conceptions.
- Piloted Sex and Relationships seminar as part of Triple P and now being rolled out.
- Provided Tip sheet on Sex and dating to all parents/cares who attend Triple P.
- In consultation with local parents, developed local leaflet and poster aimed at parents and carers
- Parent Support Facilitators and Family Support workers as part of early intervention service; and parenting workers in YOT trained in sexual health and provide information and signposting to Sexual Health Services. Data collection and impact of interventions need to be improved.

Work with young parents

- Care pathways in place to support all young parents from a multi agency perspective and also ensure contraception needs are met.
- Young Parents Training Starting in Torquay April 2011.
- Consultation taken place with professionals and young parents regarding housing needs for young parents. Questionnaires have been sent out and awaiting feedback.
- Young Parents Advisory Boards developed and to meeting on a quarterly basis to set up action plans and look at gaps in the service we provide. This will be fed back to Maternity Service Liaison Committee.
- Young Parents Delivery Group amalgamated with the Parents Delivery Group. Expectant Fathers Group started in January 2011 not well attended. Will re launch and re consult with Young Fathers
- Young Parents represented on Young Parents Delivery group
- Change 4 life group attached to the Young Parents Training in Torquay and Paignton at the Children Centres.

APPENDIX 1

ACTION PLAN 2011-12

Reducing The Number Of Teenagers Who Become Pregnant.

1. Young People Focused Contraception / Sexual Health			
Performance Measures	2009/10	2010/11	2011/12 target
Number of young people accessing Sexual Medicine Service for contraceptive and sexual health services. (under 18 years)	1828 (under 19s)	Awaiting data	To set target
C-card (condom card) registration points and number of young people who register	36	47 2937	To set target
C-card (condom card) distribution points and number of young people who access service	53	73 Awaiting data	To set target
<p>What we will do</p> <ul style="list-style-type: none"> • Data collected from sexual health services, school nurses, GPs, pharmacies on number of under 18s accessing contraception - targets set and reached. This will be supported with additional information identifying numbers of practitioners who are fitters of LARC. This will enable improved training opportunities for nurses and doctors supported by PGDs where applicable. (From Sept 2010 onwards.) • Quality Assurance - At least 8 GP surgeries supported to meet You're welcome quality standards. Following accreditation of Castle Circus Young People Sexual health clinic – service to be mystery shopped twice a year. Mystery shopping to be used for other clinics and pharmacy providers. Feedback from mystery shopping to feed into service improvement plans. (By April 2012) • Targeted work – Sexual Health Service to provide evidence that all under 18s who give birth or have an abortion have access to a contraceptive service. Contraceptive services are provided within areas of deprivation which may include GP and pharmacy. (From April 2011 onwards) • Outreach Team – provide contraceptive provision to all secondary schools where agreed and in consultation with school nursing. Ensure support and provision is provided to target groups such as children Looked after and care leavers. (By Dec 2011) • Sexwize developed using different media eg. videos, social networking, Q&As etc. Consultation undertaken with young people, parents/carers, professionals and Sexwize improved in line with feedback. (By Sept 2011) 			

2. Strong Delivery of Sex and Relationships Education and Personal, Social Health Educations in Schools

Performance Measures	2009/10	2010/11	2011/12 target
TellUs indicator: proportion of secondary school pupils reporting SRE meets their needs	"helpful" 62%	"helpful" 67%	"helpful" 72%
Proportion of secondary schools, including specials, with a professional with PSHE CPD accreditation – 9 schools from 01/11	33%	55% (plus 3)	89% (plus 3)
Proportion of primary schools, including specials, with a professional with PSHE CPD accreditation – 31 schools	29%	32% (plus 1)	39% (plus 2)
Proportion on non academy secondary settings utilizing "Are You Getting it Right?" toolkit – 9 schools from 01/11	87%	78%	100%
Proportion on academy secondary settings utilizing "Are You Getting it Right?" toolkit – 9 schools from 01/11	66.6%	100% (plus 1)	100%

What we will do:

Building capacity:

- Continue to develop & grow the Leading PSHE Practitioners Network, including extending range of professionals involved. Aim to deliver DV awareness & its effects on children & young people across schools & Children's Services. Develop programme to incorporate work on constructs of masculinity
- Ensure successful, completion of 2010/11 PSHE CPD Programme & recruitment of 2011/12 cohort
- Find funding for essential project worker
- Continue to develop effective, email distribution & communication lists

Student voice:

- Facilitate "Are You Getting it Right?" toolkit in all secondary schools, including special schools, which are not academies. Ensure findings are shared with relevant stakeholders, including young people.
- Continue to develop & promote primary RSE toolkit
- Seek funding for Assist Programme to be rolled out to other secondary school/setting
- Secure funding for continuation of challenging social norms project & for its development

Policy and guidance:

- Ensure all schools are aware of their statutory duty to have a RSE policy
- Make relevant links to anti-bullying agenda both locally & nationally, & in particular prejudice based behaviour, such as homophobia, sexual bullying & Ending Violence Against Women & Girls Strategy

Health links:

- Ensure all secondary schools have clear sign posting to school based, local & national support services.
- Develop & disseminate guidelines for the successful running of school health drop ins, in secondary schools. From April 2011, collect data re use of school health drop ins.
- Continue to link health drop ins with quality of RSE/PSHE via encouraging schools to undertake whole school reviews of subject area

Working strategically:

- Work strategically with Sexual Health South West Board to ensure that sexual health is treated as a whole across the region
- Ensure effective representation at, yet to be established, LA, Health & Wellbeing Board
- Represent Torbay nationally, as member of National PSHE Association Advisory Council

3. Targeted Work With 'At Risk' Young People In Particular Looked After Children And Care Leavers

Performance Measures	2009/10	2010/11 target	2011/12 target
Number of young women and young Men in LA aged 15-19 who are CLA known to be mothers or fathers. <i>Note: numbers below 5 are not shown in order to maintain confidentiality for individuals.</i>	Snapshot Jan 10- less than 5	less than 5	less than 5
Number of young women and young men in Torbay aged 15-19, who are care leavers know to be mothers or fathers. <i>Note: numbers below 5 are not shown in order to maintain confidentiality for individuals.</i>	less than 5	less than 5	less than 5
TellUs indicator: The proportion of young people in year 10 who have been drunk twice or more in the last 4 weeks	Sept 09 6%	2010 awaiting data	To set target
Sexual health outreach team – target to be set	No data	Awaiting data	To set target

What we will do

- **Assessments used in teams providing targeted work:** 100% of young people aged 13 and over will have sexual health included as a targeted assessment eg: APIR, ASSET, PreCAF, Sexual Health IAG will be offered as appropriate from April 2011 onwards. Implement system for assessing impact of work.
- **Sexual Health Outreach Team: (target to be set)**
- **The Hele Angels Neighbourhood Project :** Supports the reduction of teenage pregnancies by developing specific teenage pregnancy targets for the relevant 'hot spot' wards; staff will undertake sexual health training and the project will become a c-card distribution point from April 2011.
- **Housing Services:** Priority is given to 16 and 17 year olds who do not become homeless or Section 20 (Children Act), but who need to leave their family and are housed in supported accommodation. These young people should be identified as a group requiring targeted intervention. Sexual health interventions can be delivered by staff in supported housing, in partnership with specialist sexual health services.
- **Workforce development of targeted teams and link to alcohol agenda.** Continue to work towards 100% of staff working in targeted prevention teams undertake level one and level two, condom-card training and MASST training, including: Family Intervention Project (FIP), Anti-Social Behaviour, Youth Crime Action Plan Street Team, Youth Officers, Missing Persons (MISPER) intervention workers from April 2011
- **Care Leavers Team:** Continue to ensure that 100% of Pathway Plans consider the sexual health needs of CLA/former CLA from April 11 onwards. One whole page advertising in Compass Cred (In House magazine) on local sexual health services by March 2012.
- **Young Parents:** Continue to ensure that young parents attend Young Parents' Training, support groups and individual family support as applicable to prevent second pregnancies from April 11 onwards. Continue to ensure that Family Support workers attend teenage pregnancy awareness sessions (eg. Reducing TP Seminar; level one sexual health training) to help them identify young people at risk even if it is not their specialist age from April 2011 onwards.
- **Looked After Children and Young People:** Continue to ensure that young people in care aged 10 yrs+ and who agree to an initial health assessment are screened by the doctor for sexual risk taking behaviour. When concerns highlighted a referral will be made to the designated nurse by March 2012. Continue to ensure that young people in care aged 10 yrs+ and who agree to an annual

review health assessment are screened by the assessing practitioner for sexual risk taking behaviour. When concerns are highlighted a referral will be made to designated nurse or other appropriate worker by March 2012.

- **CAF:** Continue to strengthen links between CAF team around the family and link to outreach sexual health team from April 2011 onwards.
- **Specialist Drug and Alcohol Teams:** Continue to ensure 100% of young people specialist drug and alcohol workers complete level one and level two sexual health training and c-card training from April 2011 onwards
-

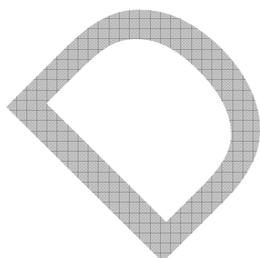
4. Work With Parents/Carers On Preventing Teenage Pregnancy

Performance Measures

	2010/11 target	2011/12 target
<u>Universal and Targeted:</u> Number of parenting courses offered in LA Parenting Strategy which include Sex and Relationships Education	To set baseline	To set target
<u>Universal and Targeted:</u> The number of parents attending a parenting course/group with a specific Sex and Relationships Education element in the last year eg. Triple P Tip sheet on SRE, sexual health services leaflet gone through, whole session targeted on SRE.	To set baseline	To set target

What we will do

- Work with Service Managers in order to develop plan and performance measures that will ensure ownership and full commitment of provider services for parents and carers.
 - To develop sex and relationships education for parents and carers in consultation with parent and carer groups, by going to where parents/carers are.
 - To develop and pilot a distance travelled tool to measure impact of SRE on parents/carers.
- In line with feedback from parents and carers to Teenage Pregnancy Refresh:
- Explore with services providers how to improve parent's knowledge on accessing help and advice so they can assist their young people appropriately.
 - Explore setting up an advice centre for parents so they can access information on how to deal with their young people on all these topics. This would encompass all areas within reason of parental needs.



APPENDIX 2

STAKEHOLDER CONSULTATIONS

Consultation details: The Children's Society: Sex Factor 1 and Sex Factor 2

Dates and numbers: 2008 – 20 males & 35 females – 'hard to reach' group; and young parents groups

What was asked: Consultation with 'hard to reach' young people

Outcomes of Consultation:

- Concern about confidentiality
- With regards to sexual health - they learned from their 'mistakes'.
- alcohol led to risky sexual activities
- would prefer discussions and advice on positive relationships
- prefer face to face services rather than leaflets
- Young men still feel under pressure to 'perform'.
- They want to access full sexual health services in 'Youth Centres' that also have recreational and educational activities.
- Homophobia and fear of homophobia prevented lesbian, gay, bisexual, transsexual and questioning young people from accessing information and advice
- They want male and female workers, so they can choose who to talk to and want people who are young people friendly and well trained who are knowledgeable about sexual health.

What we did:

- Sexwise poster produced promoting confidentiality and confidentiality discussed with all YP accessing c-card.
- Training undertaken with pharmacists who can provide further information when young people access EHC.
- Staff working with young people are made aware of the links and have training on both sexual health and alcohol, so they can link the two agenda. Providing schools and agencies with the resource 'Drunk in Charge of a Body' and also 'Sex, Drugs and Alcohol' in order to improve work.
- Training for young people workers on discussing relationships and providing relevant resources.
- More training rolled out for professionals to enable them to provide information to the young people they work with.
- Work with boys and young men includes encouraging young men to discuss issues such as this and to challenge male stereotypes.
- Set up outreach clinic - still need to do more in this area.
- Homophobia challenged in staff training and staff made aware it is a problem. Leaflets available and part of You're Welcome criteria.
- Staff training has been a priority in order to ensure all staff (males and females) working with young people are young people friendly and become skilled and knowledgeable in talking about sexual health.

Consultation details: 'Are You Getting it Right?' Toolkit

Dates and numbers: Summer Term – 2009 - 6 secondary settings

What was asked:

- What SRE do you remember?
- Which teaching & learning styles were enjoyed?
- What else do you think you need to learn?

Outcomes of Consultation:

- Single sex SRE lessons were requested for some topics
- Smaller classes

- Experiential teaching & learning styles were popular
- Balanced moral views were vital
- Delivery by confident & relaxed professionals

What we did:

- Via Healthy Schools Plus additional funding has allowed some schools to provide single sex classes & for teachers to concentrate on developing good practice in SRE
- Provided SRE & drugs & alcohol resources with relevant training for all secondary settings which promote relevant teaching & learning styles
- Ensured that all SRE training incorporates personal values & their influence

Consultation details: Are You Getting it Right?' Toolkit. Janet Horrocks

Dates and numbers: Summer Term – 2010 - 9 secondary settings – incl. PRU & Combe Pafford

What was asked:

- What SRE do you remember?
- Which teaching & learning styles were enjoyed?
- What else do you think you need to learn?

Outcomes of Consultation:

- Up to date resources are vital
- Notice boards are unpopular as a means of accessing relevant information
- Issues around masculinity & pornography
- Importance of well trained health professionals to support teachers delivering SRE

What we did:

- Provide training for health professionals on working in schools, particularly school nurses
- Offer whole school PSHE/SRE reviews

Consultation details: APPAUSE (Added Power and Understanding in Sex Education)

Dates and numbers: Summer Term – 2009 Year 9 x 7 secondary settings

What was asked: Detailed questionnaire for whole year groups on knowledge, attitudes & values & quality of learning experience

Outcomes of Consultation:

- Overall girls have better knowledge of sexual health
- 80% of those surveyed thought that most teenagers were sexually active by 16
- They were not confident about accessing local services or about their confidentiality
- Lack of experiential teaching & learning strategies leads to lack of engagement of young people
- More on positive aspects of sex & sexual activity

What we did:

- Devised & located funding for peer led project challenging social norms project
- Dissemination to all secondary settings of 'Sexwise' info.
- Developing work on non consensual sex & concepts of masculinity via Healthy Schools Plus

Consultation details: TellUs 4

Dates and numbers: October 2009 – 38 schools, 1065 primary & 1810 secondary pupils

What was asked: Did your SRE meet your needs?

Outcomes of Consultation:

- 58% reported that their SRE had been 'helpful'
- 59% found their alcohol education 'helpful' too

What we did:

- TellUs has been abolished by the Coalition Government, but likely to continue on a local level so we can measure year on year progress.

Consultation details: Development of Sexwize branding

Dates and numbers: February 2010

Young people, and professionals were consulted

What was asked: Questionnaire on Sexwize branding

Outcomes of Consultation:

- To not have purple or pink, some people suggested green and yellow.
- To not have squiggles as too feminine
- To have small credit card size leaflet
- People liked the idea of Sexwize website
- People liked the lettering and logo
- YP said they liked 'things' that promote services eg. Pens.
- To ensure map of services on leaflets and web
- GP and Pharmacist poster with main phone number

What we did:

- Colour changed to green and yellow
- Design changed to gender signs
- Small credit card size leaflet designed and printed and poster produced
- Website launched 2010
- Pens and other promotional merchandise purchased and distributed.
- Map of Castle Circus included

Thoughts on the Teenage Pregnancy Strategy from YR10 Peer Listeners

Dates and numbers: December 2010

What was asked: Please give feedback on 2009 TP Strategy.

Outcomes of Consultation:

Peer Listeners thoughts on SRE;

- Teachers need more training on PSHE because they put on whoever's available like Maths teachers who don't really know what they are talking about. And they get really embarrassed about it and they imply that all of us are having sex when it's not true; they need more training and more teachers.
- We just feel like they're talking to us like we're all having sex, and ought to be. It should be done by professionals rather than our teachers because we know the teachers too well and they don't take the lesson seriously, so we don't.

Peer Listeners thoughts on targeted groups;

- I think it doesn't matter where you come from you should get the same support as everyone else, like building up the confidence to say no, because I think, if you're put under enough pressure, even if you've had a good background, then you could still give in. so we shouldn't just focus on certain individuals we should focus on everyone in the community.
- I feel that providing a service to build people's self-confidence and self-esteem will help because there will be less pressure on young people because they'll have the confidence to say no.

Peer Listeners thoughts on Communications

- As peer listeners we think we should focus more on communications because everything stems from it. Whether that's bad communication coming from the media or peers about the wrong things or it's the lack of information through education.

Peer Listeners other thoughts

- A lot of people will be saying that they've done it (*had sex*) and will be doing it because they feel that they should be. It's not necessarily the case, the media portrays it because there's lots of adult programmes on and it's amongst the schools, it's just become in society's nature.

- A lot of pressure is based on rumours, so when one person starts up a rumour they will tell people who they know will spread it fast, so then by like lunchtime, it will be round the school. So then that person will be like pressured into actually having sex, because everyone's saying that there having sex.

Parents views.

- Parent's knowledge on accessing help and advice for young people is limited, in terms of directing the young people appropriately. Where are the services and what are they saying to our young people?
- An advice centre for parents so they can access information on how to deal with their young people on all these topics. This would encompass all areas within reason of parental needs.

What we did:

- Incorporate views into 2011 action plan.

Views of Staff and Volunteers who attended Teenage Pregnancy Refresh Meeting

What should be the Reducing Teenage Conceptions priorities for next 2 years?

- **Are the priorities we have right?**
- **If not what would be better?**
- De-Silo and Integrate but make sure teenage pregnancy issues are not lost
- Should be a standing item on Children's Trust
- Key indicators need to include uptake of LARC – how do you capture all prescribers
- Standardise SRE delivery in schools across Torbay and to include discussions of reality of teenage pregnancy/parenthood. Consider national model called 'straight talking'.
- Workforce training and mapping
- Stronger focus on reducing second conceptions
- Sexual Health services sites eg. Schools
- Are we targeting right and do we need to increase universal?
- Raise aspirations in target areas.
- Vulnerability is around life chances – not lifestyle behaviours
- Parenting–'understanding your teenager' or 'living with your teenager'. Take away emphasis on TP
- Same priorities as in 2009 TP Strategy – to be embedded in 12 months time
- **What's gone well - Build on successes**
- Working well: c-card, working together, substance screening tool, SRE in schools, Training.
- Build on – peer education, SRE -> RSE and thinking about parent involvement, training, housing/supported housing.
- Sexual health outreach

What may now be the gaps?

- Long waiting lists for sexual health training
- Develop website specifically for parents.
- Workshops with young people on parenting.
- Bring head teachers and governors together
- Where is the work with all the young men aged 13-25?
- Need to integrate sexual health into agenda
- Need to explore local need for targeted work.
- Need to improve support for parents

- Parental involvement in SRE agenda.
- Work with parents around awareness of Sexwise and c-card (but note that confidentiality is priority for YP and if they think parents recognise logo it may reduce YP's trust in scheme).
- To link with wellbeing – but what do we mean by wellbeing?

Anything we need to stop doing?

- No comments

Identify no cost/low cost

- Neighbourhood meetings ie. Hot spot ward community meetings
- Integrate data
- Pooling expertise around training eg. SH/DV etc
- To get Delivery groups to do the work on some of these areas.

What we did:

- Incorporate views into 2011 action plan.

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Public Agenda Item: Yes

Title: **Granting of Long Leases to Sports Clubs**

Wards Affected: **All Wards**

To: **Council** On: **13 July 2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Chris Bouchard, Asset Management**

☎ Telephone: **01803 207920**

✉ E.mail: **Chris.Bouchard@tedcltd.com**

1. What we are trying to achieve and the impact on our customers

- 1.1 To promote a policy which enables and encourages sports clubs to develop longer term strategies for the provision of sports facilities.
- 1.2 To provide Members with guidance on a proposal to grant long term leases to sports clubs.
- 1.3 Long term leases would allow the clubs to apply for grants to improve their facilities.

2. Recommendation for decision

- 2.1 **That the Mayor be recommended to authorise the Executive Head of Commercial Services, in consultation with the Chief Executive of the Torbay Development Agency, to grant leases for up to 40 years to sports clubs on acceptable terms with each case being considered on its merits.**

3. Key points and reasons for recommendations

- 3.1 The Mayor met with the Sports Council on 9 June 2011 to discuss a proposal to grant 40-year leases to the Bay's major sports clubs as he felt that this would give them a better chance of applying for grants to improve their facilities.

3.2 A report setting out the available options was discussed at the Place Policy Development Group meeting on 27 June and the recommendation from that group was that option 2 be adopted. This would allow the Council to grant leases with the Clubs having the confidence that, if they need longer term lease to assist with grant applications, then the Council would be supportive.

For more detailed information on this proposal please refer to the supporting information attached.

Steve Parrock
Chief Executive, Torbay Development Agency

Supporting information to Report

A1. Introduction and history

- A1.1 There are a large number of sports clubs within Torbay who already have or are negotiating leases with Torbay Council – see Appendix 1 for details. The length of lease varies from club to club with the length being dependant on both the aspirations of the club and the Council's long term views for the leased areas.
- A1.2 The Council does not presently have a policy for determining the length of leases and responds to requests from clubs on a case by case basis. For example, a 40-year lease was granted to the Torquay Tennis Club to facilitate the creation of the indoor courts at Shedden Hill costing circa £1 million.
- A1.3 The Senior Natural Environment Officer within Residents & Visitors Services has advised that a number of funding bodies do not require clubs to hold leases for longer than 21 years to obtain funding. For example, it is understood that the funders only required Torquay Tennis Club to have a 21-year lease for the creation of the indoor courts.
- A1.4 40-year leases have also been granted to the umbrella club for the rugby and cricket clubs and to the bowling clubs at Queen's Park, Paignton and officers are currently in negotiation with clubs at Torquay Recreation Ground and Cricketfield Road Playing Fields for the granting of 40-year agreements.
- A1.5 The leases already granted were on the basis that the clubs pay the market rent for the facilities. Officers do have delegated powers to offer grants to help clubs off-set the full or partial cost of the market rent in certain circumstances. For example, the Torquay Tennis Club was awarded a grant of £4,000 pa to cover the full rent for their premises.
- A1.6 In the majority of cases the clubs have also become responsible for the maintenance of the land and building with the rent reflecting their increased liability.
- A1.7 For the purposes of this report a sports club is defined as being a recognised club with a sport governing body. As such, for example, whilst a Sea Scout group may undertake sporting activities (e.g. sailing and canoeing) they would not be considered to be a sports club.

A2. Options / Issues and Risks

Available Options

1. That the Council by default grants 40-year leases on acceptable terms to all sports clubs within Torbay.
2. That the Council grants leases for up to 40 years on acceptable terms with each case being considered on its merits.
3. That the status quo is maintained with the Council considering requests for leases on a case by case basis having regard to the aspirations of the clubs and the Council's long term views for the leased area.

A2.1 Outline of significant key risks / issues

A2.1.1 There are a number of risks, which are applicable to all 3 options (regardless of the length) and these are set out below.

It may also not always be appropriate to offer leases to all clubs. It is possible that a lease to one particular club for a small area within a larger asset may prevent the development of that larger asset. This may be for purposes other than sport but it may also prevent a larger scale sports development, which would benefit the wider community.

The granting of medium to long term leases will mean that the Council loses control over the provision of sporting facilities within the Bay for the duration of the leases. It is unclear what facilities will be required in the future and the Council would not be able to directly control the use of its land and buildings during the period of the leases.

There is also the risk that, if the clubs took the lease and did not apply, or were unsuccessful, in obtaining grant funding then the land might not be used to its full potential for the length of the lease with the Council being unable to use it for the same or any other purpose. For example, a club's membership may fall significantly over time and it may not be able to provide the same level of activities with the Council being unable to make use of the land.

A2.1.2 The following is an assessment of each option.

Option 1

A number of clubs already have leases with the Council. They may not want to commit their current and future members to taking on the liabilities associated with a 40-year lease. A surrender and re-grant may have Stamp Duty Land Tax (SDLT) implications for the club since they will have to pay tax on the value of the new lease. There will also be a cost implication in terms of the costs involved with preparing the surrender documentation and the new lease. In normal circumstances the Council would look to the clubs to pay these fees but, if it offers the clubs new leases they may expect the Council to pay its own and their legal and surveyor's fees.

Option 2

This is a pragmatic option which gives all sports clubs the opportunity to request leases of up to 40 years. Whilst each request will be considered on its merits, it is anticipated that leases of up to 40 years may be granted.

Option 3

The status quo is considered to still be an option but it does not give the clubs the confidence that the Council would support the principle of a long lease. The length of time spent negotiating leases can vary for many reasons but it is considered that sufficient time should be spent by both the Council and the clubs to consider the terms since the lease will set out long term commitments for both parties.

A2.1.3 Whichever option is adopted officers are of the view that a protocol should be set up for the Council to consider requests for longer leases. A suggested protocol is as follows:

- A. Requests are considered by the Place Policy Development Group for a steer about whether the request is agreed 'in principle'.
- B. Ward Councillors and the relevant community partnership to then be consulted about the principle.
- C. A report then to be taken to Council for their consideration with the views of the Ward Councillors and the community partnership being incorporated into the report.

Consideration will also need to be given as to the principal terms of any long term lease. It is suggested that the principal terms of any lease should be as follows with any variation being agreed with the Executive Leads with responsibility for assets, sport (tourism) and sport (residents):

- i) The Club pays a market rent for the premises.
- ii) The Club is responsible for the insurance and maintenance of the land and buildings with the Club taking the facilities in their existing state.
- iii) Where no existing lease (within the provisions of the Landlord and Tenant Act 1954) is in place, the lease is excluded from the security provisions of the L&T Act 1954.
- iv) The Club to adhere to the agreed sports development plan (if required by the Council).
- v) The Club pays the Council's reasonable legal and surveyor costs associated with the granting of the lease and, if applicable, the surrender of the existing lease.

The granting of any lease of open space is deemed to be disposal of open space and therefore the proposed granting of the lease needs to be advertised in accordance with the Local Government Act 1972.

A2.2 Remaining issues / risks

A2.2.1 It is felt that the policy should be extended to all sports clubs within the Bay to avoid a claim that the Council is being selective. Care will, however, have to be taken as to what premises is leased to the clubs. A large number of football clubs hire pitches and the use of the changing rooms from the Council at, for example, Clennon Valley and King George V Playing Fields in Watcombe. It would be impractical to lease out an individual pitch with changing facilities as this would deny the other clubs who use these at other times from using them. In these instances it may not be possible to offer any type of lease, regardless of its length.

Whilst football is used as an example above the same principle could apply for a number of other sports.

A2.2.2 The Council will also need to ensure that it complies with its Financial Regulations in respect of property disposals – see Appendix 2 for details. For those premises not currently occupied by clubs consideration will therefore need to be given as to whether the lease should be tendered or the Council deals with one particular club. If the former then the Council will be able to demonstrate that

it has received reasonable consideration. If the latter then it is considered that any agreed rent would need to be verified by an external valuation.

A3. Other Options

- A3.1 The Council could consider lease requests, which are longer than 40 years. This, however, is not considered appropriate for leases to sports clubs since, as far as officers are aware, no funders require clubs to have leases for longer than 40 years with a number only requiring terms of 21 years or less.

The Council has in the past capped leases to sports clubs at 40 years. For any lease, which is longer than 40 years the Upper Tribunal (formerly the Lands Tribunal), under s84 of the Law of Property Act 1925 may on certain grounds, after 25 years into the term, discharge or modify restrictions as to user or buildings on the land affecting the leasehold interest.

Only granting leases to a maximum lease of 40 years therefore prevents clubs applying to the Upper Tribunal thus safe guarding the Council's position.

A4. Summary of resource implications

- A4.1 Asset Management of the Torbay Development Agency, Residents & Visitors Services and Legal Services would be involved with the negotiation and preparation of the legal documentation although none are sufficiently resourced to deal with a possible influx of requests for leases. This could result in the lease preparation taking longer with costs potentially being higher.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

- A5.1 It is possible that other voluntary organisations (e.g. scout groups) may consider that a policy about granting long term leases to sports clubs is inequitable and that the policy should be expanded to cover other voluntary groups.
- A5.2 The granting of long terms leases will assist with the sustained provision of sporting facilities within Torbay.
- A5.3 It is considered that the ability to participate in sport will help provide a positive outlet for people's energies, which may reduce their desire to take part on criminal activities. This can, however, be achieved without granting long term leases.

A6. Consultation and Customer Focus

- A6.1 The proposal has already been discussed with the Sports Council and further consultation will be carried out on the receipt of any request for a longer lease with the relevant Community Partnership in line with the suggested protocol outlined in this report.

A7. Are there any implications for other Business Units?

- A7.1 No

Appendices

Appendix 1 – List of Agreements with Sports Clubs

Appendix 2 - Extract from Financial Regulations

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report: None

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List of Agreements with Sports Club

Premises	Tenant	Term	Start Date	Comments
St Marys Bowling Green	Brixham St Marys Park Bowling Club	21	01/04/98	
Wall Park Football Pitch, Pavilion & Car Park	Brixham United AFC	99	29/04/02	
Furzeham Bowling Green & Pavilion	Brixham Bowling Club	21	01/04/98	
Astley Park Pavilion & Stand	Brixham RFC		01/04/76	Continuous lease providing club in existence.
Astley Park Rugby Pitch Ext. Field	Brixham RFC	7	01/09/05	Licence only
Site of Miniature Rifle Range Hut	Paignton (Tby) Rifle/Pistol Club	7	21/01/03	
Unit 06 First Floor, East Quay Building	Paignton Sailing Club	48	01/01/88	
Site of Unit 07, East Quay Building	Paignton Sailing Club	48	01/01/88	
Queens Park Pavilion & Ground	Queens Park Sports Club Limited	40	01/05/05	
Queens Park Bowling Green & Pavilion	Paignton Bowling Club	40	01/01/05	
Queens Park Green & Pavilion	Paignton Torbay Bowling Club	40	01/01/05	
Oldway Bowling Pavilion & Changing Areas	Torbay Country Bowling Club	21	20/04/96	
Oldway Indoor Bowling Rink Site	Torbay Area Indoor Bowling Association Limit	50	01/09/87	
Abbey Park Bowling Greens	Victoria Bowling Club			Licence only
Croft Meadow Tennis Pavilion & Courts	Torquay Lawn Tennis Club	40	01/05/04	
Torre Valley Site Pavilion Extensio	Torbay Amateur Athletic Club	3	11/07/02	
Kings Gardens Bowling Green & Pavilion Store	Kings Bowling Club		01/04/79	Licence only - in discussion ref 40-year lease.
Recreation Ground Pitches & Grandstand	Torquay Athletic Rugby Football Club	7	01/09/07	In discussion ref 40-year lease
Recreation Ground Pitches	Torquay Cricket Club	7	01/09/07	In discussion ref 40-year lease
Upton Bowling Green	Upton Park Bowling Club	1	01/04/09	
Oddicombe Beach	Babbacombe Corinthian Sailing Club	21	14/10/02	
Oddicombe Club House	Babbacombe Corinthian Sailing Club	15	11/01/89	
Walls Hill Cricket Pavilion	Babbacombe Cricket Club	16	01/04/93	
Walls Hill Cricket Pavilion	Babbacombe Cricket Club	28	08/07/71	
Walls Hill Cricket Pavilion	Babbacombe Cricket Club	16	07/07/83	
Plainmoor Site of Swimming Pool	Swim Torquay	30	24/02/06	
Plainmoor Football Ground	Torquay United AFC	88	01/06/93	
Cary Park Bowling Green	Babbacombe Bowling Club	21	01/04/02	
Cary Park Tennis Courts & Pavilion	Cary Park Junior Tennis Club	25	03/03/08	
Cricketfield Cricket Clubhouse	Barton Cricket Club	21	01/02/84	In discussion ref 40-year lease
Cricketfield Cricket Score Boards	Barton Cricket Club	7	01/06/93	
Cricketfield Recreation Gnd-Remaind	Barton Cricket Club	10	01/04/91	
Torquay Golf Course (Petitor)	Torquay Golf Club	60	25/12/99	
Barton Downs Gymnasium Site	Apollo Boxing Club	21	01/05/04	

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Extract from Financial Regulations

The following are the current regulations in relation to property disposals (including the granting of leases) contained in the Council's Constitution.

- 8.6 All property disposals shall be subject to a formal process prior to entering into a written contract. The disposal process shall include advertisement in at least one local newspaper circulating in the area giving details of the property and any conditions and specifying a reasonable closing date by which offers or expressions of interest must be received. Standard forms of documentation shall be used where possible, and all disposals shall comply with the Council's Standing Orders. The disposal process will need to comply with Council's Community Asset Transfer policies.
- 8.7 Regulation 8.6 shall not apply to any of the following types of disposals:-
- (a) Grants of leases to existing tenants where security of tenure may exist (whether or not their existing tenancies have come to an end)
 - (b) Grants of leases or licences for seven years or less or grants of leases or licences for an annual rent/fee not exceeding £5,000 per annum
 - (c) Disposals of an interest in land to adjoining owners or superior landlords where the premium they are prepared to pay is considered in the professional opinion of the Estates Manager, likely to be higher than would be obtained on the open market
 - (d) Disposals of land acquired under compulsory purchase powers to the original owners of that land or their successors
 - (e) Exchanges of land where the value of each piece of land is equal (or any additional premium paid by either party makes the values equal) in the professional opinion of the Estates Manager
 - (f) Disposals to or acquisitions from other public bodies or to or from public utilities;
 - (g) Disposals of interests in land where the interest disposed of is estimated not to exceed £10,000 in value in the professional opinion of the Estates Manager;
 - (h) Disposals under the Council's Community Asset Transfer Policy, or
 - (j) any other types of disposal that the Head of Legal Services in consultation with the Chief Finance Officer may deem appropriate at any time.
- 8.8 The Chief Finance Officer (in consultation with the relevant member) may give written authorisation to waive the requirements of Regulation 8.6 where he/she is satisfied that the proposed disposal will be in the best interest of the Council and that the proposed terms of the disposal are unlikely to be bettered by complying with Regulation 8.6. All waivers given under this Regulation 8.6A shall be recorded in writing and promptly reported for information to the next appropriate ordinary meeting of the Overview and Scrutiny Board.

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Title: **Revenue Outturn 2010/11 – Subject to Audit**

Public Agenda Item: **Yes**

Wards Affected: **All Wards in Torbay**

To: **Overview and Scrutiny Council** On: **23 June 2011**
On: **13 July 2011**

Key Decision: **No**

Change to Budget: **Yes** Change to Policy Framework: **No**

Contact Officer: **Paul Looby**

☎ Telephone: **207283**

✉ E.mail: **paul.looby@torbay.gov.uk**

1. What we are trying to achieve and the impact on our customers

- 1.1. Monitoring of the Council's finances is an essential requirement and forms an integral part of the Council's ongoing performance monitoring. During the financial year 2010/11, Members received quarterly revenue and capital budget monitoring reports. These reports identified the key spending pressures faced by Business Units and any action taken by managers to ensure the Council spent within its approved budget for the financial year.
- 1.2 The purpose of this report is to inform Members of the final revenue outturn position for the Council for the financial year 2010/11 and to make appropriate recommendations with respect to the declared surplus. A separate report will be presented to Members of the final capital outturn position.

2. Recommendations for decision

- 2.1 **That the revenue outturn position for 2010/11 be noted.**
- 2.2 **That the Overview and Scrutiny Board be asked to report directly to Council on any recommendation it may have following its review of the outturn position.**

2.3 That it be recommended to the Council that:

- (i) the transfer of £0.500m to the Comprehensive Spending Review reserve be approved (paragraph A5.1);**
- (ii) the transfer of £0.576m to the budget pressures reserve be approved (paragraph A5.1);**
- (iii) the transfer of £0.275m of the revenue underspend to the General Fund Balance (paragraph A5.5) be approved;**
- (iv) a sum of £0.300m is earmarked to be transferred to the Change Management and Financial Strategy Reserve subject to the final audit of the Council's Housing Benefit Subsidy be approved (paragraph A3.7);**

3. Key Points and reasons for recommendation

- 3.1 The Council is faced with an extremely challenging future due to the reduction in government grant over the period of the current Comprehensive Spending Review (CSR). In addition, 2010/11 was a challenging year financially for the Council due to the in-year reduction to the Council's grant of £0.986m. However, despite this significant reduction, once again the Council has been able to contain spending within the overall budget and is in the position whereby income received has exceeded expenditure in 2010/11.
- 3.2 Despite the ongoing budget pressures faced by some services and as a result of careful monitoring of budgets and performance by the Cabinet, Overview and Scrutiny Board and Commissioner Officer Group, the Council has been able to stay within their overall budget allocation – for this managers must be commended. This has been achieved through careful management of the in-year reduction to the Council's grant and implementing a vacancy freeze for all non-front line officers and robust review and challenge of all Council expenditure.
- 3.3 This continues the trend of the Council not having to make a call on general fund balances since the Council became a unitary authority in 1998. The Council must be mindful of the challenges that will have to be faced in the next few years and therefore it is recommended that due to this positive financial position at year end a contribution of £0.275m is made to the general fund balance.
- 3.4 The Council approved the creation of a Comprehensive Spending Review (CSR) reserve in 2010 as recommended with the Review of Reserves report – 277/10 refers. The approval of a transfer of £0.500 m from the surplus achieved in 2010/11 will replenish the reserve after using £1.4m to fund redundancy costs arising from the 2011/12 budget. This will assist the Council in managing the impact of the cuts, as set out in the Comprehensive Spending Review in 2010, including financing any costs in relation to reducing services and staff numbers.
- 3.5 Due to the challenging financial position faced by the Council it is considered prudent to maintain a Budget Pressures Reserve in 2011/12, funded from the pay provision which was not required in 2010/11 and the balance of the surplus achieved in 2010/11. This is a prudent approach to ensure resources are available to fund budget pressures that may arise during the year and enable the

Council to continue to manage the challenging financial outlook faced over the next three years.

- 3.6 Members will be reassured that all Business Units will be expected to explore all options to manage any budget pressures during the year before consideration is given to releasing resources from this earmarked contingency.
- 3.7 The earmarking of £0.300m to the Change Management and Financial Strategy Reserve from the expected additional housing benefit subsidy (subject to the final external audit) will enable the Council to continue to support the ongoing change agenda and consider any new demands and service pressures that arise in the future.
- 3.8 The approval of the transfer to the General Fund balance will increase the balance to £4.0m and, in my opinion, will provide the Council with sufficient resources to fund any unforeseen events that could occur in the future. This level of general fund balance represents 3.2% of the Council's net expenditure, and means the Council will have met its target level of general fund reserves set a number of years ago (report 277/10 refers).
- 3.9 The Council has a statutory obligation to report on its financial position in each year which culminates in the production of the Council's statutory annual accounts. The accounts must be finalised and signed by the Chief Finance Officer before the end of June each year.
- 3.10 The revised Accounts and Audit Regulations mean the statutory accounts will be presented to Members of the Audit Committee for scrutiny and Council for formal approval in September 2011. Previously the requirement was that the accounts had to be presented to Members in June, however the new regulations will mean Members will be considering and approving the accounts after the statutory audit has been completed and reported to Members in September 2011.
- 3.11 For Members information, the external audit of the accounts will commence on 11 July 2011 and is expected to take approximately 2 months.

For more detailed information on this proposal please refer to the supporting information.

**Paul Looby
Executive Head of Finance**

Appendices

Appendix 1 Write-Off's over £5,000 (Exempt Appendix).

Supporting information to

A1. Introduction and history

- A1.1 The Council approved the 2010/11 budget at its meeting on 10 February 2010. A revised budget was presented and approved by Council in September 2010, due to the in-year cut by the Government to Torbay's grant.
- A1.2 The Council has continued to present financial reports to both the Cabinet and the Overview and Scrutiny Board during 2010/11 which is recommended as best practice. These reports summarised and identified the key spending pressures faced by Business Units within the Council and where appropriate, the action officers took to ensure the Council spent within the agreed budget set for the year. This process ensured that there was effective public monitoring and scrutiny of the revenue budget throughout the financial year.
- A1.3 Performance and financial monitoring is provided to Members through the SPAR system and quarterly updates are available. Performance management includes integrated reporting to Cabinet and Overview and Scrutiny Board. During 2010/11, the reporting process provided integration of performance with benchmarked and value for money comparators as well as an overview of resources.
- A1.4 This report is comparing the revised budget position for 2010/11 to the revenue outturn position as at the end of the financial year.
- A1.5 The outturn position indicated in this report is the final position subject to the Council's external auditors – the Audit Commission - completing their annual audit of the accounts. The approval of the Council's statutory accounts, which will be approved by Council in September 2011, after the Audit Commission have completed and reported on their audit of the accounts.
- A1.6 As part of the audit review by the Audit Commission, there is the possibility that changes may be made to the overall outturn position for the Council. However, should any variations to the figures be necessary these are not expected to be materially significant. For Members information, the external audit of the accounts will commence on 11 July 2011 and is expected to take approximately 2 months.
- A1.7 As in previous years, to ensure the deadline for closing the accounts is met, assumptions have had to be made when closing the accounts which are subject to review by the Audit Commission.

A2. Carry Forwards

- A2.1 The Council's Financial Regulations states that, subject to the approval of Council when considering the end of the financial year position, any overall net underspend within a directly controllable revenue budget may be carried forward into the following financial year.

- A2.2 Under the terms of the Constitution, Commissioners, and Executive Members have discuss any proposed carry forwards and agreed those that should be recommended for approval. Due to the difficult financial position faced by the Council it was decided that all underspending budgets that are not committed will be transferred to reserves to assist to the Council in managing the difficult financial position it is facing.
- A2.3 The Council has £0.578m of carry forwards which are already committed and do not require Member.

Schools Service

- A2.4 A balanced budget position has been declared for Schools Block Activities after making a contribution to reserves of £0.267m. This position will be reported to the Schools Forum.
- A2.5 Schools will be carrying forward balances of £2.5m from 2010/11 to 2011/12 which represents 4% of the total delegated schools budget – these resources are earmarked for schools related expenditure. This is an increase of £0.7m against the previous year. There will also be a carry forward of £0.3m in respect of Standards Fund monies which is a mandatory requirement as it can be spent by schools over a 17 month period.
- A2.6. Members are advised that during 2010/11, 3 schools converted to Academy status and their figures have been excluded from the above balances and Standards Fund Monies.

A3. Net Committee Expenditure

- A3.1 After taking into account the committed carry forward total of £0.578m net expenditure for 2010/11 is £131.630m. This gives an overall Council surplus of £1.351m against the revised budget of £132.981m. The main variations are summarised in table 2.

Table 2

Net Revenue Expenditure 2010/11

Council Services	Revised Budget A	Actual Spend B	Carry Forward to 2011/2012 C	Outturn (D) B+C	Net /(Under) spend D-A	Over spend
	£'000	£'000	£'000	£'000	£'000	£'000
Environment						
Residents and Visitors	10,927	10,608	171	10,779		(148)
Waste	8,829	8,834	38	8,872		43
Spatial Planning	4,931	4,327	14	4,341		(590)
Torbay Development Agency	5,042	4,633	290	4,923		(119)
Community Safety	1,778	1,560	30	1,590		(188)
Marine	0	0	0	0		0
	31,507	29,962	543	30,505		(1,002)
People						
Adult Social Care	42,103	42,028	0	42,028		(75)
Children's	23,071	23,264	0	23,264		193
	65,174	65,292	0	65,292		118
Corporate Support						
Governance	9,002	8,742	0	8,742		(260)
Business Planning	3,109	3,085	0	3,085		(24)
Communities - Housing Services	8,311	8,281	35	8,316		5
	20,422	20,108	35	20,143		(279)
Operational Support						
Customer Contact	1,836	1,660	0	1,660		(176)
Finance	9,136	9,112	0	9,112		(24)
Human Resources	839	834	0	834		(5)
Information Technology	2,936	2,908	0	2,908		(28)
Legal and Procurement	1,131	1,176	0	1,176		45
	15,878	15,690	0	15,690		(188)
Total	132,981	131,052	578	131,630		(1,351)

A3.2 Members have been informed throughout the year as to the reasons for the main variations within Business Unit budgets as part of the monitoring reports presented to the Cabinet and Overview and Scrutiny Board. A brief summary of the main variances and the principal reasons for any underspends or overspends within each directorate are explained below.

Environment

A3.3 Overall services within the Environment portfolio declared an underspend of £1.002m after the application of carry forwards.

The main variations were:

- Residents and Visitors reported an underspend of £0.148m after the application of carry forwards of £0.171m. The receipt of additional car parking income and vacancy savings within the Car Parks Service was partly offset by costs for the implementation of the new Tourism company, increased costs for winter maintenance and a revenue contribution to fund additional costs for Rock Walk.
- The creation of the Joint Venture Company, TOR2, was approved by Council on 25 March 2010 - Report 71/2010. The report to Council said there would be short term additional costs in the first few years of the contract - primarily as a result of the early implementation of the new waste strategy. These costs have been funded from reserves and the relevant reserve replenished over the course of the contract or earlier if resources are available. As at the end of 2010/11 the contribution from reserves is £1.3m.
- Waste and Cleaning declared an overspend of £0.043m primarily due to setting aside a carry forward request for the remediation works at Claylands over the next two years as required by the Environment Agency.
- Spatial Planning declared an underspend of £0.590m due to the receipt of additional Concessionary Fares Grant which was announced at the end of the 2009/10. During the year Members agreed to hold an uncommitted balance as a contingency to support the Council's overall financial position.
- The TDA declared an underspend of £0.119m after the application of carry forwards totalling £0.290m due primarily to the timing of projects.
- Community Safety declared an underspend of £0.188m primarily through managing vacancies, general administrative cost savings and improved licensing income.

People

A3.4 Overall services within the People portfolio declared an overspend of £0.118m after the application of carry forwards. The main variations were:

- Adult Social Care declared a small underspend of £0.075m as reported throughout the year.
- Children's Services declared an overspend of £0.193m. The overspend is primarily within Specialist Services. This is one of the Council's most volatile budgets and covers placements for vulnerable children and has

overspent due to placement numbers. This overspend has been partly offset due to savings within Early Intervention and vacancy management savings across Learning and Standards.

Corporate Support

- A3.5 Corporate Support declared an underspend of £0.279m after the application of carry forwards.
- Housing Services declared a small overspend after the application of a carry forward of £0.035m.
 - Business Planning declared a small underspend of £0.024m.
 - Governance declared an underspend of £0.260m. As reported during the year, 3 services delivered savings above the 5% target set in the 2010/11 budget and for reporting purposes this corporate saving has been accounted for within the Governance Business Unit.

Operational Support

- A3.6 Services within the Operational Support portfolio declared an underspend of £0.188m, of which the significant variations are:
- Customer Contact declared an underspend of £0.176m due to better than anticipated benefit subsidy during the year.
 - Finance declared an underspend of £0.024m due to vacancy management
 - IT declared an underspend of £0.028m due to a reduced costs for IT licences.
 - Legal and Procurement declared an overspend of £0.045m primarily due to legal fees incurred on behalf of other department's.
- A3.7 The latest information indicates that the Housing Benefit service has met its targets for reducing errors in processing claims. This means the service will receive additional subsidy of £0.3m which will confirmed later in the year once the Audit Commission have completed their annual audit. It is recommended this sum is earmarked as a transfer to the Change Management and Financial Strategy Reserve.

A4. Debtors Outturn

- A4.1 The key issues with respect to debtors monitoring are:

Council Tax

- A4.2 The 2010/11 targets for collection of Council Tax were:

- (i) collect 96.5% of the Council Tax due within the 12 months of the financial

year (i.e. April to March); and

- (ii) collect 50% of the arrears brought forward from previous years.

At the end of the fourth quarter 2010/11 the Council collected £59.2m which is 96.3% of the Council Tax due in year. This is an improvement on the outturn position at the end of last year.

A4.3 The collection of arrears proved difficult due to the weakness of the local economy. The arrears outstanding at the end of the financial year were £3.3m.

A4.4 Even though the Council tax was not increased for 2011/12, changes in welfare benefit regulations will reduce many customers disposable income, combined with the continuing weakness of the local economy will place pressure on collection performance during the next 12 months and the position will continue to be monitored and reported to Members on a quarterly basis.

Non-Domestic Rates

A4.5 The targets for the collection of NNDR (business rates) are:

- (i) collect 98.0% of the business rates due within the 12 months of the financial year (i.e. April to March); and
- (ii) collect 50% of the arrears brought forward from previous years

At the end of the fourth quarter, the Council collected £32.0m which is 96.6% of the business rates due in year. This is an improvement on the outturn position at the end of last year.

A4.6 The impact of the downturn within the local economy has meant it continues to be a difficult environment for the business sector and this has made it a challenging time with respect to the collection of income, reflecting the difficult trading conditions and a number of business failures due to the recession. In this difficult climate position will continue to be monitored and reported to members on a quarterly basis. The total arrears outstanding at the end of the year was £1.5m.

A4.7 The Government last year introduced an exemption for small businesses with rateable values (RVs) of below £12,000, which applied from 1 October 2010. Those with RV's of less than £6,000 will qualify for 100% relief and where the RV is £6,001 to £12,000 then the relief will reduce on a sliding scale from 100 to 0%.

A4.8 The Government has extended the scheme for a further twelve months which has meant that some properties which were exempt to 30 September 2010, which would have come back into charge from this date, have now been exempt for the full financial year. The impact of this change is to increase the amount of relief awarded and a net reduction in the debit for the year

A5. Overall Financial Position

A5.1 As identified above in paragraph, (A3.1) the Council has declared an overall surplus of £1.351m. It is also recommended that £0.500m is transferred to the

CSR Reserve which will enable the Council to meet the difficult financial challenges it faces over the next few years and £0.578m be transferred to the Budget Pressures Reserve.

- A5.2 As part of the Council's normal budget planning a provision for pay inflation of 1% was included in the 2010/11 base budget. However, due to the public sector pay freeze, this provision was not required. It was recommended during 2010/11 that this sum of money (£0.367m) was transferred to the Budget Pressures Reserve and held as a provision against any budget pressures that may arise during the year.
- A5.3 If approved this recommendation will be seen as a prudent approach to ensure resources are available to fund budget pressures that may arise during the year and provide a contingency for the further reductions to government grant over the next 2 years.
- A5.4 Whilst this contingency is available to support budget pressures before resources will be released from the contingency, Business Units will be expected to explore all options to manage any budget pressures in the year, including the production and agreement of a robust recovery plan. Any monies released through the normal approved process in accordance with the financial regulations must be supported by a business case explaining how the monies will be used and the expected outcomes.
- A5.5 It is also recommended that the balance of £0.275m is transferred to the General Fund Balance. The General Fund Balance currently stands at £3.7m, before any additions are made. There has been recent media attention as to the level or reserves held by Council's and the Council's external auditors take a view as to the level of the Council's General Fund Balance. I, therefore, consider it prudent to make a contribution to the General Fund Balance of £0.275m which would increase the overall General Fund Balance to £4.0m which represents 3.2% of the 2011/12 approved net revenue budget (excluding Schools Related Expenditure) and ensures the Council is above its target of 3%.
- A5.6 It should be recognised that the general fund balance is uncommitted and provides funds that would only be used to fund any unforeseen or unexpected expenditure that could not be managed within services. With this in mind and in light of the difficult financial climate faced by the Council, I believe that a cash balance of £4.0m, whilst the Council is at its current size of service provision, is a prudent and sustainable level.

6 Reserves

- A6.1 The annual review of all reserves will be undertaken as part of the budget preparation process and is reported to Members at least once a year usually in the autumn, as has been the practice in recent years. This then allows any surplus monies to be recycled as part of the budget setting process for the following year. Members should bear in mind that all reserves are earmarked for specific purposes with the exception of the General Fund Reserve which remains the only fund the Council holds to meet emergency costs. With media attention focusing in the level of Council reserves it should be noted that any release of monies from reserves should only be used for one off purposes and cannot be used to sustain ongoing expenditure.

- A6.2 A recommendation from the Review of Reserves report was the creation of a Comprehensive Spending Review (CSR) reserve to support the Council in managing the impact of government grant reductions over the period of the CSR. The opening balance on this reserve was £4.5m. As part of the budget savings made in 2010/11, £1.4m has been used to fund the costs of redundancies and a further £0.4m has been earmarked to support and increased pressures within Adult Social Care that may arise during the year.
- A6.3 As stated in paragraph A5.1, it is recommended that a contribution of £0.500m is made from the surplus for the year to replenish the CSR reserve. This will help ensure there is provision to meet any further costs of managing the expected changes to the Council structure and services over the next few years.
- A6.4. On 4 April 2011 the Council was allocated £0.3m of New Homes Bonus money. This will be paid to the Council for the next 6 years and further allocations will be made subject to any increase in the number of houses built or brought back into use. This money is not committed and officers will be making proposals to Members as to how this money can be used.

A summary of the uncommitted reserves available to the Council are summarised below.

Reserve	Balance at 1 April 2010 £'m	Spend in Year £'m	Commitments / Contingency £'m	Balance at 31 March 2011 £'m	Contribution to Reserve £'m	Balance at 1 April 2011 £'m
CSR Reserve	4.400	1.400	0.400	2.600	0.500	3.100
Budget Pressures Reserve	0.450	0.450	0	0	0.943	0.9435
Credit Crunch Reserve	0.374	0.265	0	0.109	0	0.109
LABGI Reserve	0.193	0.136	0.012	0.045	0	0.045
Seaside Towns Reserve	0.200	0.158	0.162	0.042	0	0.042
Financial Strategy and Change Management Reserve	0.803	0.318	0.086	0.399	0	0.399

A7. Summary and Impact on 2010/11 and Later Years

- A7.1 The regular budget monitoring reports to Members during the year identified the key variations which have been summarised in this outturn report. After taking into account the in year cut to the Council's grant, close monitoring of all variations and performance by Cabinet and the Commissioner Officer Group and key actions such as a vacancy freeze has enabled Council to declare an

underspend for the year. To that end service managers must be commended for their approach when the Council was facing a challenging position in a number of key services. Not only has this helped deliver a year end surplus but it also provides the Council with a strong base from which it can continue to meet the even more challenging financial climate faced over the next few years.

A7.2 The Council will be responding to the financial challenges by continuing to develop its change process with the implementation of a number of projects arising from the Productivity and Improvement Programme which will support the Council delivering savings over the next few years.

A7.3 The Council has already started developing plans as to how it will meet the reduction to its grant in 2012/13 and is mindful of the significant ongoing pressures it faces including the Waste Agenda, increasing demands made upon Social Care for Adults and Children's as well as the volatility in income collection to name but a few.

A7.4 Members and officers must not be complacent and must continue to manage their budgets robustly in 2011/12 to maintain expenditure within their approved allocation and continue to demonstrate value for money to ensure the Council is not in a position that it would have to implement draconian actions in order to achieve a balanced position at year end.

A7.5 As in previous years, it is essential that managers and Members contain their service commitments and spending within the approved levels. A key principal that must be adhered too is that any new proposals and service issues should not be considered or brought forward unless clear and achievable funding sources are identified, that these are priority projects for the Council and are not driven simply because some external funding has become available. At the first indication of a variance against the approved budget, officers must identify the anticipated size of the variance, the cause of the variance and the remedial action to bring the budget back into balance. This will be supported through the regular budget monitoring to Executive Lead Members, Overview and Scrutiny and the Senior Leadership Team.

A7.6 The Council will be re-assured that it has some provision in 2011/12 to address any unforeseen expenditure with an earmarked budget pressures reserve and the other reserves outlined in section 6 will assist the Council in managing a reduction in service provision over the next few years. Members should also be reassured that the proposed contribution to the General Fund Balance means the Council has stayed above its target level of 3%.

A7.7 Looking into the medium to longer term commentators and the public sector are expecting ongoing reductions to funding but with the inevitability of increasing demands within key services which will mean Torbay will not only be facing some challenging financial issues but also a number of difficult choices as to where expenditure and services have to be reduced. The Council has started to plan for this and all officers and Members must consider the impact of a reduced settlement in future years as part of their future spending plans and when planning future service delivery.

A8. Risk assessment of preferred option

Outline of significant key risks

- A8.1 The contribution of any surplus to general fund balances will assist in ensuring the Council's general fund balances are sufficient to assist with its medium term financial planning. The Council's external auditors have commented in the past on level of the Council's general fund balances. The recommended contribution to the general fund balance means the Council has stayed above its own 3% target. Whilst it is important to keep all reserves under review the Council must continue with its commitment to build up its financial reserves particularly in this challenging financial climate as undoubtedly it will continue to face many financial pressures, in the short and medium term.
- A8.2 The continuation of having a budget pressures reserve into 2011/12 is a prudent measure to ensure resources are available to fund increased demands during the year.

A9. Other Options

- A9.1 Members could determine to utilise the monies put into the various reserves for 2011/12 budget pressures and Change Management and Finance Strategy Reserve.
- A9.2 Members could make alternative recommendations as to how the underspend is used.

A10 Summary of resource implications

- A10.1 The resources implications are outlined within the report in section A1.

A11. What impact will there be on equalities, environmental sustainability and crime and disorder?

- A11.1 The approval of the recommendations Council's will assist all Council services in meeting their obligations with respect to equalities, environmental sustainability and crime and disorder.

A12. Consultation and Customer Focus

- A12.1 Commissioners and Executive Heads and their Executive Leads have discussed and agreed the outturn position.

A13. Are there any implications for other Business Units?

- A13.1 Implications for Business Units with respect to the outturn position.

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Title: **Capital Plan Budget Monitoring - 2010/11 Outturn (Subject to Audit)**

Public Agenda Item: **Yes**

Wards Affected: **All Wards in Torbay**

To: **Overview & Scrutiny Board Council** On: **29th June 2011
13th July 2011**

Contact Officer: **Martin Phillips**

☎ Telephone: **207285**

✉ E.mail: **martin.phillips@torbay.gov.uk**

1. What we are trying to achieve and the impact on our customers

- 1.1 The Council's capital plan with its investment in new and existing assets is a key part of delivering the Council's outcomes. This is the final Capital Monitoring report for 2010/11 under the Authority's agreed budget monitoring procedures. It provides high-level information on capital expenditure and income for the year (subject to Audit), compared with the latest budget position as at period 9 reported in February 2011.

2. Recommendation(s) for decision

Overview & Scrutiny Board

- 2.1 **That Members note the outturn position for the Council's Capital expenditure and income for 2010/11 and make any recommendations to Council**

Council

- 2.2 **That Council note the outturn position for the Council's Capital expenditure and income for 2010/11 and note the action taken by the Chief Finance Officer, under the Officer Scheme of Delegation, to carry forward the unspent budgets for expenditure or work in progress (together with their funding) from 2010/11 to 2011/12.**
- 2.3 **That Council approves the funding of the capital plan for 2010/11 as outlined in paragraph C1.1 is approved.**
- 2.4 **That Council approves the Prudential indicators for 2010/11 as shown in Annex 1 to this report.**

3. Key points and reasons for recommendations
 - 3.1 Members of the Overview and Scrutiny Board and Cabinet have received regular budget monitoring reports on the Council's Capital Budget throughout the year.
 - 3.2 This report presents monitoring information on schemes which have been completed during the year and provides the outturn Prudential Indicators for 2010/11 under the Chartered Institute of Public Finance & Accountancy (CIPFA) Prudential Code, which Council will be asked to approve. The capital outturn and its financing have close links to the Council's annual Treasury Management Report (being considered by Audit Committee 22nd June 2011 prior to approval by Council).
 - 3.3 Outturn expenditure for the year was £43.8 million compared with the budgeted spend as per the last monitoring position in February of £47.3 million. Reasons for this variation over a number of schemes are included in paragraph B2.9. In percentage terms, spend was 93% of the forecast in February. This compares with 87% for 2009/10.
 - 3.4 The 2010/11 total capital spend of £43.8 million is at a slightly lower level compared to 2009/10 which reflects the near completion of a number of major projects. 2011/12 spend is expected to be at a lower level due to the impact of the revision to the Castle Circus Regeneration Project and the part impact of the Coalition government's capital funding reductions before significantly reducing in 2012/13 onwards.
 - 3.5 The original capital budget approved by Council in February 2010 was £58.9 million. That was subsequently revised during 2010/11 for slippage from 2009/10, new schemes and re profiling spend to future years. All changes with reasons have been included in previous monitoring reports. Variations in planned spend have an impact on cash flow and treasury management activities.
 - 3.6 The overall expenditure position by Theme for 2010/11 is summarised in the table below:

Theme	Original Budget 2010/11 per Council Feb 10	Revised Budget per Cabinet Feb 10	Outturn for 2010/11	Variation (Outturn less Revised budget)
	£m	£m	£m	£m
Pride in the Bay	12.0	12.3	12.2	(0.1)
New Economy	5.2	7.1	6.5	(0.6)
Learning & Skills	26.9	22.3	21.0	(1.3)
Stronger Communities	4.8	2.2	1.8	(0.4)
Corporate Health	10.0	3.4	2.3	(1.1)
Total	58.9	47.3	43.8	(3.5)

- 3.7 Details of schemes completed and progressed during the year are included in the Supporting Information to this report along with a summary of the slippage that occurred in the last quarter.
- 3.8 Capital expenditure will be carried forward to 2011/12 to enable schemes not

completed or progressed in 2010/11 to be continued in the current year along with the funding sources for the scheme.

- 3.9 The overall funding position of the 4-year Capital Plan remains in balance, although there is a risk associated with the level of capital receipts due to be generated over the life of the plan. Capital Receipts in 2010/11 generated £0.5 million (£2.3m 2009/10).
- 3.10 At the start of 2010/11 the Council held £0.4m of unapplied capital receipts and generated a further £0.5m from disposals during the year. £0.4m of receipts were applied from this reserve in 2010/11 leaving a balance of £0.5m on the capital receipts reserve at year end.
- 3.11 In overall terms this means that at 1 April 2011 the approved Plan, as approved by Council in February 2011, still relies upon the generation of a further £3.1 million of capital receipts from asset sales by the end of 2014/15. These targets are expected to be achieved provided that -
- approved disposals currently “in the pipeline” are completed
 - the Council continues with its disposal policy for surplus and underused assets
 - no new (or amended) schemes are brought forward that rely on the use of capital receipts for funding and,
 - there is no significant impact on disposals from the current economic conditions in the life of the plan
- 3.12 There is an ongoing risk over the value of receipts. Current valuations on some sites to be disposed are below original forecasts. However the current approved plan has taken a prudent approach to the value of potential receipts and number of assets disposed of.
- 3.13 If additional capital receipts are generated these could be applied to fund schemes previously funded from revenue funded prudential borrowing such as Paignton Library Hub and Castle Circus Regeneration project. This would generate a benefit to the Council’s ongoing revenue budget.
- 3.14 The Council set its Prudential Indicators for 2010/11 and monitoring arrangements for “affordable borrowing” in March 2010. The detailed Outturn Indicators are provided in Annex 1. There are no significant variations to these Indicators. Council are asked to formally approve these indicators as required by the CIPFA Prudential Code.

For more detailed information please refer to the supporting information attached.

Paul Looby
Chief Finance Officer

Appendices

- Appendix A Capital Plan Budget Outturn Information
Annex 1 Torbay Council Prudential Indicators Outturn 2010/11
Appendix B Capital Budget 2010/11 Outturn Summary

Appendix A – Background Information to Report

A1. General

- A1.1 Council approved the original 4-year Capital Plan Budget for the period 2010/11 - 2013/14 in March 2010. This Plan indicated spending of £58.9 million in 2010/11 out of the total 4-year Capital Plan Budget of £108.8 million. (This was before slippage from 2009/10 and any approval/revision of schemes during 2010/11).
- A1.2 Quarterly budget monitoring reports have been presented to the Overview & Scrutiny Board during the year. These reports identified any budget pressures faced by the Council and the action taken to ensure spending remained within the agreed overall Capital resources. New additions to the Plan and significant changes to approved budgets have been approved by Council and noted by the Board through this process. This process ensures that there is effective public monitoring and scrutiny of the Capital budget throughout the financial year. In addition during the year the Capital Programme & Asset Management Board reviews progress and performance on the capital plan.
- A1.3 The latest expenditure predictions as at January 2011 were presented in Capital Monitoring Report 33/2011 to Cabinet in February 2011. That Report noted anticipated expenditure of £47.3 million in 2010/11 out of a revised 4-year Capital Plan Budget of £109 million (prior to any further additions to the Budget approved by Council in February 2011).
- A1.4 This report presents Members with summary information on the 2010/11 outturn position (prior to Audit), compared with the latest Budget predictions for both expenditure and funding and highlights some significant variations.
- A1.5 Annex 1 provides the full schedule of the outturn for spending and funding in 2010/11. Column (4) shows the actual payments and funding applied during the year. Column (5) shows the variance between outturn and last reported budget and Column (6) shows the net budget to be carried forward to 2011/12. Budgets, where slippage has taken place, will be carried forward into 2011/12 where required to enable work in progress on uncompleted schemes to be continued. If budgets have overspent, the future year budgets for the relevant project will be reduced to compensate.
- A1.6 In order to meet the timetable for the statutory closure of accounts it is inevitable that assumptions are now made with regard to the final outturn figures which may be subject to challenge by the Audit Commission (the Council's external auditors) when the Audit of the Council's accounts is undertaken. Any changes will be reported to a future meeting.

B1. Expenditure Outturn & Performance

- B1.1 The actual service expenditure in 2010/11 was £43.8 million. The outturn for individual projects is provided in Annex 1. A summary at service level is in the table overleaf –

	Latest Budget	Outturn	Spent	Variation
	£m	£m	%	£m
Pride in the Bay	12.3	12.2	99	(0.1)
New Economy	7.1	6.5	92	(0.6)
Learning & Skills	22.3	21.0	94	(1.3)
Stronger Communities	2.2	1.8	82	(0.4)
Corporate Health	3.4	2.3	68	(1.1)
TOTALS	47.3	43.8	93	(3.5)

In overall terms there was net variation in the Budget spend of £3.5 million, which is under 10% of the revised budget. This compares with more than 10% slippage in 2009/10. A summary of the slippage and reasons is included at paragraph B2.9 below.

- B1.2 The Capital Plan spans 4 financial years and includes development projects where spending is expected to run for a number of years. It is normal that annual budgets need to be re-phased between years as schemes develop through feasibility, design and construction stages in order to ensure continuity. On occasion consultation with end-users, affordability of design and negotiation with external funders can significantly delay anticipated start dates.
- B1.3 During the year, budgets were regularly re-scheduled from between the four years of the plan by pro-active monitoring and the reasons were reported to the Overview & Scrutiny Board.
- B1.4 Performance at project level has been monitored by Senior Managers, Project Steering Groups, Capital Programme & Asset Management Board and through discussion with Cabinet Members.
- B1.5 On a number of schemes, even though works had not been undertaken by the year end there are a number of projects where contractual commitments have been entered into to progress the scheme. The Council's 2010/11 Statement of Accounts shows that at the end of 31/3/10 there was over £3 million of expenditure on Council assets that were "assets under construction".
- B1.6 From a purely financial perspective, a delay in spending in "normal" economic conditions does not generally harm the Council's overall financial position as delays in expenditure increases the Council's cash holding on a temporary basis leading to greater investment returns. However in 2010/11 investment rates were again significantly less than borrowing rates so any borrowing to fund the approved capital plan in advance of projected need would have a negative impact in the short term on the revenue budget. This short term impact needs to be considered with the longer term costs of borrowing where the Council's current average borrowing rate is 4.2% compared to the current market rate for 25 year borrowing of 5.25%.
- B1.7 In general better investment rates can be obtained by strategic rather than short term investments. In addition, in some cases, a delay in implementation of projects could result in inflationary cost increases which may not be offset by value for money savings achieved through a longer consultation, planning and

design period. Continuing to incur the revenue costs of inefficient assets waiting to be replaced can also have a detrimental effect on Revenue Budgets.

- B1.8 In overall terms individual projects have mainly stayed within budget once the “Decision to Invest” stage is reached. Where project costs have exceeded budget, and funds could not be brought forward from future year’s budgets, services were asked to identify additional sources of funding.
- B1.9 The Chief Finance Officer is authorised under the Officer Scheme of Delegation to approve re-phasing of expenditure between years provided the impact does not exceed the overall level of the approved programme and the available funding resources. Under this delegation, net budget provision of £4.0 million has been carried forward into 2011/12 to fund commitments on works in progress and to enable approved schemes to be completed. Conversely service budgets for 2011/12 have been reduced on those projects which have spent in advance. A revised Summary Capital Budget, incorporating the budgets carried forward and any schemes that are now significantly changed will be presented with the first capital monitoring report for 2011/12.
- B1.10 In 2010/11 within the outturn total of £43.8m there was some expenditure originally to be financed from revenue that has now been reclassified as capital expenditure. In addition there were a number of schemes that incurred additional expenditure in 2010/11, such as the Royal Terrace Gardens/Rock Walk project, that were funded in 2010/11 from either revenue or other capital resources.

B2. Individual Project Monitoring

- B2.1 Appendix B shows the expenditure in 2010/11 on each individual project.
- B2.2 The significant expenditure in year on projects within each theme is as follows: (spend over £0.5m):
- B2.3 Pride in the Bay – Total spend 10/11 £12.2 million

	£m
Completed Schemes:	
- Paignton Library Hub	2.5
- Rock Walk	1.9
- TOR2 Waste Collection	1.1
- Tweenaway Junction	2.5
- Roads – Structural Maintenance	0.8
- Integrated Transport Plan	2.7

- B2.4 New Economy – Total spend 10/11 £6.5 million

	£m
Ongoing Schemes:	
- Brixham Regeneration	4.2
- Cockington Court	2.0

B2.5 Learning & Skills – Total spend 10/11 £21.0 million

	£m
Completed Schemes:	
- PCSC – Sports Hub	1.7
- Early Years Capital Grant	0.6
- Schools – Devolved Formula Capital	1.2
Ongoing Schemes:	
- Cuthbert Mayne 14-19 development	1.2
- Roseland Remodelling	1.2
- My Place	1.9
- Queensway Primary	1.2
- Torquay Community College	7.4

B2.6 Stronger Communities – Total spend 10/11 £1.8 million

	£m
Completed Schemes:	
Disabled Facilities Grants	0.6

B2.7 Corporate Health – Total spend 10/11 £2.3 million

	£m
Ongoing Schemes:	
Castle Circus Regeneration	1.7

B2.8 The above list illustrates the wide variety of projects undertaken by a Unitary Council. The majority of schemes were delivered within budget and within a few weeks of the expected handover date.

B2.9 The slippage by scheme, (with variations over £0.3m), is summarised in the table below:

Scheme	(Slippage) £m	Reason
School's Devolved Formula Capital	(1.3)	Money allocated to schools during the financial year but returned by the schools as unspent at year end.
Castle Circus	(1.0)	Delay in starting work on Torhill House and Torquay Town Hall until tenants departure and specification finalised
Tweenaway Cross Junction	(0.4)	Due to the high number of utility apparatus discovered within the junction the works were delayed by three weeks
Sea Change - Cockington	(0.3)	Completion on the New Build element happened in May and completion on the Court is to take place in June. The project has been complicated and is running several weeks behind programme.
Brixham Regeneration	(0.3)	A complicated major project that is still ongoing.

In addition, two schemes , My Place at Parkfield House and Torquay Community College Rebuild both incurred expenditure of £0.5 million ahead of schedule.

C1. Receipts & Funding

C1.1 Resources used in the year to fund the actual spending, compared to the anticipated use of resources, are as follows –

	Latest Budget £m	Outturn £m	Difference £m
Borrowing -	12.3	12.3	0
<i>of which -</i>			
<i>Supported (by Gov't 'funding)</i>	4.7	4.2	(0.5)
<i>Unsupported (Prudential)</i>	7.6	8.1	0.5
Grants	29.2	28.0	(1.2)
Other Contributions	1.1	0.9	(0.2)
Revenue & Reserves	1.4	2.2	0.8
Capital Receipts	3.3	0.4	(2.9)
Total Required	47.3	43.8	(3.5)

C1.2 Capital Grants continue to be the major funding stream (64%) for the Council to progress its investment plans. The majority of these grants are a result of a “bid” process from other public sector bodies. With potential significant reductions on public sector expenditure expected this funding stream could be significantly reduced for future capital projects.

C1.3 Borrowing was kept within Affordable Borrowing limits and the effect on the Revenue Accounts was within Budget (see Prudential Indicators below).

C1.4 In addition to the £4.2 million of borrowing supported by central government, i.e. costs of borrowing funded in future year grants, unsupported (Prudential) borrowing of £8.1 million was utilised to fund (or part fund) expenditure on the following projects:

- Paignton Library
- South Devon Link Road
- Haldon Pier
- Brixham Regeneration
- Castle Circus Regeneration Project

C1.5 Repayment of the prudential borrowing by services varies between projects and reflects the anticipated use of the asset or a suitably shorter period over which the service feels is appropriate, however prudential borrowing is never taken over a period which is greater than the anticipated life of the asset.

C1.6 An issue is often raised over the level of borrowing undertaken by the Council and how it will be repaid. The Council sets aside an amount in its revenue budget (known as minimum revenue provision) for this repayment. In 2010/11 it set aside £3.6m in respect of capital expenditure by the Council, along with £0.4m in relation to the PFI scheme for Westlands and Homelands Schools (funded by the PFI Grant). This ensures that in the long term all borrowing will be repaid.

C1.7 Borrowing is related to the funding of fixed assets. The costs of these assets tend to be spread over the long term which is line with the long term use of these assets. The value of Council long term assets as at 31/3/11 was approx. £350 million.

C1.8 **Capital Receipts –**

C1.9 Capital receipts in the year were £0.5 million. Receipts included the following:

- £0.2m Right to Buy Housing “clawback”
- £0.3m Land sales including land at Blythe Way & Hawkins Avenue

C1.10 The general target for securing capital receipts from asset sales to fund the 4-year Capital Budget, following review of the Budget in February 2011 was £4.0 million (required by March 2015). Of this sum receipts applied in 2010/11 were £0.4m whilst the Council held £0.5m in the capital receipts unapplied reserve at year end.

C1.11 This means that the approved Plan at 1 April 2011 still relies upon the generation of a total of £3.1 million capital receipts from asset sales by the end of 2014/15. As identified at the time that the Council approved the 2011/12 capital plan this target was considered reasonable provided that significant approved disposals currently in the pipeline are completed and the Council’s rationalisation policy is continued.

C1.12 Of the receipts expected £1.2 million is in relation to the Tesco development at Brixham. An additional sum is expected for the disposal of the old Paignton Library site. No receipt has been included in relation to the disposal of Oldway Manson. All capital receipts are required to fund approved capital schemes.

C1.13 The Council approved a capital contingency of £1.1 million during the annual Budget review completed in February 2011. This contingency is still in place to provide for unforeseen emergencies or shortfall in projected income over the 4-year Plan period.

D1. Overall Financial Performance & Prudential Indicators

D1.1 The Prudential Indicators for prudence and affordability required by the CIPFA Code became a statutory requirement from April 2004.

D1.2 The Actual Indicators (subject to Audit) are calculated from the Council’s 2010/11 Income & Expenditure Account and Balance Sheet presented in the (draft) Statement of Accounts. A brief description of the Indicators that must be reported at Outturn and which will be formally approved by Council is provided in Annex 2. Performance against the main indicators is also incorporated into the “Local” Performance Indicators Table below.

D1.3 The prudential indicators are calculated using the original principal value of the borrowing. The balance sheet values, as required by the application of financial reporting standards in relation to financial instruments, will vary from the principal value as under the new reporting standards borrowing is shown at “fair value”.

D1.4 Overall Capital Budget “Local” Performance Indicators -

Objective	Indicator	Outturn 2010/11	Concern
• To contain External Borrowing within the Authorised Borrowing Limit	➤ External Borrowing including long term liabilities as % of Authorised Limit (must be less than 100%)	77%	No
• To contain External Borrowing within +5%/- 15% of the Operational Boundary	➤ External Borrowing as % of Operational Boundary (must be between 85% and 105%)	99%	No
• To ensure that Net Borrowing does not exceed the Capital Financing Requirement	➤ Net Borrowing is less than Capital Financing Requirement (must be greater than Zero)	£56m < £138m	No
• To progress the schemes in the approved Capital Budget	➤ Percentage of Latest Budget spent at year end to be at least 80%	93%	No
	➤ Percentage of Original Budget spent at year end to be at least 80%	74%	Yes
• To ensure the Revenue costs of Capital are within budget	➤ Financing costs excluding RCCO as a % of Net Revenue Budget	7.7%	No
• To generate sufficient Capital Receipts to fund the Plan Budget	➤ Receipts in year as a % of receipts anticipated in year	38%	Yes
• To maximise the amount of Government Grants and External Funding available to support Council service objectives	➤ Percentage of Outturn funded from External Funding	66%	No
• To ensure that sufficient funding is available to finance the Approved 4-year Capital Plan	➤ Capital Receipts to be Generated over remainder of Plan period	£3.1m	Yes

D1.5 The Local Performance Indicators are in the main within expected tolerances. The main concern is the level of capital receipts generated in 2010/11 of £0.5 million compared to the four year target over the life of the capital plan of £3.1 million.

E. Summary

E1.1 In overall terms financial performance and risk management of the Capital Budget has been acceptable and consistent with previous years. The budget has been effectively monitored throughout the year. Any increased cost arising on individual schemes has been funded from existing Council resources or additional external funding secured.

E1.2 The spend of £43.8 million is 12% lower than the 2009/10 spend of £49.8m which reflects the near completion of a number of major projects.

E1.3 A number of projects have been completed during the year and are now delivering improved services to users. The Council produces a regular “capital success” leaflet which highlights the benefits of a number of schemes on the capital plan. These can be accessed on the Council’s website on this link:

http://www.torbay.gov.uk/index/council/financial_services/capitalprogramme.htm

E1.4 The general capital contingency of £1.1 million during the annual budget review, is still in place to provide for unforeseen emergencies or shortfall in projected income over the 4-year Plan period.

E1.5 Capital receipts in the year were disappointing but, in part, probably a reflection of current economic conditions. The aim is that generation of sufficient receipts from the remaining assets on the Disposal List and from other earmarked assets to fund the ongoing Plan Budget remains a priority. This will continue to be monitored through quarterly reports to the Overview and Scrutiny Board.

E1.6 There are however, with the exception of the Tesco development in Brixham and the disposal of the old Paignton Library, no significant capital receipts expected in the short term.

Torbay Council Prudential Indicators Outturn 2010/11

The Prudential Indicators for 2010/11 were set by Council in March 2010 and were reviewed in the Capital Budget Report presented in February 2011. The Outturn Indicators compared with that revision are as follows-

Prudential Indicators for Affordability

Ratio of Financing Costs to Net Revenue stream

This indicator shows how much of the net Revenue Budget is used to pay the costs of borrowing and other credit. It includes the costs of interest on borrowing and for setting aside provision for the repayment of principal, offset by investment income. These costs are then shown as a percentage of the net Revenue Budget (to be met from General Grants, including Area Based Grant, and Council Tax). The change year on year shows the effect that capital investment has upon the overall financial strategy of the Council.

As capital projects take time to complete the effect on the Revenue Budget builds up over time. i.e. the full year effect of spending in 2010/11 is not felt until 2011/12 and so on.

Revenue Costs of Capital Financing	Outturn	Estimate	Outturn
	2009/10	2010/11	2010/11
	£m	£m	£m
Interest on Borrowing & Other Finance	5.2	5.5	6.3
Debt Rescheduling	0	0	0
Finance Costs re PFI	0.6	0.6	0.6
Investment Income	(2.7)	(1.5)	(1.6)
Cost of Transferred Debt & other deferred liabilities	2.0	2.0	1.0
Minimum Revenue Provision (MRP)	3.7	3.6	3.6
MRP re PFI	0.4	0.4	0.4
Direct financing of capital from the revenue account	1.3	0	2.1
Total Financing Costs	10.5	10.6	12.4
Net Revenue Budget	123.3	134.0	133.0
Ratio - Including direct financing from Revenue	8.5%	7.9%	9.3%
Ratio - Excluding direct financing from Revenue	7.5%	7.9%	7.7%

In calculating this indicator the following assumptions are made –

- Payment to Devon County Council for debt administered by them but “transferred” to this Authority in 1998 is reflected in the calculation. During 2010/11 £20m of liability to DCC was transferred to PWLB borrowing.
- The calculation does not include Government support towards the costs of Borrowing paid through Revenue Support Grant or PFI Grant
- The calculation does not include any repayment by services of any service (saving) funded prudential borrowing.
- Direct Financing of Capital would have been funded from revenue budgets.

Prudential Indicators for Prudence

Net Borrowing and the Capital Financing Requirement

This indicator measures the Council's underlying need to borrow for a capital purpose over the medium term. It is derived from Balance Sheet values including Fixed Assets and increases as a result of Capital spending not financed immediately from capital receipts, grants, contributions and revenue.

	2009/10 Actual	2010/11 Estimate	2010/11 Actual	2011/12 Estimate
Borrowing as at 31/03/xx	£132m	£132m	£162m	£157m
Less Investments as at 31/03/xx	(£109m)	(£47m)	(£116m)	(£73m)
Net Borrowing	£23m	£85m	£46m	£84m
Long Term Liabilities as at 31/3/xx	£31m	£30m	£10m	£10m
Net Borrowing & Long Term Liabilities as at 31/3/xx	£54m	£115m	£56m	£94m
Capital Financing Requirement	£130m	£158m	£138m	£152m

In line with best practice, the Council has adopted the CIPFA Code of Practice for Treasury Management and has an integrated Treasury Management Policy and therefore does not associate borrowing with particular schemes or types of expenditure. External borrowing primarily arising as a direct result of the approved capital plan however in daily cash management no distinction can be made between revenue and capital cash, however over the medium term borrowing should only be undertaken for a capital purpose.

To demonstrate this Net Borrowing (except in the short-term) should not exceed the CFR.

Prudential Indicators for Capital Expenditure, External Debt & Treasury Management

Authorised Limit for External Debt

This is the Statutory "affordable borrowing limit" required under section 3(1) of the Local Government Act 2003. Impending breach would require the Council to take avoiding action. The Limit approved for 2010/11 was £224m. Within that limit the part relating to borrowing was £203m and the level of external debt during the year of £162m was within this limit.

Included in this limit is any long term liability the Council has such as the PFI scheme for two schools. With the introduction of International Financial Reporting Standards the Council is likely to have more long term liabilities as the tests for liabilities such as a finance lease are more likely to result in this lease classification.

	2010/11	2011/12
Borrowing	£203m	£207m
Other Long-term Liabilities	£21m	£21m
Total Authorised limit	£224m	£228m

The proposed limits are calculated having regard to the Council's existing commitments, approved Capital Budget and the proposals for new spending contained in the Capital Budget Report. In addition to the Basic assumptions above, the Limits allow for the following –

- consistency with the Council's Treasury Management & Annual Investment Strategy
- an anticipation of the "worst case scenario" for daily cashflow providing headroom over the Operational Boundary and incorporating risk analysis of slippage in spending and income receipts
- the option to borrow funds to finance the Capital Plan budget in advance of projected spending if market forces indicate this is financially advantageous
- provision to allow Prudential Borrowing for new "spend-to-save" schemes or to consider alternative financing options
- the projected Capital Financing Requirement above

Operational Boundary for External Debt

This is the most likely, but not worst case scenario for day-to-day cash management purposes. This indicator provides an early warning for a potential breach in the Authorised Limit. The CIPFA Prudential Code recognises that this Indicator needs to provide a realistic pointer that treasury operations are within affordable and statutory limits. Occasional breach of this limit is not serious but sustained breach would indicate that prudential boundaries the Council has set may be exceeded, requiring immediate Council action.

	2010/11	2010/11 Revised	2011/12 Estimate
Borrowing	£153m	£174m	£180m
Other Long-term Liabilities	£21m	£21m	£21m
Total Operational Boundary	£174m	£195m	£201m

The Limit is based upon the same assumptions used for the Authorised Limit but assumes a more likely scenario for slippage in spending and income receipts than taken for the Authorised Limit. It does not have the additional headroom for unusual cash movements and is more consistent with the cost of financing estimates used for the purpose of setting the Revenue Budget.

Capital Financing Requirement at 31 March 2011

This indicator measures the Council's underlying need to borrow to fund capital projects and dictates the amount of money the Council has to set aside from its Revenue Budget (Minimum Revenue Provision) as provision for repayment of any actual debt it incurs. It increases as a result of Capital spending where resources are not set aside immediately from capital receipts, grants, contributions and revenue – i.e funded from borrowing.

The outturn figures are derived from the Balance Sheet by consolidating Fixed Assets, Capital Financing, Revaluation Reserve and the Capital Adjustment Account.

Capital Financing Requirement	2010/11 Revised	Outturn 2010/11
	£m	£m
Opening Balance	129.7	129.7
Capital Expenditure in Year to be funded from Borrowing	13.0	12.3
Minimum Revenue Provision	(4.0)	(4.0)
Repayment of Long Term Liabilities	(0.4)	(0.4)
Capital Financing Requirement at Year End	138.4	137.6

Additional Prudential Indicators in respect of Treasury Management, including the limits for Fixed and Variable interest rate exposure, are presented in the Treasury Management Outturn Report to Audit Committee in June 2011 and Council in July 2011.

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	Financial Year 2010/11					
	Original Budget	Net changes in the	Latest Budget (Qtr	Outturn	Variance	Carry Forward
	2010/11 £000 (1)	Year 2010/11 £000 (2)	3) 2010/11 £000 (3)	2010/11 £000 (4)	2010/11 £000 (5)	to 2011/12 £000 (6)
PRIDE IN THE BAY						
COMMUNITY (ENVIRONMENT) SERVICES						
HIGHWAYS & TRANSPORTATION						
Structural Maintenance						
Highways Maintenance programme	737	(95)	642	801	159	159
Blackball Lane, Bxm-Vehicular Containment	0	55	55	69	14	14
Integrated Transport						
Annual programme	2,276	(238)	2,038	2,194	156	156
On Street Parking meters	0	35	35	35	0	0
TRIPS provision	0	15	15	16	1	1
Public Passenger Transport - Bus	0	275	275	275	0	0
South Devon Link Rd - Council contribution	0	231	231	191	(40)	(40)
RFA Tweenaway Cross Junction	1,500	1,406	2,906	2,494	(412)	(412)
NGP - Sth of Tweenaway, Lane imprvmt	591	(591)	(0)	0	0	0
NGP - Windy Corner Junction	200	(194)	6	1	(5)	(5)
NGP - Strategic Cycleway	200	(116)	84	113	29	29
NGP - Great Parks access	392	(392)	(0)	0	0	0
Other Infrastructure						
Whiterock (Long Rd South) Infrastructure	181	(297)	(117)	(117)	0	0
Babbacombe Beach Road	70	(70)	0	0	0	0
	6,147	24	6,170	6,072	(98)	(98)
OTHER ENVIRONMENT SERVICES						
Barton Gas Safety Works	18	0	18	17	(1)	(1)
Direct Services						
Fleet & Equipment Purchases	1,910	(1,910)	0	0	0	0
Wheeled Bin Purchases	50	(50)	0	0	0	0
Other Services						
Waste Infrastructure Capital Fund	508	792	1,300	1,100	(200)	(200)
Princess Promenade (Western Section)	0	(0)	(0)	3	3	0
Toilet improvement programme	0	80	80	80	0	0
MSCP Refurbishment Programme	0	24	24	24	(1)	(1)
Tqy Townscape Heritage Initiative	36	57	93	94	1	0
	2,523	(1,006)	1,516	1,319	(197)	(202)
CULTURE						
Libraries						
Paignton Library Rebuild	1,889	674	2,563	2,526	(37)	(37)
Museums						
Torre Abbey Renovation - Phase 2 Design Costs	234	(13)	221	204	(17)	(17)
Sports & Leisure						
Illuminations Replacement	100	(58)	42	38	(4)	(4)
Barton Playing Fields	0	60	60	38	(22)	(22)
Children's Playgrounds Refurb (50% of Borough Rd receipt)	0	7	7	54	47	32
Oddcombe Cliffs stabilisation	0	50	50	1	(49)	(49)
Other						
Brixham Pool - Grant towards capital repairs	0	1	1	1	0	0
Rock Walk Stabilisation	1,000	560	1,560	1,880	320	0
Sea Change - Berry Head	140	(140)	0	0	0	0
Fitbay projects	0	56	56	29	(27)	(27)
	3,363	1,198	4,560	4,770	210	(124)
Total PRIDE IN THE BAY programme	12,032	215	12,247	12,161	(85)	(424)
NEW ECONOMY						
TORBAY DEVELOPMENT AGENCY						
ECONOMIC REGENERATION						
Brixham Regen - Harbour Development Ph 2 (Buildings)	2,938	1,158	4,096	3,826	(269)	(269)
Brixham Regen - Harbour Development Ph 3	640	(258)	382	338	(44)	(44)
NGP Torbay Innovation Centre Ph 3	558	(488)	70	69	(1)	(1)
LABV Delivery of Mayoral Vision projects	70	(70)	0	0	0	0
Sea Change - Cockington Court	1,000	1,313	2,313	2,033	(280)	(280)
	5,206	1,655	6,861	6,265	(595)	(595)
Marine Services						
Torquay Harbour						
Torquay Town Dock	0	13	13	26	13	0
Haldon/Princess Piers - Structural Repairs Ph 1	0	203	203	197	(6)	(6)
	0	216	216	223	7	(6)
Total NEW ECONOMY programme	5,206	1,871	7,077	6,488	(589)	(601)

	Financial Year 2010/11					
	Original Budget	Net changes in the	Latest Budget (Qtr	Outturn	Variance	Carry Forward
	2010/11 £000 (1)	Year 2010/11 £000 (2)	3) 2010/11 £000 (3)	2010/11 £000 (4)	2010/11 £000 (5)	to 2011/12 £000 (6)
LEARNING & SKILLS						
CHILDREN SERVICES						
Pre-Primary & Primary						
Brixham CoE - Phase 2	0	7	7	21	14	14
Sherwell Valley - Phase 3	0	78	78	8	(70)	(70)
Foxhole Amalgamation (former Tqy/Pgn Prim review)	0	125	125	130	5	5
Foxhole Community Campus - contribution	0	72	72	69	(3)	(3)
Foxhole Community MUGA	0	180	180	157	(23)	(23)
Curledge St Remodelling	1,980	(1,299)	681	405	(276)	(276)
Roselands Remodelling	1,430	(488)	942	1,171	229	229
Ellacombe Remodelling	150	202	352	336	(17)	(17)
Shiphay SEN & Mobiles	0	9	9	2	(7)	(7)
Cockington - CC & Mobiles	0	0	0	(5)	(5)	(5)
Barton Primary PrimCapProg Project	2,450	(2,277)	173	80	(92)	(92)
Preston Primary - ASD Unit	580	(523)	57	46	(10)	(10)
Queensway RC PrimCapProg Project	1,350	(125)	1,225	1,225	0	0
Hayes Prim - Kitchens/Dining Hall (TC contrib)	0	76	76	76	0	0
Oldway Primary Disabled Changing Rooms	62	45	107	91	(16)	(16)
Oldway Primary Hall	0	371	371	280	(90)	(90)
SureStart/Early Yrs 2008/09 - 10/11(ChCtr Unalloct)	1,406	(1,366)	40	19	(21)	(21)
Early Years Capital Grants	0	596	596	613	17	17
Centenary Way Childrens Centre	0	165	165	18	(147)	(147)
Extended Schools	102	(102)	0	0	0	0
Secondary Schools						
Churston - Regen of Pitches	30	(30)	0	0	0	0
TGGS - Music & Drama	0	15	15	16	1	1
TGGS - 6th Form Block	0	2	2	1	(1)	(1)
TGGS - ATP Fencing	5	6	11	0	(11)	(11)
PCSC - ATP Project	160	153	313	244	(69)	(69)
PCSC mobile replce 14-19 proj	1,000	(1,000)	0	0	0	0
Cuthbert Mayne 14-19 proj	1,000	16	1,016	1,180	164	164
Westlands 14-19 project	750	(650)	100	34	(66)	(66)
TBGS - Food Technology Room	300	0	300	300	0	0
PCSC - Sports Hub	966	726	1,692	1,720	28	28
TGGS - Specialist School status	0	25	25	25	0	0
TCC - Building Schools for the Future Pathfinder	7,271	(370)	6,901	7,372	470	470
Education Review Projects - budget to be allocated	142	16	158	0	(158)	(158)
Special Schools						
Coombe Pafford - Business & Enterprise	0	6	6	0	(6)	(6)
Coombe Pafford Construction Workshop	350	46	396	393	(3)	(3)
Mayfield - Specialist school status	0	20	20	20	0	0
"All School" Initiatives						
Capital R&M 2010/11	600	(270)	330	183	(147)	(147)
Capital R&M 2009/10	0	92	92	67	(24)	(24)
Modernisation 2009/10	355	(292)	63	0	(63)	(63)
Capital R&M 0809	0	2	2	0	(2)	(2)
Feasibility & Surveys06/07 onwards	40	11	51	21	(31)	(31)
New Deal for Schools Condition 05/06	0	3	3	2	(1)	(1)
Special Education Needs - reactive works	30	11	41	37	(4)	(4)
School Security Projects	150	3	153	142	(11)	(11)
Asbestos Removal	0	18	18	4	(14)	(14)
14-19 Diploma Delivery	820	(761)	59	10	(49)	(49)
Harnessing Technology	411	(138)	273	273	0	0
Devolved Formula Capital Funding	1,575	932	2,508	1,232	(1,276)	(1,276)
School Access	238	103	341	318	(23)	(23)
Aiming High for Disabled Children	96	6	102	102	0	0
PlayBuilder (DCSF grant)	563	(187)	376	494	118	118
NON SCHOOL PROJECTS						
Youth Service Schemes	0	55	55	(3)	(58)	(58)
Other Non-school projects	350	(350)	(0)	0	0	0
Youth Capital Fund projects	65	(32)	33	33	0	0
Youth Modular Projects	200	(140)	60	47	(13)	(13)
Care Home and Facilities - Childrens	22	(22)	0	0	0	0
Minor adaptations - Children	0	77	77	15	(62)	(62)
My Place Parkfield	0	1,488	1,488	1,936	449	449
Total LEARNING & SKILLS programme	26,998	(4,664)	22,334	20,962	(1,372)	(1,372)
STRONGER COMMUNITIES						
HOUSING						
Private Sector Support						
Private Sector Renewal - Annual provision	362	(102)	260	258	(2)	(2)
Security for Vulnerable (Safe & Secure Communities)	0	3	3	2	(1)	(1)
Insulation Scheme	0	20	20	40	20	20
Disabled Facilities Grants	550	220	770	638	(131)	(131)
Grants to Housing Providers						
Sanctuary - Dunboyne 39 Extra Care Units (DoH grt)	620	(620)	0	0	0	0
Chapter One HA - SP Dispersed Units (25 units)	100	(100)	0	0	0	0
WCHA - Borough Road site (19 units)	15	0	15	15	0	0
WCHA - Foxhole School site (30 units)	15	(15)	0	0	0	0
Sovereign HA - Beechfield (102 units)	135	5	140	140	0	0
Hayes Road	0	250	250	250	0	0
HA Schemes alloc pending authorisation:-						
Signpost HA - Rock Road (30 units)	100	(100)	0	0	0	0
Torbay Enterprise Project	500	(400)	100	135	35	35
NGP - HCA Match Land Acquisitions	1,158	(1,108)	80	84	4	4
New Advances budget to be allocated	499	(464)	35	0	(35)	(35)
	4,384	(2,712)	1,673	1,562	(110)	(110)

	Financial Year 2010/11					
	Original Budget	Net changes in the	Latest Budget (Qtr	Outturn	Variance	Carry Forward
	2010/11 £000 (1)	Year 2010/11 £000 (2)	3) 2010/11 £000 (3)	2010/11 £000 (4)	2010/11 £000 (5)	to 2011/12 £000 (6)
TORBAY CARE TRUST (ADULTS)						
Council Facilities						
Care Home and Facilities - Adults	76	(36)	40	91	51	51
Mental Health Initiatives	264	22	286	98	(188)	(188)
Other						
Adult Social Care IT infrastructure	63	62	125	101	(24)	(24)
NGP - Educ, Innov & Research Centre (Tby Hosp)	0	100	100	0	(100)	(100)
	403	147	550	289	(260)	(260)
Total STRONGER COMMUNITIES programme	4,787	(2,565)	2,222	1,852	(371)	(371)
CORPORATE HEALTH (ALL - SERVICE)						
ALL-SERVICE						
CENTRAL SUPPORT						
IT Developments						
Single Person View (IT)	100	(100)	0	0	0	0
Central Property issues						
Castle Circus Regen Proj - Community Hub/THHph1	9,000	(6,300)	2,700	1,699	(1,001)	(1,001)
DDA adaptations to Council property	40	(1)	39	41	2	0
Land Acquisition- Kings Drive Gardens, Tqy	0	105	105	105	0	0
	9,140	(6,295)	2,845	1,845	(1,000)	(1,001)
OTHER CORPORATE ISSUES						
Major Repairs & Renewal to be allocated						
Comino DIPS system	0	54	54	53	(1)	(1)
Customer First Telephony	0	13	13	0	(13)	(13)
Libraries ICT renewal	0	3	3	0	(3)	(3)
Partnership shared capital	0	78	78	76	(2)	(2)
ICT Infrastructure	100	91	191	145	(46)	(46)
Performance Reward Grant unallocated	500	(500)	0	0	0	0
Capital Expenditure from Revenue	0	0	0	174	174	0
	600	(262)	338	448	110	(64)
Contingency & unallocated resources						
Contingency against Committed Schemes	200	85	285	0	(285)	(285)
Reduced Contingency for 4% loss Capital Receipts	(50)	(50)	(100)	0	100	100
Enhancement Prior to Sale	0	4	4	0	(4)	(4)
	150	40	190	0	(190)	(190)
Total CORPORATE HEALTH programme	9,890	(6,517)	3,373	2,293	(1,080)	(1,256)
SUMMARY :						
PRIDE IN THE BAY	12,032	215	12,247	12,161	(86)	(424)
NEW ECONOMY	5,206	1,871	7,077	6,488	(589)	(601)
LEARNING & SKILLS	26,998	(4,664)	22,334	20,962	(1,372)	(1,372)
STRONGER COMMUNITIES	4,787	(2,565)	2,222	1,852	(371)	(371)
CORPORATE HEALTH	9,890	(6,517)	3,373	2,293	(1,080)	(1,256)
TOTAL APPROVED PROGRAMME	58,913	(11,660)	47,253	43,756	(3,497)	(4,024)
FUNDING SOURCES :						
BORROWING						
Supported	6,279	(1,541)	4,738	4,193	(545)	
Unsupported (Prudential)	13,125	(5,557)	7,568	8,101	534	
GRANTS	33,941	(4,703)	29,238	28,011	(1,227)	
CONTRIBUTIONS	985	(2)	983	839	(144)	
RESERVES	180	1,481	1,661	1,402	(259)	
REVENUE CONTRIBUTIONS	300	102	402	767	365	
CAPITAL RECEIPTS						
EARMARKED ASSET SALES	2,793	(742)	2,051	0	(2,051)	
Corporate/General Asset Sales	1,311	(699)	612	443	(169)	
Total Funding	58,913	(11,660)	47,253	43,756	(3,497)	

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Title: **Treasury Management Outturn 2010/11**

Wards Affected: **All Wards in Torbay**

To: **Audit Committee** On: **22 June 2011**
Council **13 July 2011**

Contact Officer: **Pete Truman**

☎ Telephone: **207302**

✉ E.mail: **Pete.truman@torbay.gov.uk**

1. **What we are trying to achieve**

1.1 This report informs the Council/Committee of the performance of the Treasury Management function in supporting the provision of Council services in 2010/11 through management of cash flow, debt and investment operations and the effective control of the associated risks.

1.2 **Recommendation**

That the report be noted and the Treasury Management decisions made during 2010/11 as detailed in this report be endorsed.

2. **Background**

2.1 The Council is required through regulations issued under the Local Government Act 2003 to produce an annual outturn report reviewing treasury management activities and the actual prudential and treasury indicators for 2010/11.

2.2 This report also meets the requirements of the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).

2.3 Treasury management is defined by the Code as:

“The management of the authority’s investments and cash flows, it’s banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks”.

2.4 During 2010/11 the minimum reporting requirements were that full Council should receive the following reports:

- An annual treasury strategy in advance of the year (Report 22/2010, Council 3rd February 2010)
- A mid-year review report (appended to Report 321/2010, Council 14th December 2010)
- An annual report following the year describing the activity compared to the strategy (this report)

- 2.5 Recent changes in the regulatory environment place a much greater onus on Members for the review and scrutiny of treasury management policy and activities. This report is important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the policies previously approved by members.
- 2.6 The Council also confirms that it has complied with the requirement under the Code to give prior scrutiny to all of the above treasury management reports by the Audit Committee before they were reported to full Council.
- 2.7 A major element of the Treasury Management function is the implementation and control of the Council's borrowing decisions. Like all local authorities Torbay Council uses borrowing as a key source of funding for enhancing, purchasing or building assets within the approved capital plan.
- 2.8 Borrowing allows capital expenditure to be spread over future years which means that the costs of roads, schools etc are more likely to be met by those who use the assets than would be the case if the full cost of providing these facilities were met by taxpayers at the time of their construction.
- 2.9 As part of the annual budget process the Council sets limits for the total amount of borrowing that it considers is affordable in terms of revenue resources available to make repayments. Treasury Management officers are tasked with maintaining borrowing within these levels and obtaining best value for the Council in terms of repayment rates and length of loans.
- 2.10 The Treasury Management team also carry out management of the Council's surplus cash balances arising from, for example:
- Short term revenue balances
 - Cash backed reserves
 - Capital funding received in advance of commencement of schemes

Balances are invested with approved financial institutions and other local authorities to obtain the best return for periods which ensure cash is available when needed. Security of cash and liquidity are the absolute priorities in all investment decisions.

- 2.11 The key points arising from Treasury Management operations in 2010/11 are:
- Challenging interest rate conditions with a static bank rate and upward pressure on borrowing levels (see paragraphs A7.2 and A9.1)
 - Adjustments to the original headline strategy with further borrowing taken and some investments locked out for up to 18 months duration (see paragraph A5.4)
 - Transfer of ownership of £20million of borrowings previously administered by Devon County Council as part of Local Government Reorganisation (see paragraph A8.5)
 - Average rate of borrowing reduced from 4.36% to 4.20% (see paragraph A4.1)
 - An overall return on investments of 1.25% exceeding the benchmark rate of 0.43% (see paragraphs A4.1 and A10.7).
 - Revenue budget outturn within target (see paragraph A11.1).

2.12 Treasury Management strategies were planned and implemented in conjunction with the Council's appointed advisors, Sector Treasury Services although the Council officers were the final arbiters of the recommended approach.

Paul Looby
Executive Head of Finance

Appendices and Annexes

Appendix 1	Treasury Management Activities in 2010/11
Annex 1	The Economy and Interest Rates in 2010/11
Annex 2	Analysis of Actual Borrowing against Prudential Indicators 2010/11
Annex 3	Counterparties with which funds have been deposited in 2010/11

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Treasury Management Activities in 2010/11

A1. Introduction

A1.1 This Appendix covers:

- Capital Expenditure and Financing 2010/11;
- Capital Financing Requirement;
- Treasury Position at year End;
- The Strategy for 2010/11;
- The Economy and Interest rates 2010/11;
- Borrowing Rates in 2010/11;
- Borrowing Outturn for 2010/11;
- Investment Rates in 2010/11;
- Investment Outturn for 2010/11;
- Revenue Budget Performance;
- Reporting Arrangements and Management Evaluation

A2 Capital Expenditure and Financing 2010/11

A2.1 The Council undertakes capital expenditure on long-term assets. These activities may either be:

- Financed immediately through the application of capital or revenue resources (capital receipts, capital grants, revenue contributions etc.), which has no resultant impact on the Council's borrowing need; or
- If insufficient financing is available, or a decision is taken not to apply resources, the capital expenditure will give rise to a borrowing need.

A2.2 The actual capital expenditure forms one of the required prudential indicators and is shown in the table below.

£m	2009/10 Actual	2010/11 Revised	2010/11 Actual
Total capital expenditure	49	47	44

A3 Capital Financing Requirement

A3.1 The Council's underlying need to borrow for capital expenditure is termed the Capital Financing Requirement (CFR). This figure is a gauge of the Council's debt position. The CFR results from the capital activity of the Council and what resources have been used to pay for the capital spend. It represents the 2010/11 unfinanced capital expenditure and prior years' net or unfinanced capital expenditure which has not yet been paid for by revenue or other resources.

A3.2 Part of the Council's treasury activities is to address the funding requirements for this borrowing need. Depending on the capital expenditure programme, the treasury service organises the Council's cash position to ensure sufficient cash is available to meet the capital plans and cash flow requirements. This may be sourced through borrowing from external bodies (such as the Government, through the Public Works Loan Board [PWLB] or the money markets), or utilising temporary cash resources within the Council.

A3.3 **Reducing the CFR** – the Council's (non HRA) underlying borrowing need (CFR) is not allowed to rise indefinitely. Statutory controls are in place to ensure that capital assets are broadly charged to revenue over the life of the asset. The Council is required to make an annual revenue charge, called the Minimum Revenue Provision – MRP, to reduce the CFR. This is effectively a repayment of the borrowing need. This differs from the treasury management arrangements which ensure that cash is available to meet capital commitments. External debt can also be borrowed or repaid at any time, but this does not change the CFR.

A3.4 The total CFR can also be reduced by:

- the application of additional capital financing resources (such as unapplied capital receipts); or
- charging more than the statutory revenue charge (MRP) each year through a Voluntary Revenue Provision (VRP).

The Council's 2010/11 MRP Policy (as required by CLG Guidance) was approved as part of the Treasury Management Strategy Report for 2010/11 on 2nd February 2010.

A3.5 The Council's CFR for the year is shown below, and represents a key prudential indicator. This includes PFI and leasing schemes on the balance sheet, which increase the Council's borrowing need. No borrowing is actually required against these schemes as a borrowing facility is included in the contract (if applicable).

CFR (£m)	31 March 2010 Actual	31 March 2011 Revised Indicator	31 March 2011 Actual
Opening balance	123.6	129.7	129.7
Capital expenditure in year funded from borrowing	11.1	13.1	12.3
Minimum Revenue Position	(4.1)	(4.0)	(4.0)
Repayment of Deferred Liabilities	(0.9)	(0.4)	(0.4)
CFR at Year End	129.7	138.4	137.6

A3.6 The borrowing activity is constrained by prudential indicators for net borrowing and the CFR, and by the authorised limit.

A3.7 Net borrowing and the CFR - in order to ensure that borrowing levels are prudent over the medium term the Council's external borrowing, net of investments, must only be for a capital purpose. This essentially means that the Council is not borrowing to support revenue expenditure. Net borrowing should not therefore, except in the short term, have exceeded the CFR for 2010/11 plus the expected changes to the CFR over 2011/12 and 2012/13. This indicator allows the Council some flexibility to borrow in advance of its immediate capital needs in 2010/11. The table below highlights the Council's net borrowing position against the CFR. The Council has complied with this prudential indicator.

	31 March 2010 Actual	31 March 2011 Original	31 March 2011 Actual
Net borrowing position	£54m	£85m	£56m
CFR	£130m	£158m	£138m

The authorised limit - the authorised limit is the "affordable borrowing limit" required by s3 of the Local Government Act 2003. The Council does not have the power to borrow above this level. The table below demonstrates that during 2010/11 the Council has maintained gross borrowing within its authorised limit.

The operational boundary – the operational boundary is the expected borrowing position of the Council during the year. Periods where the actual position is either below or over the boundary is acceptable subject to the authorised limit not being breached.

Actual financing costs as a proportion of net revenue stream - this indicator identifies the trend in the cost of capital (borrowing and other long term liabilities net of investment income) against the net revenue stream.

	2010/11
Authorised limit	£224m
Maximum gross borrowing position	£173m
Operational boundary	£195m
Average gross borrowing position	£162m
Financing costs (excluding revenue contributions) as a proportion of net revenue stream	7.7%

A4 Treasury Position at Year End

A4.1 The Council's funding and investment positions at the beginning and end of year was as follows:

	At End of Year 2010/11 31st March 2011		At Beginning of Year 2010/11 1st April 2010	
	Principal	Rate/ Return	Principal	Rate/ Return
Fixed Rate Funding:				
- LGR (Devon CC)			£20.535m	5.39%
- PWLB	£147.461m	4.29%	£122.337m	4.17%
- Market	£10.000m	4.55%	£10.000m	4.55%
	£157.461m		£152.872m	
Variable Rate Funding	£ 5.000m	0.69%	£ 0.000m	
Total Borrowing	£162.461m	4.20%	£152.872m	4.36%
Investments *:				
- In-House	£80.660m	1.28%	£73.450m	2.33%
- With Managers**	£35.500m	1.20%	35.500m	3.84%
Total Investments	£116.160m	1.25%	£108.950m	2.64%

* Rates for investments reflect the average rate achieved over the full year.

** The principal for external management of funds reflects the original amount applied to the contract on 21st June 2007 and subsequent additions in 2009/10

A4.1 The outturn against approved treasury limits is analysed over the following tables.

Maturity Structure of the fixed rate borrowing portfolio

	31 March 2011 Actual	31 March.2011 Proportion	2010/11 Original Limits Upper-Lower
Under 12 months	£0.0m	0%	3% - 0%
12 months and within 24 months	£0.0m	0%	3% - 0%
24 months and within 5 years	£4.0m	3%	10% - 0%
5 years and within 10 years	£15.0m	10%	15% - 5%
10 years and within 25 years	£36.4m	23%	25% - 15%
10 years and above	£102.0m	65%	79% - 54%

Principal Sums Invested for over 364 Days

	2009/10 Actual	2010/11 Original	2010/11 Actual
Investments of 1 year and over	£14m	£66m	£12m

Exposure to Fixed and Variable Rates

	31 March 2010 Actual	2010/11 Original Limits	31 March 2011 Actual
Net principal re fixed rate borrowing / investments	£83m	£154m	£116m
Net principal re variable rate borrowing / investments	-£25m	£33m	-£29m

A5. The Strategy for 2010/11

- A5.1 The expectation for interest rates within the strategy for 2010/11 anticipated low but rising Bank Rate (starting in quarter 4 2010) with similar gradual rises in medium and longer term fixed interest rates over 2010/11. Variable or short-term rates were expected to be the cheaper form of borrowing over the period.
- A5.2 Continued uncertainty in the aftermath of the 2008 financial crisis promoted a cautious approach whereby investments would continue to be dominated by low counterparty risk considerations, resulting in a limited number of institutions in which to invest with low returns compared to borrowing rates.
- A5.3 In this scenario, the overall treasury strategy was to postpone borrowing to avoid the cost of holding higher levels of investment and reduce counterparty risk. Investments were planned to be short term to track the anticipated rise in Bank Rate.
- A5.4 The adopted strategy was adjusted during the period in response to potential government action limiting borrowing capabilities and lack of expected movement in the level of Bank Rate:

Borrowing. A further £10million of borrowing was taken as detailed in section A8.5 of this report.

Investments. Maturing short term deposits were replaced with longer deals. This is expanded upon in section A9 of this report.

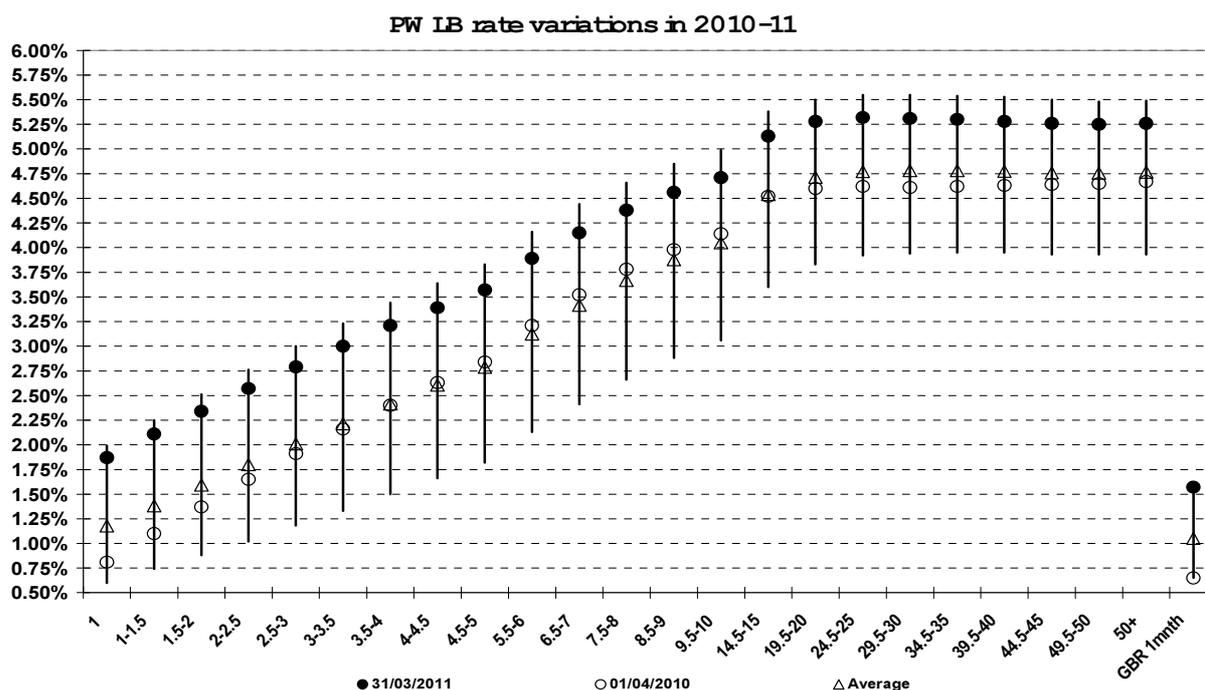
A6 The Economy and Interest rates 2010/11

- A6.1 A commentary of the economic factors prevalent in 2010/11 is given at Annex 1.

A7. Borrowing Rates in 2010/11

A7.1 The following graph and table below show, for a selection of PWLB maturity periods, the range (high and low points) in rates, the average rates and individual rates at the start and end of the financial year.

A7.2 Variations in most PWLB rates have been distorted by the October 2010 decision by Government to raise borrowing rates by 0.75% - 0.85% e.g. if it had not been for this change, the 25-year PWLB rate at 31st March 2011 (5.32%) would have been only marginally higher than the position at 1st April 2010.



PWLB Borrowing Rates 2010/11 for 1 to 50 Years

	1	1.5-2	2.5-3	3.5-4	4.5-5	9.5-10	24.5-25	49.5-50	1 month variable
01/04/10	0.810%	1.370%	1.910%	2.400%	2.840%	4.140%	4.620%	4.650%	0.650%
31/03/11	1.870%	2.340%	2.790%	3.210%	3.570%	4.710%	5.320%	5.250%	1.570%
High	1.990%	2.510%	3.000%	3.440%	3.830%	4.990%	5.550%	5.480%	1.570%
Low	0.600%	0.880%	1.180%	1.500%	1.820%	3.060%	3.920%	3.930%	0.650%
Average	1.177%	1.590%	2.009%	2.413%	2.788%	4.050%	4.771%	4.756%	1.052%
Spread	1.390%	1.630%	1.820%	1.940%	2.010%	1.930%	1.630%	1.550%	0.920%
High date	07/02/11	07/02/11	07/02/11	07/02/11	09/02/11	09/02/11	09/02/11	09/02/11	07/03/11
Low date	15/06/10	12/10/10	12/10/10	12/10/10	12/10/10	31/08/10	31/08/10	31/08/10	01/04/10

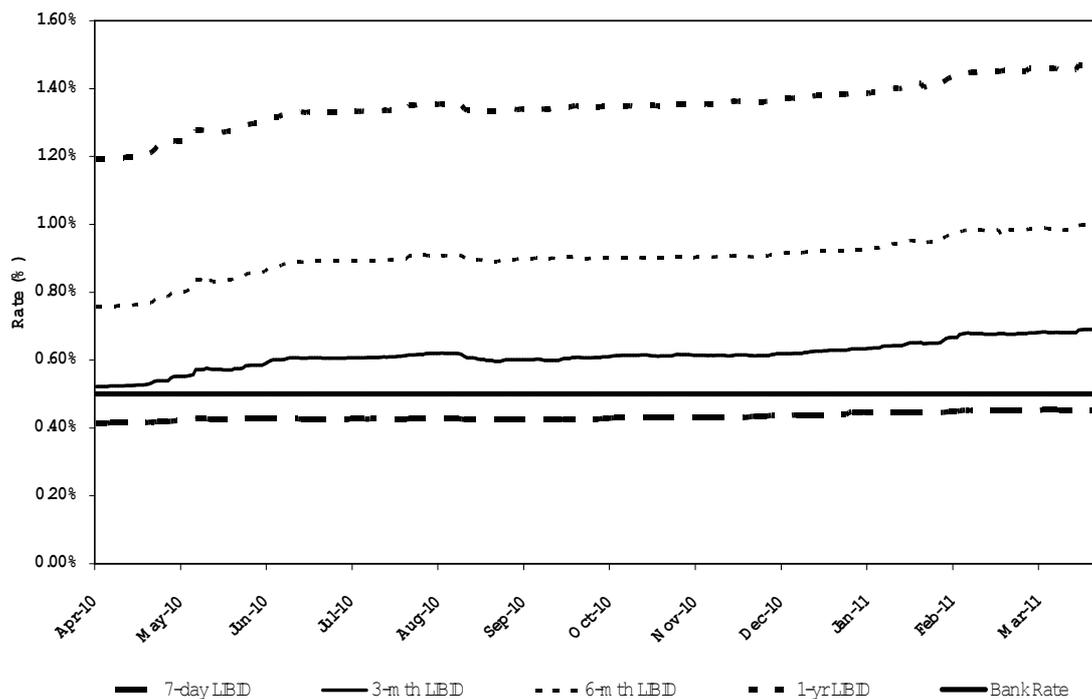
A8 Borrowing Outturn for 2010/11

- A8.1 The Borrowing strategy for 2010/11 anticipated no new borrowing with current year requirements having previously been taken in advance of expected rises in rates.
- A8.2 However, in view of the uncertain economic outlook a decision was made by senior management in May 2010 to amend this headline treasury strategy and take a further £10 million of borrowing to ensure sufficient funding of approved capital schemes.
- A8.3 A structure was taken with the Public Works Loan Board (PWLB) with £5million borrowed for 15 years at a fixed rate of 4.38% and £5million for 10 years at a variable rate initially set at 0.70% with six-monthly reviews.
- A8.4 Following this decision PWLB levels actually dropped as investors bought up UK gilts. However, the increased margin placed on PWLB rates over gilts as part of the Comprehensive Spending Review has seen levels rise significantly above the Council's current average rate of 4.20%.
- A8.5 On 1st October 2010 the Council took on direct responsibility for £20million of PWLB loans previously administered by Devon County Council as part of Local Government Reorganisation. The Council will have greater control of these loans going forward and in-year savings have contributed to the Revenue Budget performance in section 4 of this report.
- A8.6 ***Borrowing Performance*** – The average borrowing portfolio rate, including the Devon County Council element, has been reduced from 4.36% to 4.20%.

A9 Investment Rates in 2010/11

- A9.1 The tight monetary conditions following the 2008 financial crisis continued through 2010/11 with little material movement in the shorter term deposit rates. Bank Rate remained at its historical low of 0.5% throughout the year, although growing market expectations of the imminence of the start of monetary tightening saw 6 and 12 month rates picking up.
- A9.2 Overlaying the relatively poor investment returns was the continued counterparty concerns, most evident in the Euro zone sovereign debt crisis which resulted in rescue packages for Greece, Ireland and latterly Portugal. Concerns extended to the European banking industry with an initial stress testing of banks failing to calm counterparty fears, resulting in a second round of testing currently in train. This highlighted the ongoing need for caution in treasury investment activity.
- A9.3 The graph below illustrates the path of market benchmark rates over the year. The following table shows, for a range of investment durations, the range (high and low points) in rates, the average rates and individual rates at the start and end of the financial year.

Investment Rates 2010-11



	Overnight	7 Day	1 Month	3 Month	6 Month	1 Year
01/04/2010	0.41%	0.41%	0.42%	0.52%	0.76%	1.19%
31/03/2011	0.44%	0.46%	0.50%	0.69%	1.00%	1.47%
High	0.44%	0.46%	0.50%	0.69%	1.00%	1.47%
Low	0.41%	0.41%	0.42%	0.52%	0.76%	1.19%
Average	0.43%	0.43%	0.45%	0.61%	0.90%	1.35%
Spread	0.03%	0.04%	0.07%	0.17%	0.24%	0.28%
High date	31/12/10	30/03/11	30/03/11	30/03/11	30/03/11	30/03/11
Low date	01/04/10	01/04/10	01/04/10	01/04/10	01/04/10	01/04/10

A10 Investment Outturn for 2010/11

A10.1 Investment Policy – the Council’s investment policy is governed by CLG guidance which emphasis the priorities of security and liquidity of funds and requires Local Authorities to set out their approach for selecting suitable counterparties. The policy was approved by Council within the Annual Investment Strategy on 3rd February 2010 and is based on credit ratings provided by the three main credit rating agencies supplemented by additional market data.

A10.2 The crisis in the Greek economy prompted a decision in April 2010 to limit duration on all deals, regardless of counterparty status, to three months while the effect on the banking sector was assessed. The limit was rescinded for UK part-nationalised

banks in July following continued evidence of market confidence in the UK's creditworthiness. The limit for all other banks was withdrawn in August following the publication of stress test results by the European Union which showed no worsening in quality of banks on the Council's approved list.

A10.3 With interest rates continuing at their historic low levels and the resulting revision to forecasts, the headline strategy of short term deposits was adjusted with deal durations extended to six and twelve months in August/September, locking into exceptional rates offered by certain approved banks, for the period of static Bank Rate.

A10.4 A list of those institutions with which the in-house team invested funds during the year is provided at Annex 4. No institutions with which investments were made showed any difficulty in repaying investments and interest in full during the year.

A10.5 **Externally Managed Investments** – Scottish Widows Investment Partnership (SWIP) was appointed to manage £13,500,000 of the Council's cash on 21st June 2007. Additional funds were placed with SWIP during the 2009/10 financial year.

A10.6 During the year their strategy has followed a similar path to the in-house team whereby the length of the portfolio was shortened in their belief that interest rates would rise. Since then longer dated deposits have been made to enhance return.

A10.7 **Performance Analysis** - Detailed below is the result of the investment strategy undertaken by the Council. Despite the continuing difficult operating environment the Council's investment returns remain well in excess of the benchmark.

	Average Investment Principal	Rate of Return (gross of fees)	Rate of Return (net of fees)	Benchmark/ Target Return
Internally Managed	£85,799,881	1.277%	N/A	0.433%
Externally Managed	£35,500,000	1.200%	1.050%	0.479%

The benchmark for internally managed funds is the average 7-day LIBID rate (uncompounded). The benchmark for externally managed funds is the 7-day LIBID rates, averaged for the week and compounded weekly.

A10.8 In interest terms, the in-house treasury function contributed an additional £724,000 to the General Fund over and above what would have been attained from the benchmark return. SWIP's net return achieved an additional £277,000 over their target return level of 10% above benchmark.

A11 Revenue Budget Performance

A11.1 The effect of the decisions outlined in Appendix 1 to this report on the approved revenue budget is outlined in the table below.

	Revised Budget	Actual 2010/11	Variation
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	2010/11		
	£M	£M	£M
Investment Income	(1.8)	(1.5)	0.3
Interest Paid on Borrowing	6.2	6.3	0.1
Transferred Debt Interest	0.6	0.6	0.0
Net Position (Interest)	5.0	5.4	0.4
Minimum Revenue Provision	4.4	4.0	(0.4)
PFI Grant re: MRP	(0.4)	(0.4)	0.0
Transferred Debt Principal	0.4	0.4	0.0
Net Position (Other)	4.4	4.0	(0.4)
Net Position Overall	9.4	9.4	0.0

11.2 The changing position was regularly reported to Cabinet and OSB throughout the year as part of the budget monitoring reports to Members

A12 Reporting Arrangements and Management Evaluation

A12.1 The management and evaluation arrangements identified in the annual strategy and followed for 2010/11 were as follows:

- Weekly monitoring report to Cabinet Member for Finance (latterly to the Mayor) and Chief Finance Officer
- Monthly meeting of the Treasury Manager and Chief Accountant to review previous months performance and plan following months activities
- Regular meetings with the Council's treasury advisors
- Regular meetings with the Council's appointed Fund Managers
- Membership and participation in the CIPFA Benchmarking Club

A12.2 Draft results for the 2010/11 CIPFA Benchmarking Club, show that the treasury management team achieved interest rate performance in the top 20% of participating Authorities for borrowing and the top 40% for investments.

The Economy and Interest Rates 2010/11

2010/11 proved to be another watershed year for financial markets. Rather than a focus on individual institutions, market fears moved to sovereign debt issues, particularly in the peripheral Euro zone countries. Local authorities were also presented with changed circumstances following the unexpected change of policy on Public Works Loan Board (PWLB) lending arrangements in October 2010. This resulted in an increase in new borrowing rates of 0.75 – 0.85%, without an associated increase in early redemption rates. This made new borrowing more expensive and repayment relatively less attractive.

UK growth proved mixed over the year. The first half of the year saw the economy outperform expectations, although the economy slipped into negative territory in the final quarter of 2010 due to inclement weather conditions. The year finished with prospects for the UK economy being decidedly downbeat over the short to medium term while the Japanese disasters in March, and the Arab Spring, especially the crisis in Libya, caused an increase in world oil prices, which all combined to dampen international economic growth prospects.

The change in the UK political background was a major factor behind weaker domestic growth expectations. The new coalition Government struck an aggressive fiscal policy stance, evidenced through heavy spending cuts announced in the October Comprehensive Spending Review, and the lack of any “giveaway” in the March 2011 Budget. Although the main aim was to reduce the national debt burden to a sustainable level, the measures are also expected to act as a significant drag on growth.

Gilt yields fell for much of the first half of the year as financial markets drew considerable reassurance from the Government’s debt reduction plans, especially in the light of Euro zone sovereign debt concerns. Expectations of further quantitative easing also helped to push yields to historic lows. However, this positive performance was mostly reversed in the closing months of 2010 as sentiment changed due to sharply rising inflation pressures. These were also expected (during February / March 2011) to cause the Monetary Policy Committee to start raising Bank Rate earlier than previously expected.

The developing Euro zone peripheral sovereign debt crisis caused considerable concerns in financial markets. First Greece (May), then Ireland (December), were forced to accept assistance from a combined EU / IMF rescue package. Subsequently, fears steadily grew about Portugal, although it managed to put off accepting assistance till after the year end. These worries caused international investors to seek safe havens in investing in non-Euro zone government bonds.

Deposit rates picked up modestly in the second half of the year as rising inflationary concerns, and strong first half growth, fed through to prospects of an earlier start to increases in Bank Rate. However, in March 2011, slowing actual growth, together with weak growth prospects, saw consensus expectations of the first UK rate rise move back from May to August 2011 despite high inflation. However, the disparity of expectations on domestic economic growth and inflation encouraged a wide range of views on the timing of the start of increases in Bank Rate in a band from May 2011 through to early 2013. This sharp disparity was also seen in MPC voting which, by year-end, had three members voting for a rise while others preferred to continue maintaining rates at ultra low levels.

Risk premiums were also a constant factor in raising money market deposit rates beyond 3 months. Although market sentiment has improved, continued Euro zone concerns, and the significant funding issues still faced by many financial institutions, mean that investors remain cautious of longer-term commitment. The European Commission did try to address market concerns through a stress test of major financial institutions in July 2010. Although only a small minority of banks “failed” the test, investors were highly sceptical as to the robustness of the tests, as they also are over further tests now taking place with results due in mid-2011.

Chart 1: Bank Rate v LIBID investment rates

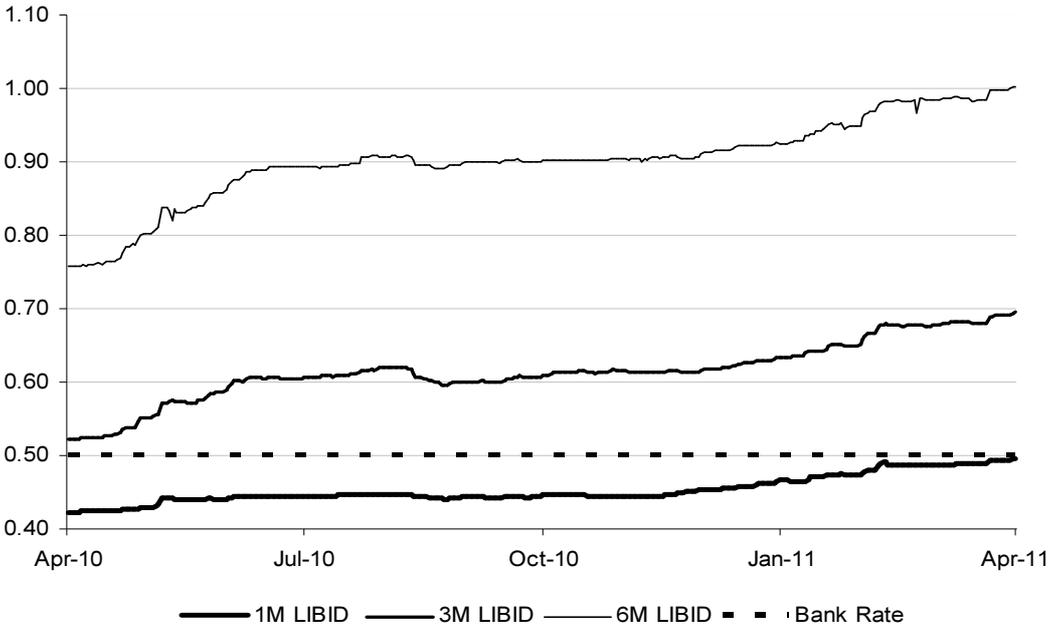
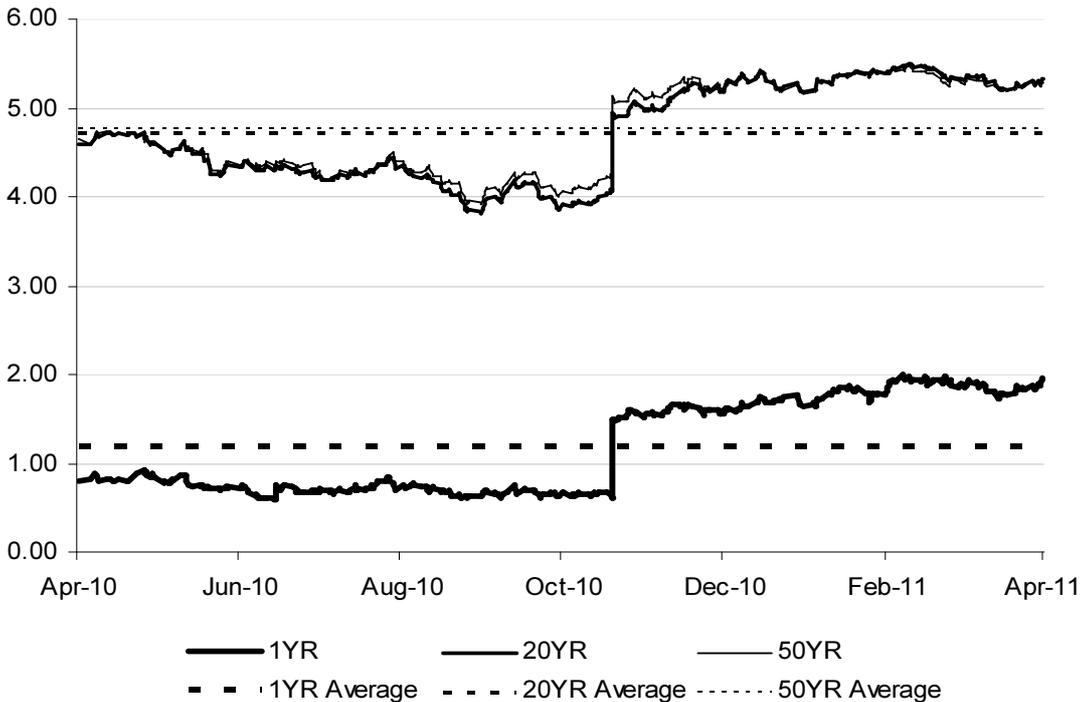
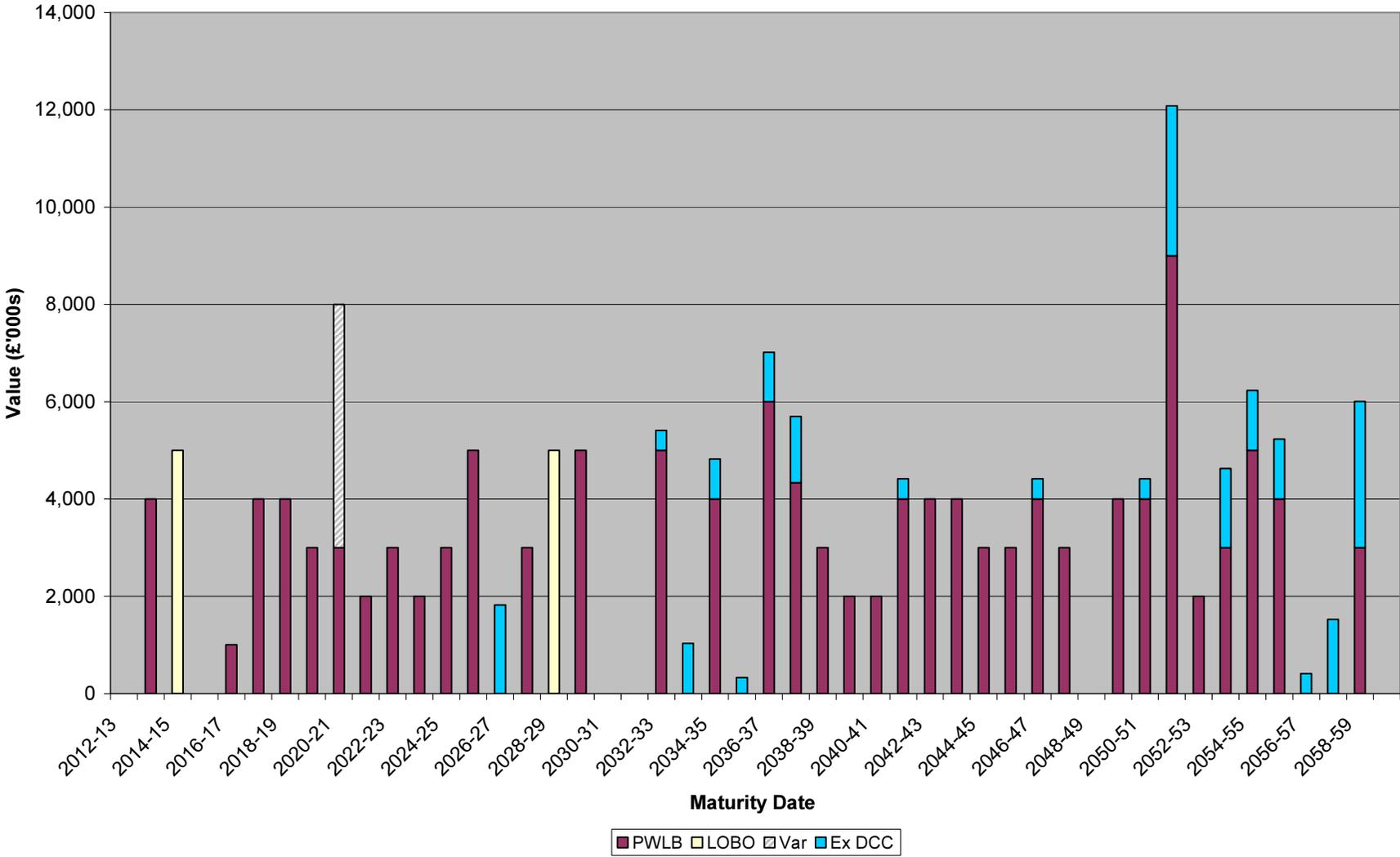


Chart 2: Average v new borrowing rates



Annex 2 Borrowing Maturity Profile



Counterparties with which funds were deposited (April 2010 – March 2011)

Banks and Building Societies

Bank of Scotland
Barclays Bank
Dexia Bank Belgium
Lloyds TSB
National Australia Bank
Nationwide Building Society
Oversea Chinese Banking Corporation (Singapore)
Royal Bank of Scotland/National Westminster
Santander
United Overseas Bank (Singapore)

Local Authorities and Government Agencies

City of Newcastle Upon Tyne
Corby District Council
Ipswich Borough Council
Lancashire County Council
London Borough of Bromley
Sandwell Metropolitan Borough Council
Salford City Council
Debt Management Agency Deposit Facility

Other Approved Institutions

Royal Bank of Scotland Money Market Fund
Scottish Widows Investment Partnership

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Title: **Review of Guidance on Principal Holiday Accommodation Areas**

Public Agenda Item: **Yes**

Wards Affected: **All Wards, principally Wellswood, St Marychurch, Tormohun, Cockington with Chelston, Roundham with Hyde, Preston**

To: **Council** On: **13 July 2011**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **Yes**

Contact Officer: **Les Crump**
Telephone: **(01803) 208814**
E.mail: **les.crump@torbay.gov.uk**

1. What we are trying to achieve and the impact on our customers

- 1.1 To ensure that planning policies on the protection of holiday accommodation are appropriate, and to balance a flexible approach to loss of accommodation with the need to ensure that Torbay has a sustainable base of high quality accommodation.
- 1.2 Revised Guidance on the Interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation Outside PHAAs) was approved by Council on 25 March 2010. This report reviews the experience of operating the Revised Guidance and sets out options for Members about how to interpret planning policy in PHAAs.

2. Recommendation(s) for decision

- 2.1 That the "Revised Guidance on the Interpretation of Policy TU6 (Principal Holiday Accommodation Areas)" (March 2010) be withdrawn pending review as part of the emerging Local Development Framework (LDF) Core Strategy.
- 2.2 That pending the evolution of revised policy as part of the LDF Core Strategy, that the Council relies on Policy TU6 of the Saved Adopted Torbay Local Plan for the determination of applications in PHAAs.

3. Key points and reasons for recommendations

- 3.1 Principal Holiday Accommodation Areas (PHAAs) are defined by Policy TU6 of the Saved Adopted Torbay Local Plan 1995-2011. This is in accordance with Policy TO1 of the Saved Devon Structure Plan, which indicates that resort

authorities should identify areas in which tourism uses will be protected. Policy TU6 of the Local Plan sets out criteria for considering planning applications within PHAAs.

- 3.2 It is important to note that Policy TU6 of the Local Plan does not prohibit all changes of use within PHAAs. The first part of the policy sets out that development will not be permitted if it is to the detriment of the character and function of PHAAs. The second part of the policy sets out conditions where change of use of holiday accommodation may be permitted. Broadly these conditions are:
- The existing holiday facilities are not fit for purpose and do not offer scope or potential for improvement.
 - Existing bedspace or numbers of holiday apartments in the application site are small.
 - The holiday character will not be adversely affected and an unacceptable precedent in relation to the other properties role will not be set.
 - The new use and development is compatible with the rest of the PHAA.
- 3.3 A Briefing Note was prepared for the (then) Development Control Committee in November 2007 which provides further guidance on the implementation of Policy TU6. This note is appended at Appendix 1 of this report. The full wording of Policy TU6 is reproduced at Appendix 2 (Para 2.20, page 21 of the appendices).

Tourism Strategy and Review of PHAAs

- 3.4 A number of recent documents point to the need to modernise and revise Torbay's holiday accommodation. In particular the **Torbay Tourism Strategy "Turning the Tide for Tourism in Torbay"** was approved by Council in September 2009 and recommended, among other things, a reduction of at least 3,500 bed spaces in small 4-10 bedroom hotels, and a focus on improving quality.
- 3.5 PHAA boundaries were reviewed in March 2010, with a view to implementing the Tourism Strategy. This resulted in a Revised Guidance document which set out a traffic light based approach whereby PHAAs were colour coded into 3 areas:
- **Red "Core"** areas which are in key seafront locations. All holiday accommodation should remain protected for hotel/ tourism/ leisure use, unless shown to be not viable. (In addition key hotels such as the Imperial and Palace Hotel outside PHAAs are protected by Policy TU7 of the Torbay Local Plan).
 - **Amber areas:** where larger hotels and the best medium sized ones should be retained.
 - **Green Areas:** Where only 50+ bed hotels will be protected as holiday accommodation.

These maps are reproduced from page 34 of Appendix 2.

- 3.6 The Revised Guidance also sought to allow flexibility over the occupation of holiday apartments (including permanent occupation) to help drive up the standard of accommodation and allow poorly located premises to revert to residential use. The report presented to Council in March 2010 is attached at appendix 2

- 3.7 The Revised Guidance (and traffic light system) was approved by Council in March 2010, following targeted consultation with the tourism industry in Winter 2009/10. It amounted to a much more flexible approach to about 80% of the Bay's PHAAs. The Revised Guidance does not supersede the Torbay Local Plan, but sets out advice on the interpretation of the Policy tests set out in Policies TU6 (PHAAs) and TU7 (accommodation outside PHAAs).
- 3.8 Since the Revised Guidance document was approved there have been a number of concerns about its implementation. These include:
- A number of applications have been submitted in "Green" areas, where Members have taken the view that the tests in Policy TU6 can not be met, and have accordingly refused the application in accordance with the development plan.
 - Worries that the Revised Guidance could go too far in cutting accommodation and result in harm to the essential accommodation base in the resort. There were 38 new dwellings completed from holiday accommodation in PHAAs in 2010/11 and around 22 additional units granted permission. This compared to 5 completions in 2009/10 and 16 in 2008/9. However these figures do not include current applications and refusals submitted in key locations such as Roundham and Preston Seafront.
 - Potential lack of clarity of the revised Guidance's status, with regard to how much weight it should be accorded when deciding planning applications, given that it is only informal policy delivered outside of the Development Plan, with limited consultation in its preparation.
 - Legal advice has indicated that Policy TU6 of the Saved Torbay Local Plan and TO1 of the Saved Devon Structure Plan remain the relevant development plan policies. Section 38 of the Planning and Compulsory Purchase Act 2004 indicates that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore the tests in Policy TU6 (a) - (d) should be a starting point when determining applications for proposals affecting PHAAs.
 - The revised Guidance seeks to resist houses in multiple occupation (HMOs) and other uses that are potentially incompatible with tourism areas. However, there are concerns that the remaining policy framework would be inadequate to protect holiday areas from potential "bad neighbour" developments where PHAA policy is relaxed. This is compounded by changes to the Town and Country Planning Use Classes Order that were introduced in 2010. These made the conversion from Class C3 (dwellinghouse) to a small HMO "permitted development". This removed an important control over the use of premises in PHAAs that could not have been anticipated when the Revised Guidance was approved.
- 3.9 In the light of concerns outlined at paragraph 3.6 above it is recommended that the March 2010 Guidance should be withdrawn until a formal review of policy is agreed by Council as part of the LDF process. In the interim, the Saved Torbay Local Plan should be used as the basis for determining proposals. Because the March 2010 "Revised Guidance" was approved by Council, it will be necessary for the matter to reported to Council to withdraw it.

3.10 The emerging Local Development Framework Core Strategy will set out revised policies on tourism accommodation. The LDF process will be subject to public consultation and independent examination and will, when adopted, replace the Local Plan. If amended PHAA/ Core Tourism Area boundaries are consulted upon as part of the Core Strategy, they will carry weight as development plan policy. However, draft revised proposals can be brought forward quickly as part of the Core Strategy consultation process.

For more detailed information on this proposal please refer to the supporting information attached.

**Les Crump
Executive Head of Spatial Planning**

Supporting information

A1. Introduction and history

- A1.1 Torbay Council has had Principal Holiday Accommodation Areas since the late 1980s. They have been reviewed and “trimmed” a number of times, including a 20% cut in 2000 as part of the preparation of the Local Plan. A much more far-reaching review took place in 2009/10 in response to the Torbay Tourism Strategy “Turning the Tide For Tourism in Torbay”. This review introduced a “traffic light” approach to PHAAs seeking to allow a more relaxed approach to accommodation in about 80% of PHAAs: i.e. all but the most vital “core” tourism areas.
- A1.2 This review was in response to the Tourism Strategy’s recommendation that there is a significant over-supply of small hotels and a need for higher end of the market accommodation. It was approved by Council on 24 March 2010 following consultation with the holiday industry.
- A1.3 As noted in the main report, concerns have been expressed that the Revised Guidance may go too far in designating “green” areas where change of use of holiday accommodation is deemed acceptable. There have also been concerns about the status of the guidance and the council’s ability to control houses in multiple occupation (HMOs) and other possible “bad neighbour” developments in PHAAs.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

- A2.1.1 Reverting to the Local Plan (without additional guidance) may result in complaints that planning applications have been considered inconsistently. However the Local Plan has been the legal basis for decision making since 2004 and therefore the formal development plan policy has not changed. It may however be argued that the age of the policy (2004) means that it does not take modern circumstances into account.
- A2.1.2 The council’s planning policy and development management functions need to have regard to the evidence base. The Tourism Strategy indicates that there is an oversupply of small hotels and a need for larger “up market” accommodation. Government policy on planning, including planning for Tourism calls for a lighter touch control. It is therefore important that Policy TU6 is treated as a flexible, criteria based policy and not as a blanket ban on changes of use in PHAAs. It is considered that this flexibility exists within the wording of Policy TU6, as set out in the Briefing Note on PHAAs prepared in November 2007 (reproduced at Appendix1).
- A2.1.3 It is essential that momentum is maintained on preparation of the LDF Core Strategy. Reliance on non-statutory interim plans could leave the Council vulnerable to planning by appeal. It is therefore recommended that preparation of a revised approach to PHAAs be carried out as part of the Core Strategy. This will give it greater weight in determining planning proposals.

A3. Other Options

A3.1.1 Several other options are possible, including:

A3.1.2 Retain the existing planning policy framework (i.e. Policy TU6 and the 2010 Revised Guidance). Legal advice is that the Local Plan has primacy. The Revised Guidance (and “traffic light system”) has less weight than the Local Plan and therefore can be interpreted flexibly. However, this may lead to confusion over the status accorded to areas, and would not overcome the concerns noted in the main report.

A3.1.3 Amend the “Revised Guidance” document outside of the LDF process.

There are work stream issues here and an informal revision would lack the strength of formally adopted LDF policy and be open to challenge at appeal. Furthermore, Policy TU6 allows the flexibility the council needs in responding to applications.

A4. Summary of resource implications

A4.1 Preparing a revised guidance note can be carried out relatively speedily. However, consultation etc is likely to be time consuming. As noted above, preparing a new Revised Guidance document in conjunction with Core Strategy preparation will make best use of resources and mean that the final document carries more weight.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 Allowing flexibility over change of use of holiday accommodation will provide a source of housing on brownfield sites, and could provide opportunities for affordable housing.

A5.2. The provision of housing would need to be balanced against the economic impact of proposals upon Torbay’s tourism economy.

A5.3 There is concern that houses in multiple occupation in key tourism areas would harm the character of the resort, whilst providing an unsatisfactory standard of accommodation.

A6. Consultation and Customer Focus

A6.1 Developing revised PHAA boundaries in the context of the Core Strategy will allow a full range of consultation to take place.

A7. Are there any implications for other Business Units?

A7.1 It is important that any review takes into account the views of the English Riviera Tourism Company.

Appendices

Appendix 1 Briefing Note to Development Control Committee. November 2007.

Appendix 2 Report to Council 24 March 2010, and Revised Guidance on the Interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation Elsewhere) of the Adopted Torbay Local Plan.

Documents available in members' rooms

Background Papers:

The following documents/files were used to compile this report:

Saved Adopted Torbay Local Plan 1995-2011

Saved Devon Structure Plan 2001-2016

Revised Guidance on the Interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation Elsewhere) of the Adopted Torbay Local Plan.

Briefing Note to Development Control Committee November 2007.

Note

1. **Subject** Principal Holiday Accommodation Areas and retention of existing holiday accommodation and important tourism facilities.
2. **Background** The Mayor and leading Members of the Cabinet have recently sought clarification from me of the Council's current policy in this regard. They have expressed concern that this is too restrictive and is forcing many owners to operate unviable businesses. As a result, fringe residential use such as winter residential lets, hostels and HIMO's sometimes creep into such areas which are difficult to enforce against and have potential for generating anti-social behaviour coupled with low standards of maintenance. In this way the overall quality and ambience of PHAA's can be brought down making it all the more difficult for otherwise viable and healthy holiday businesses to continue.
3. **Purpose** The purpose of this note is to make Members of the Development Control Committee in making decisions and officers in consideration of delegated decisions and recommendations aware of the Mayor's views. It also seeks to clarify the current policy and how it should be interpreted.
4. **Current Policies** Policy TU6 (Principal Holiday Accommodation Areas) of the adopted Torbay Local Plan 1995-2011 relates. This is set out in full at Appendix A attached.

The principle of protecting key areas of holiday accommodation was pioneered by Torbay over 25 years ago and has been followed subsequently by most major resorts. Those seaside towns that failed to take this type of policy approach have generally witnessed a greater decline in the quality and range of holiday accommodation available and the overall holiday atmosphere in prime areas. It is important that the existing policy framework is reinforced by a proactive enforcement regime in order to minimise the creep of uses referred to in Section 2 above (Background).
5. **Interpretation** Importantly this policy is written in two parts. The first is written restrictively i.e. it identifies the types of new development, which will not be permitted because of their likely adverse effect on the character and function of a PHAA. The second part relates to circumstances wherein loss of holiday accommodation or important tourism-related facilities may be permitted providing certain criteria apply. Importantly this policy should not therefore be interpreted as a blanket restriction in PHAA's either of new non-holiday uses, including new buildings and extensions; or change of use or demolition of any existing holiday accommodation.

In interpretation of the first part of the policy, decision-makers must make a judgement about what is and what is not a development, which would be 'to the detriment of the character and function of the PHAA'. For example, a tourism / leisure related use or a quality new block of apartments or offices might enhance the overall architectural quality of the area and should be approved, whereas a car breakers yard would almost certainly not and would be refused.

In relation to the second part of the policy i.e. when the loss of existing holiday accommodation and important tourism-related facilities may be permitted all four of the criteria set out below must apply:- (I have sought to simplify the wording).

- the existing holiday facilities are not fit for purpose and do not offer scope or potential for improvement.
- existing bedspace or numbers of holiday apartments in the application site are small.
- the holiday character will not be adversely affected and an unacceptable precedent in relation to the other properties role will not be set.
- the new use and development is compatible with the rest of the PHAA.

Paragraphs 5.59 to 5.63 of the explanation assist in interpretation of the policy. Apart from what is said in the policy itself, the latter part of 5.60 clarifies that the location of the affected building in the PHAA will be taken into account e.g. if it is part of an important group of holiday premises and will therefore be a 'missing tooth' or if it is a landmark location. If so it is less likely to be approved. The explanation goes on to guard against deliberate under-investment and low maintenance being a way round the policy.

- 6. Recommendations and decisions** It is important when officers and Members take decisions in such matters that the policy as described above is carefully taken into account and weighed up. If officers are minded to refuse under delegated powers or recommend refusal to Members, it should be standard practice to first obtain the views of the Director of Tourism (D of T) at the TDA. Full information about the existing use, its facilities, condition etc should first be obtained to enable the D of T to comment:

Clear evidence of how the policy has been weighed up in reaching the decision to refuse will be required in officer reports which should normally be presented to Committee.

- 7. The Next Steps** The D of T has informally expressed the view that generally we have too much sub-standard accommodation and we must manage a reduction in quantity and an improvement in quality in accommodation standards.

Policy TU6 will need to be carefully reassessed as part of the

emerging Local Development Framework. However, this work will take some time as it will need to take its course through the LDF work programme. The Council's annual PHAA Monitor is carried out in August each year to analyse and record any changes taking place in these Areas. The data obtained from this Monitor will be fed into the next review of PHAAs, which will take place in the new year as part of the emerging Core Strategy.

In the meantime, Policy TU6 is a 'saved policy' following the Government's assessment of the Torbay Local Plan in Spring 2007. This policy therefore remains fit for purpose and has a legal status that makes it difficult to change. It is considered, therefore, that providing care is taken to interpret the existing policy as indicated in this note, Policy TU6 can be relied upon until the LDF revisits the issue.

Additional resource has also recently been put into enforcement and some priority will be given to PHAAs in consideration of unauthorised use and untidy buildings and land.

Report to Council, March 2010

Report No: _____ Public Agenda Item: **Yes**

Title: **Revised Guidance on Principal Holiday accommodation Areas in response to the Adopted Torbay Tourism Strategy**

Wards Affected: **All Wards, principally Wellswood, St Marychurch, Tormohun, Cockington with Chelston, Roundham with Hyde, Preston**

To: **Council** On: 24 March
10

Contact Officer: **David Pickhaver**
 Telephone: **8814**
 e.mail: **David.pickhaver@torbay.gov.uk**

1. Introduction

- 1.1 This report proposes that revised guidance on the interpretation of Principal Holiday Accommodation Areas (PHAAs) be adopted as interim Council Policy guidance.
- 1.2 Consultation on the proposed Revised Guidance on PHAAs took place between 25th January and 19th February 2010. There were 33 responses, of which 22 supported relaxing controls on PHAAs. There were 2 objections to the zoning in the proposed revised Guidance, and several comments/concerns about houses in multiple occupation. Several amendments have been suggested as a result of the consultations, which are set out in Section 3 below.
- 1.3 The Revised Guidance on PHAAs has been prepared to ensure that planning policies are in alignment with the Adopted Torbay Tourism Strategy "Turning the Tide for Tourism". The revised guidance introduces a more relaxed approach to the conversion of small and medium sized hotels in about 80% of PHAAs, and a less restrictive approach to the occupation of holiday apartments.
- 1.4 The Concept of Core Tourism Development Areas will be developed further in the emerging Local Development Framework Core Strategy, which will be published for consultation in autumn 2010.

2. Recommendations for decision

- 2.1 That the Revised Guidance on PHAAs be adopted by the Council as interim planning policy guidance.
- 2.2 That the Revised Guidance be incorporated as part of the emerging Core Strategy, subject to further review and development.

3. What we are trying to achieve and the impact on our customers

- 3.1. The Revised Guidance on PHAAs is intended to achieve a modernisation and rejuvenation of Torbay's holiday accommodation, in line with the recommendations of the Adopted Tourism Strategy. It will allow more flexibility in the occupation of accommodation and help to provide additional homes.

4. Key points and reasons for recommendations

- 4.1 Principal Holiday Accommodation Areas (PHAAs) are defined by Policy TU6 of the Saved Adopted Torbay Local Plan 1995-2011. This sets out criteria for considering planning applications within PHAAs. A number of recent documents point to the need to modernise and revise Torbay's holiday accommodation. In particular the Torbay Tourism Strategy was approved by Council in September 2009 and recommends among other things a reduction of at least 3,500 bedspaces in small 4-10 bedroom hotels and a focus on improving quality. It also recommended action to prevent the proliferation of houses in multiple occupation (HMOs).

- 4.2 The proposed Revised Guidance is intended to amend the planning framework to implement aspects of the Adopted Tourism Strategy that relate to holiday accommodation. The proposed Guidance recommends:

- Principal Holiday Accommodation Areas (PHAAs, as defined in Policy TU6 of the Adopted Torbay Local Plan) be colour coded into 3 areas:
 - Red "Core" areas which are in key seafront locations. All holiday accommodation should remain protected for hotel/ tourism/ leisure use, unless shown to be not viable. (In addition key hotels such as the Imperial and Palace Hotel outside PHAAs are protected by Policy TU7 of the Torbay Local Plan).
 - Amber areas: where larger hotels and the best medium sized ones should be retained.
 - Green Areas: Where only 50+ bed hotels will be protected as holiday accommodation.
- This amounts to a much more flexible interpretation of Torbay Local Plan Policy TU6 in about 80% of PHAAs (measured by amount of holiday accommodation).
- A more flexible approach to holiday apartments to allow full time or second home occupation (rather than tied solely to holiday use)
- Guidance on testing the viability of accommodation, and standards for conversion/ redevelopment to improve the appearance of areas.
- Proactive enforcement against activities and uses that detract from the character of tourist areas, particularly unauthorised houses in multiple occupation (HMOs).

- 4.3 The Proposed Revised Guidance was the subject of public consultation and a more targeted consultation with the tourism industry between 22 January and 19 February 2010. There were 33 responses from the consultation, which largely came from people involved with the tourism industry. There were 22 comments in support of relaxing controls on PHAAs, many of which pointed to problems with the viability of hotels and supported the case to allow a managed reduction in supply. There were two area specific objections and a number of suggested minor

amendments.

- 4.4 The main issue of concern was about the spread of Houses in Multiple Occupation and the harm that these can cause to maintenance and the character of areas. There were 8 comments about this. The proposed Revised Guidance is clear that HMOs will not be approved within PHAAs, and the Guidance was strengthened to emphasise that HMOs will not be permitted in PHAAs and that a Section 106 contribution will be sought for monitoring and enforcement.
- 4.5 The Local Development Framework Working Party of 5 March 2010 considered the representations received and agreed the Revised Guidance, with amendments, for recommendation to Cabinet and Council for approval as interim policy guidance.

For more detailed information on this proposal please refer to the supporting information attached.

Supporting information to Report

A1. Introduction and history

A1.1 The Revised Guidance provides planning policy advice on the change of use or redevelopment of hotels, guest houses and holiday apartments to residential dwellings. It follows the recommendation of the **Adopted Torbay Tourism Strategy** to change the tourism product to maintain and reinvigorate Torbay as a major resort. It seeks to achieve this through a reduction in small and marginally located accommodation, particularly where it is not capable of being upgraded; whilst promoting and focussing on the best areas as Core Tourism Development Areas. In particular the guidance expands on Adopted Torbay Local Plan Policies TU6 'Change of use or redevelopment of holiday accommodation within Principal Holiday Accommodation Areas' and TU7 'Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas'.

A1.2 The document provides guidance and advice on the implementation of existing Local Plan Policy. In the medium term (by 2012) fully revised policies will be introduced through the Local Development Framework Core Strategy. In line with the Adopted Torbay Tourism Strategy, the Core Strategy will consider revising Principal Holiday Accommodations Areas to become Core Tourism Development Areas (CTDAs). These will have a wider remit for attracting regeneration investment and also cover some Mayor's Vision sites where appropriate.

A1.3 Since the mid 1980s, Torbay Council has protected significant areas of hotels and guest houses, particularly through Principal Holiday Accommodation Areas (PHAAs). However the Torbay Tourism Strategy (adopted September 2009) indicated that changes within the tourism industry have resulted in a need to re-align policy. In summary the Revised Guidance seeks to meet the Tourism Strategy's recommendations through the following measures:

- Allowing a reduction in the quantity of small and poorly located hotels, guest houses and holiday apartments particularly those which are not capable of being upgraded. This will be achieved through a more flexible interpretation of Policies TU6 in about 80% of PHAAs.
- Protection of the most important parts of PHAAs (about 20% of the area by number of hotels), as a means to encourage regeneration, and as a location for new, purpose built accommodation.
- A more flexible approach to holiday apartments outside of the Red "Core" Areas to allow full time or second home use.
- Guidance on the testing of viability of holiday accommodation, in line with the adopted Planning Contributions and Affordable Housing Supplementary Planning Guidance.
- Guidance on the conversion of holiday accommodation to self-contained family houses or reasonably sized apartments. Change of use to houses in multiple occupation will not be permitted, in accordance with Policy H7 of the Saved Adopted Torbay Local Plan.

- Proactive development management in dealing with planning applications to secure improvements to the built environment, such as the removal of unsightly features such as box dormers, porches etc.
- Proactive enforcement against activities and uses that detract from the character of tourist areas, particularly HMOs.

A1.4 The Proposed Revised Guidance on Principal Holiday Accommodation Areas has been prepared to provide interim planning policy advice on PHAAs. The emerging guidance was considered by the LDF Working Party on 5 March 2010, following consultation with the public and tourism industry in January - February 2010. The proposed Revised Guidance has been amended in line with consultation comments, as set out in the main report.

Supporting information to Report

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 Two principal risks were highlighted in the preparation of the Tourism Strategy and internal consultation on the report. Firstly that hotels would become houses in multiple occupation (HMOs) and secondly that the review takes too much accommodation out of (protected) holiday use which could undermine the “critical mass” of accommodation necessary for a premier resort.

A2.2 The Revised Guidance indicates that permission will not be granted to houses in multiple occupation or other uses that would harm the holiday character of the area. Proactive enforcement will need to be pursued against unsuitable uses. The emphasis on enforcement of HMOs has been increased in response to consultation comments. The use of S106 contributions to monitor and enforce against HMOs is recommended. In addition, the purchase of properties for registered social landlord managed affordable housing could help meet the area’s pressing housing need whilst ensuring proper management of premises within PHAAs.

A2.3 With regard to concerns about undermining the critical mass of accommodation, the Revised Guidance follows closely the recommendations of the Adopted Tourism Strategy, which has been the subject of consultation with the tourism industry. Other evidence such as the Torbay Economic Development Strategy and Employment Land Review has identified a need to modernise and rationalise the stock of accommodation in Torbay. There was a high level of support for reducing the extent of PHAAs in the consultation comments received.

A2.4 Some PHAAs, particularly in Paignton east of the railway line are within Environment Agency Zone 3 flood risk areas. The forthcoming Stage 2 Strategic Floodrisk Assessment will provide more detailed advice on the approach that the Council should take to development in these areas. Both hotels and dwelling houses are within the same classification of “more vulnerable” uses. Basement flats are within a “highly vulnerable” category and should not be permitted in Zone 3 flood risk areas (see PPS25, table D3, p27). The Guidance has been amended to refer to this risk, and promotes resilience measures.

A3. Other Options

A3.1 The alternatives would be to retain the existing interpretation of the Saved Adopted Torbay Local Plan, until a revised framework is in place in an adopted LDF Core Strategy. This is unlikely to be until 2012 and interim policy guidance is considered to be necessary to bring development management in line with the recommendations of the Adopted Tourism Strategy.

A4. Summary of resource implications

A4.1 The revised guidance on PHAAs is likely to result in an increase in the number of planning applications, which in turn will impact on the workload of development management staff. The main impact will be in terms of additional enforcement work to ensure that HMO issues are addressed proactively. This needs to be properly resourced. The Revised Guidance seeks to use S106 Contributions for investigation and enforcement of breaches of planning control relating to HMOs.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 The redevelopment of small hotels could result in the loss of jobs. However this is likely to be outweighed by the improvement in overall economic prospects resulting from a modernised tourism sector, and opportunities afforded to hoteliers by a lighter regulatory touch. The proposed revised approach to PHAAs will create opportunities for new housing. The purchase of run-down properties to provide registered social landlord managed housing would have significant social benefits.

A5.2 Anti social behaviour arising from poorly managed houses in multiple occupation was raised as a concern in the Tourism Strategy. Proactive development management and where necessary enforcement will be needed to ensure that hotels are properly converted to self contained dwellings, and not HMOs.

A6. Consultation and Customer Focus

A6.1 The Tourism Strategy has been the subject of consultation with the tourism industry. The proposed revised guidance was agreed by the Torbay Tourism Strategy Project Delivery Team in December 2009 and the Tourism Steering Group on 14 January 2010. It was subject to public consultation between 25 January and 19 February 2010. A letter was sent to all holiday accommodation in PHAAs as part of this consultation.

A6.2 The majority of public consultation responses have supported changes to PHAA guidance. The major concern related to HMOs, which is addressed above. The representations and amendment to the Guidance were considered and agreed by the LDF Working Party on 5 March 2010.

A7. Are there any implications for other Business Units?

A7.1 There could be implications for Housing and the TDA where hotels are converted to affordable housing. It could create opportunities for well managed

affordable housing. The proposal seeks to implement the Tourism Strategy which affects Residents' and Visitors' Services.

Appendix 1. Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan. (As agreed by the LDF Working Party on 5 March 2010).

Documents available in members' rooms

Background Papers:

The following documents/files were used to compile this report:

Adopted Torbay Tourism Strategy 2010-2015 "Turning the Tide for Tourism in Torbay".
Saved Adopted Torbay Local Plan 1995-2011
Good Practice Guide on Planning For Tourism, DCLG 2007.

Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan.

Approved Version

March 2010

Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan.

Contents

- 1) Introduction
- 2) Current Tourism Issues and Policy Framework
- 3) Am I likely to get Planning Permission to change the use of holiday accommodation?
- 4) Guidelines on Conversion of Holiday Accommodation to Residential Use
- 5) Conclusion

Appendix 1: Maps showing traffic light coding of PHAAs: (Separate document).

Appendix 2: Quantitative Implications of Relaxing Controls in PHAAs.

Revised Guidance on the interpretation of Policies TU6 (Principal Holiday Accommodation Areas) and TU7 (Holiday Accommodation elsewhere) of the Adopted Torbay Local Plan.

1. INTRODUCTION

- 1.1 This document provides guidance on the change of use or redevelopment of hotels, guest houses and holiday apartments to residential dwellings. It follows the recommendation of the **Adopted Torbay Tourism Strategy** to change the tourism product to maintain and reinvigorate Torbay as a major resort. It seeks to achieve this through a reduction in small and marginally located accommodation, particularly where it is not capable of being upgraded; whilst promoting and focussing on the best areas as Core Tourism Development Areas. In particular this guidance expands on Adopted Torbay Local Plan Policies TU6 'Change of use or redevelopment of holiday accommodation within Principal Holiday Accommodation Areas' and TU7 'Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas'.
- 1.2 This document provides guidance and advice on the implementation of existing Local Plan Policy. In the medium term (by 2012) fully revised policies will be introduced through the Local Development Framework Core Strategy. In line with the Adopted Torbay Tourism Strategy, the Core Strategy will consider revising Principal Holiday Accommodations Areas to become Core Tourism Development Areas (CTDAs). These will have a wider remit for attracting regeneration investment and also cover some Mayor's Vision sites where appropriate.
- 1.3 Since the mid 1980s, Torbay Council has protected significant areas of hotels and guest houses, particularly through Principal Holiday Accommodation Areas (PHAAs). However the Torbay Tourism Strategy (adopted September 2009) indicated that changes within the tourism industry have resulted in a need to re-align policy. In summary this document recommends the following:
- Allowing a reduction in the quantity of small and poorly located hotels, guest houses and holiday apartments particularly those which are not capable of being upgraded. This will be achieved through a more flexible interpretation of Policies TU6 in about 80% of PHAAs.
 - Protection of the most important parts of PHAAs (about 20% of the area by number of hotels), as a means to encourage regeneration, and as a location for new, purpose built accommodation.
 - A more flexible approach to holiday apartments outside of the Red "Core" Areas (see below) to allow full time or second home occupation
 - Guidance on the testing of viability of holiday accommodation, in line with the adopted Planning Contributions and Affordable Housing Supplementary Planning Guidance.
 - Guidance on the conversion of holiday accommodation to self-contained family houses or reasonably sized apartments. Change of use to houses in multiple occupation will not be permitted, in accordance with Policy H7 of the Saved Adopted Torbay Local Plan.

- Proactive development management in dealing with planning applications to secure improvements to the built environment, such as the removal of unsightly features such as box dormers, porches etc.
 - Proactive enforcement against activities and uses that detract from the character of tourist areas.
- 1.4 This document was approved as interim planning guidance by full Council on 25 March 2010.

2.0 TOURISM ISSUES, STRATEGY AND POLICY

Tourism Issues

- 2.1 There is a general recognition that Victorian seaside towns need to regenerate and revitalise themselves. The concept of the “Resort Cycle” where resorts go through a cycle of growth, mass tourism and decline as they become jaded is well known. In Torbay, visitor numbers and spending peaked in 1977 at 12.8 million tourist nights. There has been a worrying and dramatic fall from 8.4 million tourist nights in 2004 to 7.9 in 2007.
- 2.2 There are many contributory factors that are beyond Torbay’s control, such as the weather and the wider economy. However, there is a growing concern about the lack of investment in tourist areas, over supply of sub standard accommodation and a need for regeneration

National and Regional Policy Framework

- 2.3 The **Draft Planning Policy Statement 4 On Economic Prosperity (2009)** includes tourism as a form of economic activity. It recognises the role of planning authorities to act as place shapers in areas facing economic restructuring such as coastal towns, although single use areas are discouraged
- 2.4 **Good Practice Guide on Planning For Tourism (DCLG 2007)**. This sets out practice guidance for planning for tourism to which local planning authorities are required to have regard. Planning should provide well designed, safe developments. Development plans should maximise the benefits of tourism whilst minimising any adverse impacts. Incredibly, the Good Practice Guide contains no specific guidance on seaside resorts, but does contain guidance on holiday accommodation (Annexes A and B). Holiday accommodation should be located in town centres or where it serves particular locations, such as outdoor recreation (Paragraph A4). Accommodation should fit in with its surroundings in terms of siting, scale, residential amenity, noise, traffic etc. The Spatial Planning system emphasises the role of evidence based policy and this is a test of soundness of plans in PPS12. The Good Practice Guide sets out several methods to measure tourism impact (Annex C).
- 2.5 **Regional Planning Guidance Note 10 (2001) Policy TCS1** indicates that local authorities and other agencies should improve the quality and range of attractions and accommodation within the regions, especially where this supports regeneration in resorts.
- 2.6 The **Draft Revised Regional Spatial Strategy (RSS) for the south West,**

incorporating the Secretary of State's Proposed Changes was published for consultation in 2008. The final Regional Spatial Strategy will not be issued until at least 2010, and may be superseded by political events. Policy **TO1** requires planning authorities to have regard to the development of sustainable tourism by improving the quality and diversity of existing facilities and accommodation throughout the region, particularly where this would increase out of season visitor numbers. **Policy TO2 Safeguarding and Investing in Tourism Destinations** indicates that: *"The role of existing resorts should be maintained and enhanced, especially the major resorts of Bournemouth, Poole, Torbay, Weymouth, Weston-super-Mare and Newquay, by safeguarding existing high quality accommodation and facilities, developing new facilities where appropriate and be of an appropriate scale and supporting the specialisation of resorts into particular markets suited to their location"*. **Policy TO3** indicates that new tourism attractions should be built close to strategically significant towns or cities (SSCT). Torbay is identified as an SSCT.

- 2.7 **The Saved Adopted Devon Structure Plan 2001 – 2016** will remain part of the development plan until the RSS is issued. **Policy TO1 "Tourism Development in Resorts"** states that: *"Within coastal resorts, Local Plans should consider the need for additional tourist accommodation and tourism facilities on a scale compatible with existing development which would not adversely impact on the environment. In these resorts, Local Plans should also identify the main tourist areas within which proposals that would detract from their tourist function and character would not be permitted"*.
- 2.8 The **Community Plan Turning the Tide for Torbay 2007** makes improving Torbay's Economic prosperity a key theme. One of the plan's ambitions is to compete on the world stage in tourism. Under the 'new economy' theme, the plan seeks to achieve growth in tourism.
- 2.9 **The New English Riviera "Mayor's Vision"** sets out in broad terms a regeneration vision for Torbay, which is intended to inform the Local Development Framework. It proposes that Torbay should "put on the style" so that the built and natural environment reflect the quality, glamour and exuberance of the Riviera. It contains an Action Plan that identifies 19 sites with potential for transformational redevelopment. Many of these would have a major impact on Tourism. One of the findings of the Vision is that the current uses, signage etc do not reflect the quality of the architecture or the area's incomparable setting.
- 2.10 **The Torbay Tourism Strategy 'Turning the Tide for Tourism in Torbay 2010 – 2015'** was adopted by the Council in September 2009. It promotes 3 main objectives:
- to arrest the decline in visitor numbers and spend.
 - to increase the value of tourism to the Torbay economy.
 - destination.
- 2.11 The strategy contains detailed recommendations on product development, training and business development, marketing and management. It contains 10 key recommended actions, which include to **Establish Core Tourism Development Areas and revise supplementary planning policy**. This Paper seeks to provide an interim revision to policy. The Core Strategy will provide a more comprehensive set of policies that implement the Torbay Tourism Strategy.

- 2.12 The Tourism Strategy contains a detailed assessment of tourism bednight, spending, occupancy and trends. It also involved detailed consultation with the industry. A number of significant visitor trends are noted between 2001 and 2007:
- overall decline in demand for serviced accommodation
 - overall increase in demand for self catering accommodation
 - consistent and growing demand for holiday park accommodation
 - renewed increase in demand for touring pitches

- 2.13 The Strategy makes detailed recommendations about the need to reduce the supply of poor accommodation, whilst focusing on high quality accommodation and attractions. These are set out below.

Serviced Accommodation (Hotels and Guest Houses)

Current Situation: 18,400 serviced beds are currently recorded as being available, with 70% of this total (12,880 beds) estimated to be in the 4 to 10 bedroom category.

Research confirmed:

- reduction in occupancy to an all time low of 27.5% in the 4 to 10 bedroom category
- growth in occupancy to 74.1% in the 51 to 100 bedroom category

Forecast need

- reduce bed spaces by a minimum of 3500, in the 4 to 10 bedroom category to address over supply
- increase bed spaces by a minimum of 400, in the 51-100 bedroom category to address under supply

Flats and Houses (Self Catering)

7,220 flats and houses were formally recorded as available for holiday accommodation in 2007. (Source: Devon County Council - Tourism Trends in Devon)

Forecast need

- increase number of self catering units by 1155 to a total of 8375

- 2.14 The Tourism Strategy made the following specific recommendations on planning policies on holiday accommodation:

- robust review and reduction of PHAAs
- establishment of new Core Tourism Development Areas
- introduction of viability test to protect best accommodation across Torbay
- encouragement to fill identified product gaps
- encouragement to convert 4-10 accommodation to residential use/quality self catering
- preparation of planning document to mitigate against potential for Houses of Multiple Occupation (HMO) explosion
- release of old 'chalet' holiday park units

- 2.15 Appendix 2 of this Guidance sets out how this guidance meets the Tourism Strategy's forecasted accommodation requirement. Over 80% of serviced

accommodation falls within a Red or Amber Area where a more relaxed planning control could be adopted. Less than 20% of serviced accommodation in PHAAs is within the Green Area. It suggests that about 2000 bedspaces may be reduced within PHAAs (two thirds of the target). About 50% of serviced accommodation in Torbay falls outside of PHAAs and is subject to a more relaxed planning control (policy TU7). On this basis it is considered that the revised guidance makes appropriate provision for the reduction in bedspaces recommended by the Torbay Tourism Strategy.

Towards Torbay's New Economy: Torbay Economic Development Strategy
(TDA 2006).

- 2.16 The Economic Development Strategy highlights Torbay's severe economic problems including low wages and GVA. The economic development strategy looks at the Tourism and Leisure Sector at some length, as set out in Table 1.

Table 1: Torbay Economic Development Strategy: Tourism

	OVERVIEW	KEY ISSUES / CHALLENGES
Tourism & Leisure	<p>Torbay's economy has historically been, and remains, heavily dependent upon the tourism and leisure sector. The size of the tourism industry is notoriously difficult to quantify because of the interrelations with other industries. South West Tourism estimates that tourism expenditure in Torbay totalled £398m in 2003 and employed 13,388 people, supporting 25% of employment in Torbay.</p> <p>Although Torbay has suffered declining visitor numbers and bed nights in recent year, this decline now appears to have stabilised but Torbay's core customer base has an increasingly ageing and less wealthy profile, and this lack of higher expenditure has stifled investment.</p> <p>Despite the maturity of the tourism industry in Torbay, future growth is forecast and there is significant underexploited potential, particularly regarding opportunities in the marine leisure sector.</p> <p>Tourism is also identified as a priority sector in the Regional Economic Strategy (RES).</p>	<ul style="list-style-type: none"> • Some negative visitor perceptions of Torbay being old fashioned, run down, and down market. • The outdated nature and lack of quality of much of the accommodation stock and visitor facilities in Torbay and lack of a branded hotel. • The need to engage the private sector in the development and implementation of tourism strategies. • The ageing and less wealthy profile of visitors. • Lack of new / innovative tourism businesses. • Transport issues – especially traffic congestion, but also poor rail links and perceptions regarding car parking. • Increasing competition from other resorts and destinations both within the UK and overseas.

Source: Torbay Development Agency / GHK Consultants 2006. **Emphasis added.** A need to increase 'value added' to key sectors, especially Tourism is identified.

2.16 A key priority identified by the Torbay Tourism Strategy is: **Redirecting Torbay's Tourism Offer for Greater Value to the Economy:**

"A first priority for the strategy will be to recognise the need for a new direction in Torbay's tourism offer to attract a much broader base and longer season of visitors including those coming for short breaks, business visitors and, particularly to attract those visiting with a specific activity, leisure or other specialist purpose. This will require closer integration in the provision of facilities for, and marketing to, residents as well as tourists. This approach will build on the priorities of the recent 2005-15 Tourism Strategy's intention of "ensuring the tourism product and associated marketing is developed to meet the needs of market segments" but should also be reflected in other leisure, cultural and economic regeneration plans and policies".

Local Planning Policy Framework

2.17 Saved Adopted Torbay Local Plan 1995 – 2011

The Adopted Torbay Local Plan 1995 – 2011 is a saved document until replaced by the Local Development Framework particularly the Core Strategy. As part of the development plan, it has legal weight in determining planning applications.

2.18 Aim 3 of the Adopted Local Plan is to improve economic prosperity. Objectives 4 and 5 relate to tourist accommodation:

4. To provide for the future of the tourism industry, sustaining the essential base of the tourism infrastructure and ensuring adequate protection of existing hotel stock and other forms of holiday accommodation from change to inappropriate uses, especially within the main ‘shop window’ areas.

5. To allow for the loss of holiday accommodation in premises which are no longer viable or practicable for continued holiday use, and which are inappropriately located, and to support appropriate changes of use of such accommodation.

2.19 Policy TUS: Tourism Strategy states:

“Torbay’s tourism industry will be developed in a sustainable and competitive manner having regard to environmental resources, through the retention of existing attractions; the retention of existing tourism accommodation within PHAAs and the most important holiday accommodation outside PHAAs; the investment in new facilities; and by the sensitive development of Torbay’s heritage as a tourism asset”.

2.20 Policy TU6 designates Principal Holiday Accommodation Areas (PHAAs) and sets out criteria for determining proposals for change of use within them:

TU6: Principal Holiday Accommodation Areas

Proposals for new building, extensions, change of use or other developments which are to the detriment of the character and function of the Principal Holiday Accommodation Areas (PHAAs) identified below will not be permitted:-

1	<i>Babbacombe Downs, Torquay</i>
2	<i>Newton Road, Torquay</i>
3	<i>Torre, Torquay</i>
4	<i>Belgrave Road, Torquay</i>
5	<i>Torwood Gardens, Torquay</i>
6	<i>Meadfoot Road, Torquay</i>
7	<i>Meadfoot Sea Road, Torquay</i>
8	<i>Torbay Road Seafront, Torquay</i>
9	<i>Preston Seafront, Paignton</i>
10	<i>Paignton Seafront – North</i>
11	<i>Paignton Seafront – South</i>
12	<i>Roundham Road West, Paignton</i>
13	<i>Roundham Road East, Paignton</i>

The loss of holiday accommodation or important tourism- related facilities may, however, be permitted within PHAAs where the following criteria apply:-

- a. The premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;***
- b. The premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced accommodation) or apartments (if self-catering);***
- c. The loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and***
- d. The proposed new use or development is compatible with the surrounding tourism-related uses and does not harm the holiday character and atmosphere of the PHAA.***

2.21 Policy TU6 does not veto all changes of use to non-holiday accommodation, but rather sets out criteria for considering proposals. Paragraphs 5.53 – 5.63 of the Explanation to the policy (Pages 87-88) sets out the purpose of PHAAs. A briefing note was prepared by the Executive Head of Spatial Planning in November 2007 for Development Control Committee, which set out how the policy should be interpreted. It allowed for a more flexible approach to accommodation in areas of more marginal or limited tourist importance.

2.22 **Policy TU7 “Change of use or redevelopment of holiday accommodation outside Principal Holiday Accommodation Areas”** sets out criteria for considering the loss of serviced accommodation or holiday apartments outside PHAAs. Policy TU7 States that:

The redevelopment or change of use of hotels, guest houses and holiday apartments to non-holiday accommodation will be permitted outside the Principal Holiday Accommodation Areas (PHAAs) where:-

(1) the loss of the holiday accommodation would not undermine the holiday character in the locality, or the range of tourism facilities or accommodation offered by the resort;

(2) the site of the accommodation is of limited significance in terms of its holiday setting, view and relationship to tourism facilities; and

(3) the new use would be compatible with the character and other uses in the area

2.23 Policy TU7 is more permissive than TU6. However, it is important that major hotels outside PHAAs for example the Palace Hotel and Imperial Hotel in Torquay are protected for the future of tourism and it is for this reason that Policy TU7 exists. (The Grand Hotel would be a similar example, but this is within a PHAA).

2.24 **Strategic Housing Land Availability Assessment (SHLAA)**, (Baker Associates, 2008). The conversion of hotels into apartments has been identified as one source of brownfield housing. A reduction of 3500 bedspaces (recommended by the Tourism strategy) would represent about 500 hotels which could create up to 500 family houses or a greater number of apartments. However, the actual number of

dwellings created by a relaxation of PHAAs is likely to be below this total potential yield, since total take up is unlikely.

Review of PHAAs in Torbay

- 2.25 PHAAs were reviewed by the Strategic Planning Group in liaison with the (then) Head of Tourism, in spring 2008, and Summer/Autumn 2009 with the current Tourism Strategy Project Manager. Areas were assessed on a number of factors, such as character, range of facilities, proximity to the seafront and other attractions. A review of policies in other resort authorities was also undertaken. The review provided colour coded “scores” for the resort’s PHAAs and these form the basis for the “zoning” set out below. The review also recommended that a study be undertaken to assess the level of demand/ need for holiday accommodation within Torbay. The Tourism Study outlined above provides such an assessment.
- 2.26 On the basis of the above, PHAAs have been colour coded into 3 “traffic light” areas:
- Red: Strong holiday character or critical location. These form the core of Torbay’s holiday accommodation offer.
 - Amber: Some holiday character or less critical location.
 - Green: Limited holiday accommodation or marginal location.
- This zoning is used to interpret the criteria in Policy TU6, which is set out in the next section.

3. AM I LIKELY TO GET PLANNING PERMISSION TO CHANGE THE USE OF HOLIDAY ACCOMMODATION?

(A) Within Principal Holiday Accommodation Areas

3.1 This section provides advice on the interpretation of policies TU6 and TU7 of the saved Torbay Local Plan based on the findings of the Torbay Tourism Strategy and the 2008 and 2009 review of PHAAs. It sends out a positive message that the most important areas should be the focus for investment as Core Tourism Development Areas. Elsewhere it allows a more flexible approach to accommodation, to allow the residential conversion of small hotels/guesthouses and much reduced restriction on the occupancy of holiday apartments. Within this framework, the conversion to houses in multiple occupation is robustly prohibited, and problematic uses will be proactively enforced against.

3.2 Proposals within Principal Holiday Accommodation Areas are subject to the following criteria:

The loss of holiday accommodation or important tourism- related facilities may, however, be permitted within PHAAs where the following criteria apply:-

a The premises lack an appropriate basic range of facilities and do not offer scope or potential for improvement, thereby failing to meet the reasonable requirements of the tourist;

b The premises have restricted bedspace capacity, having a limited number of bedrooms (if serviced accommodation) or apartments (if self-catering);

c The loss of the premises would not be to the detriment of the holiday character of the particular locality, nor set an unacceptable precedent in relation to the concentration and role of nearby premises; and

d The proposed new use or development is compatible with the surrounding tourism-related uses and does not harm the holiday character and atmosphere of the PHAA.

3.3 In the light of the review of PHAAs noted in Section 2, this guidance divides the Local Plan PHAAs into three areas. Red Areas (marked red on the attached map) are the most important “core” areas in terms of character and closeness to tourism facilities. Amber Areas are of mixed character or slightly less well located to facilities. In these amber areas, a more relaxed interpretation of policy can be applied. Green Areas may contain well run hotels but are more marginally located or contain mainly small hotels/guest houses. Proposals to change the use of holiday accommodation (up to 50 bedrooms) in the green areas would, in principle, meet the tests in Policy TU6. The following considerations will apply to proposals in these areas:

Red “Core” Areas

3.4 These are the core of Torbay’s holiday area and, as such, it is essential that the holiday use and character is maintained and enhanced. They will form the basis of Core Tourism Development Areas in the forthcoming Core Strategy, although these

may be amended and extended, for example to cover Mayors Vision sites or wider regeneration areas. Applications for non holiday use in the Red “Core” Areas will conflict with Policy TU6.3 and have a detrimental impact on the holiday character of the area and will therefore be resisted.

- 3.5 In the Red “Core” Areas, the Council will seek to encourage and retain serviced accommodation. Permission will in principle be granted for other tourism or leisure uses so long as they enhance the role and character of the holiday area. Conversion of serviced accommodation to apartments will only be permitted in the Red “Core” areas where in it has been shown that a hotel or other holiday/leisure use is not viable in principle (see below). Permission will not be granted to relax existing occupancy conditions in red “core” areas unless the use has been shown to be not viable, and an overall improvement to the character or ambience of the holiday area is achieved as a result.
- 3.6 Investment in new or improved tourism accommodation and facilities and complementary uses such as leisure, will be encouraged and promoted, in accordance with Policy TU5 of the Saved Torbay Local Plan and the Torbay Tourism Study.

Viability Test in the Red “Core” Area

- 3.7 Where it is claimed that holiday accommodation in the Red “Core” Area (or significant hotels elsewhere) is not economically viable, the Council will require an assessment, indicating that the building is not viable for holiday use. The level of investment in a property will be a material consideration, and the Council will normally seek 3 years evidence of non-viability. In addition the scope to extend or use for other tourism/leisure purposes will be taken into account. The viability assessment will be assessed by representatives of the Tourism Strategy Management/Torbay Development Agency and advisors on viability issues. Where no agreement can be reached on viability issues, the Council will invite the applicant to submit details (at the applicant’s expense) to an independent viability assessor. A similar process of independent scrutiny of viability for Section 106 contributions purposes currently operates and details are set out in the Adopted Planning Contributions and Affordable Housing Supplementary Planning Document.
- 3.8 Where holiday accommodation in the Red “Core” Area is shown not to be viable for tourism use, the authority will promote solutions such as allowing residential pump-priming on part of the site, or other uses that are compatible with the tourism character of the area. Such uses should be subsidiary to the main tourism use of the site. For example they should be to the rear of the property or away from primary seafront frontages. As a rough rule of thumb, about 25% of premises’ use for residential “pump priming” will be seen as reasonable, so long as this does not undermine the intrinsic viability of the holiday use that remains. Full residential use will only be permitted where there are no viable preferable solutions. In any event, replacement uses must be compatible with the holiday character of PHAAs, and not seek to limit remaining tourism businesses.
- 3.8 Within the Red “Core” Area cross cutting service enforcement of unauthorised uses, amenity, nuisance, graffiti, etc., will be given the highest priority. Houses in multiple occupation (HMO) will be strongly resisted. Any existing HMOs or similar use will be required to demonstrate their lawfulness; for example, through having an

existing planning permission or obtaining a certificate of lawfulness.

- 3.9 The Council undertakes that insofar as practicable, graffiti and disrepair of public buildings will be made good within 7 days hours of it having been reported.

Amber Areas

- 3.10 These areas may retain a fair holiday character and are often well located to beaches, etc. However, it is accepted that they are no longer at the very heart of Torbay's holiday hub, and contribute to the oversupply of small hotels/guest houses. These areas are **not** intended as "Twilight Zones" and remain important for tourism, possibly as "niche" areas. However, a more flexible approach is recommended to allowing change of use of serviced accommodation, and a less restrictive approach to the occupancy of holiday apartments.
- 3.11 **Small Hotels/Guest Houses (Serviced Accommodation with 10 or fewer letting bedrooms).** Within Amber Areas, the change of use or redevelopment of serviced accommodation (hotels or guest houses) with fewer than 11 letting bedrooms will normally be considered to meet the criteria in Policy TU6, and be granted permission for residential use, without being required to demonstrate viability. However, encouragement is offered to the creation of good quality accommodation to meet the forecast need for up-market holiday apartments that can be flexibly occupied.
- 3.12 **Medium Sized Hotels (Serviced accommodation with 11-49 letting bedrooms)** in the Amber Areas will be assessed on the criteria in Policy TU6. In particular, the range of facilities, scope to improve etc. will be taken into account. Applicants are strongly urged to submit supporting evidence. In particular financial details will be an important consideration. Where it is considered that the accommodation is of limited significance to the Resort's tourism offer, or is not capable of being viably upgraded to a good modern standard, the Council will consider change of use proposals favourably.
- 3.14 **Large Hotels (50+ bedroom).** The change of use of serviced accommodation with 50 or more letting bedrooms in the Amber Areas will usually be considered contrary to the criteria in Policy TU6 and be resisted accordingly, unless there are significant reasons to grant permission for a change of use. The hotel's facilities and location will be important issues. Change of use will only be allowed where evidence of viability has demonstrated that the property is not capable of being viably used for tourism accommodation.
- 3.15 **Holiday Apartments.** Whilst it is hoped that the "Amber" areas will remain attractive for holiday apartment use, it is recognised that a more flexible approach to their occupancy may allow for a better overall contribution to the economy of Torbay. On this basis, the Council will consider favourably applications to relax occupancy restrictions on holiday apartments to allow residential or second home use in the Amber Areas.
- 3.16 The Council's current policy on affordable housing will apply to developments of 15 or more apartments. In cases where conditions on existing holiday apartments are relaxed, the Council may accept a commuted payment for off site provision. Regard will be had to viability. Further guidance, including measures for testing viability are set out in the Adopted Planning Contributions and Affordable Housing

Green Zones

- 3.17 The Green Zones are areas which are- now considered to contain limited intrinsic holiday character, although they may be pleasant living environments, or contain well-run and attractive accommodation. In these areas, the change of use of serviced accommodation with fewer than 50 letting bedrooms or holiday apartments is likely to be considered to meet the criteria in Policy TU6, so long as they don't offer particular facilities of importance to the resort. In other words there is a presumption that residential use will be acceptable.
- 3.18 Larger hotels (i.e.50+ bedrooms) will be required to demonstrate that they are no longer capable of being operated viably, or economically redeveloped for holiday use.

General Points

- 3.19 All changes to residential use should meet the criteria set out in Section 4 (below). They should be for self contained dwellings. Houses in multiple occupation will not be permitted, since they would conflict with Policies H7.4 and TU6.
- 3.20 Houses in Multiple Occupation, poor maintenance and other matters that are alleged to be detrimental to the holiday character of the area will be a priority for proactive enforcement action.

Outside Principal Holiday Accommodation Areas

- 3.21 Proposals for change of use or redevelopment of holiday accommodation outside of PHAAs will be determined on the basis of Policy TU7 of the Saved Torbay Local Plan. This Policy seeks to protect "special" hotels and holiday apartments located outside PHAAs, but which add to the resort by providing important facilities, spectacular views, etc. In determining applications, the site of the accommodation and its significance in terms of holiday setting or relationship to tourism facilities will be highly relevant.
- 3.22 **Small Hotels.** Hotels with fewer than 11 letting bedrooms outside PHAAs will normally be considered to meet the criteria in Policy TU7. However, there are exceptions such as very well located "country house" style hotels, whose loss would seriously detract from the integrity of Torbay as a resort, and would therefore be unlikely to be permitted. .
- 3.23 **Medium and Large Hotels.** The criteria in Policy TU7 are more relaxed than TU6 and seek to protect only the best located and most significant hotels. Examples include (but are not limited to):
- The Palace Hotel, Torquay;
 - The Imperial Hotel, Torquay;
 - The Grand Hotel, Torquay, (is within a PHAA).
 - The Berry Head Hotel, Brixham.
- Applications for the change of use of other medium-large hotels are encouraged to submit details of viability etc, to support their proposal
- 3.24 Where the principle of residential use is accepted, the Council will seek family

housing or self contained apartments. Apartments will be encouraged to provide an appropriate range of facilities, such as communal areas, swimming pools, gyms, etc that are capable for holiday or residential use. Houses in multiple occupation are highly likely to conflict with Criteria (3) of Policy TU7 if the premises are located close to a holiday area or in a sensitive location in other respects; for example, in an area with high concentrations of retirement accommodation, or in areas where housing deprivation could be compounded.

3.25 Figure 3.1 summarises the above guidance. This should be considered in the context of the text and Policy criteria in Policies TU6 and TU7.

Table 3.1 Summary of Considerations for Different Colour Areas.

	Serviced accommodation (Hotels and Guest houses)			Holiday Apartments
	Small up to 10 bedrooms	Medium 11-49 bedrooms	Large 50+ bedrooms	
Red "Core" Areas	Should be retained as serviced accommodation	Should be retained as serviced accommodation	Should be retained as serviced accommodation	Conditions on holiday occupancy unlikely to be relaxed
Amber Areas	Residential use likely to be allowed	Residential use may be permitted, subject to consideration of facilities and viability	Should be retained as serviced accommodation	Conditions on occupancy likely to be removed
Green Areas	Residential use likely to be allowed	Residential use likely to be allowed	Should be retained as serviced accommodation	Conditions on occupancy likely to be removed
Outside PHAAs (Policy TU7)	Residential use likely to be allowed, unless of special character etc	Residential use likely to be allowed, unless of special character etc	Should be retained as serviced accommodation unless not viable	Conditions on occupancy likely to be removed

Notes: (1) The viability of accommodation, or alternative tourism/leisure uses and ability to meet modern standards will be a consideration in all cases.

(2) Where accommodation has a special character or location, its retention for holiday use may be sought.

(3) Conversion to residential use will only be granted for self contained dwellings that meet the conditions set out in Section 4 below. Accommodation should not be restricted to *solely* residential use: i.e. holiday letting should be permitted.

4. GUIDELINES ON CONVERSION OF HOLIDAY ACCOMMODATION TO RESIDENTIAL USE

4.1 This section provides detailed guidance on Policies that will apply when the principle of changing the use of holiday accommodation has been accepted, in the context of advice set out in section 3 above. It should be noted that planning permission is required to change the use of buildings or to remove conditions on occupancy: this guidance does not confer permitted development.

4.2 Although these guidelines relate primarily to residential conversion, the Council will support and promote other uses that are compatible with the holiday character of PHAAs. In particular tourism and related leisure uses are actively promoted by Policy TU6 of the Saved Adopted Torbay Local Plan.

4.3 The following Policies in the Saved Adopted Torbay Local Plan are applicable:

- Policy H4 Conversion and Subdivision into flats;
- Policy H7 Houses in Multiple Occupation;
- Policy H9 Layout, Design and Community Aspects
- Policy H10 Housing Densities;
- Policy CF6 Community Infrastructure Contributions
- Policy BES Built environment Strategy
- Policy BE1 Design of New Development.
- Policy BE5 Policy in Conservation areas
- Policy BE7 New Uses for Historic Buildings
- Policy T25 Car Parking and New Development

Regard should also be given to guidance set out in the Adopted **Urban Design Guide** and Homes and Communities Agency – ‘**Places, Homes, People**’, Policy Guidance 2007). In addition, the Adopted Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) sets out guidance on Section 106 Contributions. In the context of the current advice on PHAAs it seeks contributions towards monitoring, enforcement and safer communities.

4.4 Within PHAAs (regardless of zoning set out above) permission will normally only be granted for self contained flats or town houses. (Unless a tourism or leisure use is being proposed: which would be supported in principle). There has been considerable concern about the over development of unsustainable housing, such as HMOs and small flats, which will harm the character of tourism areas, whilst failing to provide for families or mixed and balanced communities. Proposals for such uses will be resisted. Planning Notices for the conversion of holiday accommodation will contain an informative that the approved use is or self contained dwellings and that further sub-division, or occupation of a dwelling by 3 or more unrelated persons would be a breach of planning control that is likely to result in planning enforcement.

4.5 In the light of this, minimum space standards will apply to the conversion of hotels/guest houses to residential use as follows:

- No flat/apartment will have less than 66m² internal floor space, (excluding communal areas). This is to meet the requirement of Local Plan Policy H4. Regard has been had to the requirements of PPS3, but it is considered appropriate to resist very small dwellings within PHAAs, in order to foster the creation of mixed and prosperous communities.
- Bin storage for twin wheelie bins shall be provided, to meet the requirements of Policy H4 and W6 of the Local Plan.

- Outside amenity space should be provided for all dwellings, to meet Policy H4 and H9 of the Local Plan. .
 - Secure, covered cycle/pram parking of a minimum of 2m² per dwelling shall be provided. Further details are set out in the Transport and Accessibility Chapter of the Local Plan.
 - Sound proofing, flood resilience and fire safety measures shall be carried out to the satisfaction of Building Control Section. This is to meet Policy H4 and H9 of the Local Plan
 - Parking should be provided in compliance with Policy T25 of the Torbay Local Plan
- 4.6 Apartments will be encouraged to provide an appropriate range of facilities, such as communal areas, swimming pools, gyms, etc that are capable for holiday or residential use. The Council wants to encourage a supply of good quality accommodation that may be occupied flexibly either for holiday residential use. Therefore it will make permissions subject to a condition that accommodation cannot be restricted to residential use only.
- 4.7 Where the above standards cannot be achieved, for example because of floor area, parking, amenity space etc, the council will encourage and support the creation of houses rather than apartments.
- 4.8 The Council will encourage the sale of properties to partner registered social landlords to provide properly regulated affordable housing. Such units should be self contained general needs affordable housing and meet the standards outlined above. Where properties are run-down or their conversion is not viable, the Council will promote its purchase by a registered Social Landlord, since this will secure built environment benefits, and provide much needed affordable homes. Their management will need to have regard to the holiday character of the area.
- 4.9 Conversely, it is recognised that PHAAs are an unsuitable location for emergency homeless accommodation, since they lack important community facilities and is likely to conflict with the holiday nature of the area. Therefore the council will avoid placing people into non-self contained dwellings in PHAAs, and will not use the red “core” areas for emergency housing.

Removal of Unsightly Features

- 4.10 Many hotels, guest houses and holiday flats have unsightly features, such as large porches or box dormers. Where planning permission for residential use is granted, such features should be removed and original buildings restored, in order to meet the requirements of Policy BE1 of the Torbay Local Plan. This will be a particular priority within Conservation Areas (where Local Plan Policy BE 5 also applies). Early contact with the Council’s Conservation and Design Team (207797) will help determine works and improvements that need to be carried out.

Demolition

- 4.11 It is accepted that demolition and redevelopment of some buildings may be a more effective way to achieve a high quality of development, particularly where buildings are not easily converted to residential use. Moreover, redevelopment can assist in making more effective use of land. Care should be taken to retain buildings of historic importance and to preserve or enhance the character of conservation

areas.

Development and Flood Risk

- 4.12 Several PHAA areas are within areas identified by the Environment Agency as being prone to flooding. Paignton to the East of the railway has been identified as such an area (Zone 3). Government Policy on Floodrisk is set out in Planning Policy Statement 15 (2006) and accompanying Good Practice Guide. Torbay's Stage 2 Strategic Floodrisk Assessment is due for publication in summer 2010. Regard should be had to Planning Policy Statement 25 "Development and Flood Risk". It is not considered sensible or sustainable to abandon large urban areas of Torbay. PPS15 (Para D15) indicates that sequential test is not needed for changes of use, but applications will still need to meet the requirements of the Flood risk assessment and provide flood risk reduction measures. Nevertheless, developments in Zone 3 flood areas should introduce flood resilience measures and avoid creating sleeping accommodation on the ground floor. Basement dwellings should not be permitted.

Planning Obligations (Section 106 Agreements)

- 4.13 The Council's policy on developer contributions (Section 106 Agreements) is set out in the Adopted Planning Contributions and Affordable Housing Supplementary Planning Document. An update and mitigation paper was agreed by the LDF Working Party in July 2009. Policy CF7 of the Saved Adopted Torbay Local Plan seeks community Infrastructure contributors, whilst Policy H11, RS and the Adopted Greenspace Strategy require the provision of open space.
- 4.14 Physical improvements and flood resilience measures, noted above, will be treated as a site acceptability matter that must be carried out in order to allow development to proceed. These are likely to be direct works on-site, and may be achievable by planning condition rather than S106 Agreement.
- 4.15 The main issue to arise from the consultation on PHAA boundaries was concern about Houses in Multiple Occupation. In addition, the Government has recently introduced tighter planning controls on HMOs. The Planning Contributions and Affordable Housing SPD makes provision for contributions to be sought where applications raise a need for additional monitoring and enforcement. Given the high level of concern about HMOs, it is proposed that a monitoring and enforcement contribution be sought as a priority on applications for change of use to holiday apartments. This will be used to fund the council's investigation and enforcement of alleged issues that harm the character of PHAAs. The pro-rata contribution based on the Planning Contributions SPD) is set out below. The SPD seeks contributions for safer communities on schemes of 10 or more dwellings. Because of the specific concerns raised in the consultation, it is recommended that these apply to all developments. Because the main issues are likely to arise in smaller flats, the table below has been adjusted to reflect this.

Monitoring, Enforcement and Safer Communities Contributions.

Size of dwelling Created from conversion/ redevelopment of holiday accommodation (per dwelling).	Monitoring and enforcement	Safer Communities Contribution	Total
Up to 54 sq m (see note 1)	£400	£180	£580
55-74 sq m	£200	£130	£330
75-94 sq m	£200	£170	£370
95-sq m and larger	£200	£200	£400

Note 1. Permission will not usually be granted for very small units within PHAAs. This contribution reflects the additional burden of monitoring that such dwellings are likely to impose.

- 4.16 Loss of employment contributions (see 4.25- 4.30 of the Planning Contributions and Affordable Housing SPD) may apply to changes of use of 11+ bedroom hotels/guest houses. The English Partnerships/ARUP Employment densities Guide (2001) indicates an average of 1 full time equivalent (fte) employee per 2 bedrooms in a 3 star hotel and 1 fte employee per 3 bedrooms in a budget hotel.
- 4.17 On the basis of the Adopted SPD, contributions will be sought as follows, when dealing with applications for the conversion of holiday accommodation to residential use:
- 1-10 dwellings: Monitoring/ safer communities, Open space provision, education and lifelong learning, waste management.
 - 11-14 dwelling: Monitoring/ safer communities, Open space provision, community safety, education and lifelong learning, waste management.
 - 15+ dwellings: Monitoring/ safer communities, Affordable Housing, Open space provision; community safety, education and lifelong learning, waste management.
 - Loss of employment contributions will be sought on 11+ bedroom serviced accommodation that changes its use to residential. The contribution will be calculated on the basis of £4,125 per 3 bedrooms (guest houses/budget hotels) and £4,125 per 2 bedrooms for a 3 star hotel.
- 4.18 Sustainable Transport contributions will be sought from developments. However, it is likely that the existing traffic generation from the hotel use will cancel this out.
- 4.19 The impact of existing uses may be taken into account as mitigation. It will be assumed that hotels contain one de facto dwelling (i.e. owners' accommodation), which will not be counted for S106 Contributions purposes other than monitoring. Given the particular issues surrounding monitoring and investigation, it is proposed to seek these through unilateral undertaking even where a s106 is not sought for other contributions.
- 4.20 The operation of S106 contributions are not intended to create an undue burden on development. The Planning Contributions and Affordable Housing SPD sets out criteria for assessing and negotiating viability and related matters. This includes independent mediation of viability where appropriate. Where viability problems remain, the Council will consider using an "overage" arrangement. This allows a lower S106 Contribution to be agreed, which increases if prices improve above an

agreed level. Further information on viability and mitigation arrangements are set out in the Planning Contributions and Affordable Housing SPD, and the July, 2009 Update and Mitigation Paper.

Holiday Character

- 4.21 It is emphasised that Torbay remains a premier tourist resort and PHAAs remain tourism-oriented areas. Therefore, the Authority will support tourism businesses that remain. Whilst residential use is considered in principle to be an acceptable use in “Amber” and “Green” areas, residents within or close to PHAAs must bear in mind the tourism character of the area. As such there is likely to be more night time bustle and noise etc than would be expected in a purely residential area.
- 4.22 The Council wants to ensure that PHAAs remain holiday areas in character, albeit with a much more flexible range of permitted uses. Therefore, residential permissions will be subject to a condition that the property cannot be restricted by covenant etc to being solely for residential use, but must be capable of also being occupied for tourism purposes.
- 4.23 It is recognised that the character of such areas is vulnerable to anti-social behaviour and other nuisance (as opposed to general holiday bustle, which is to be expected in such areas). Therefore anti social behaviour and unauthorised properties that contribute to nuisance this will be a priority for enforcement by the Local Authority.

5. SUMMARY

- 5.1 This document provides advice on the interpretation of Policies TU6 and TU7 of the Adopted Torbay Local Plan. It responds to the recent Tourism Strategy’s identification of an over supply of small hotels/guest houses, and a need to increase quality.
- 5.2 The guidance divides PHAAs into three zones:
- Red “Core” Areas are at the heart of Torbay’s Tourism Investment Areas and change of use to non-holiday uses will be resisted, unless holiday accommodation is shown to be unviable. Holiday apartments should be controlled by a condition or S106 condition and proposals for new holiday apartments should provide a good range of core facilities (e.g. swimming pool, communal areas etc).
 - ‘Amber Areas’ retain a fair holiday character. However, changes of use will be approved for smaller premises (up to 10 bedrooms). Change of use to residential may be granted for medium sized hotels, subject to location, range of facilities, viability and other considerations. Permission will normally be granted to allow non-holiday use of holiday apartments.
 - ‘Green Areas’ retain little intrinsic holiday character or are marginally located, (although they may contain well run businesses or be pleasant areas). Within these areas, change of use of small and medium sized premises will usually be permitted. The Council will usually seek to retain 50+ bedroom hotels unless there are viability or other considerations. Permission will be granted to allow non-holiday use of holiday apartments.

- 5.3 Where change of use is acceptable in principle, the Council will require:
- Larger, self-contained flats or family houses. Houses in multiple occupancy will not be permitted.
 - Removal of unsightly/out of character additions and extensions.
 - Sound proofing, flood resilience etc.
 - Provision of twin-bin storage and cycle storage.
 - Parking provision in accordance with Policy T25 of the adopted Torbay Local Plan.
- 5.4 Non residential uses that would conflict with the holiday character of the area will be resisted. Conversely, non residential uses that would be beneficial to tourism will be supported in principle.
- 5.5 Developer contributions may be payable on larger schemes. Improving the physical fabric of buildings will be a priority.
- 5.6 The areas remain “holiday areas” and businesses that wish to operate within these areas (and elsewhere) will be supported. Residential occupiers must bear in mind that they are living within tourism areas and not purely residential areas. Conversely it is recognised that anti-social behaviour, bad maintenance and vandalism can seriously harm the character of tourism areas and this will be a priority for enforcement for the Council and partner organisations.

Revised Guidance on the Interpretation of Policies TU6 and TU7 of the Torbay Local Plan. 26/02/10.

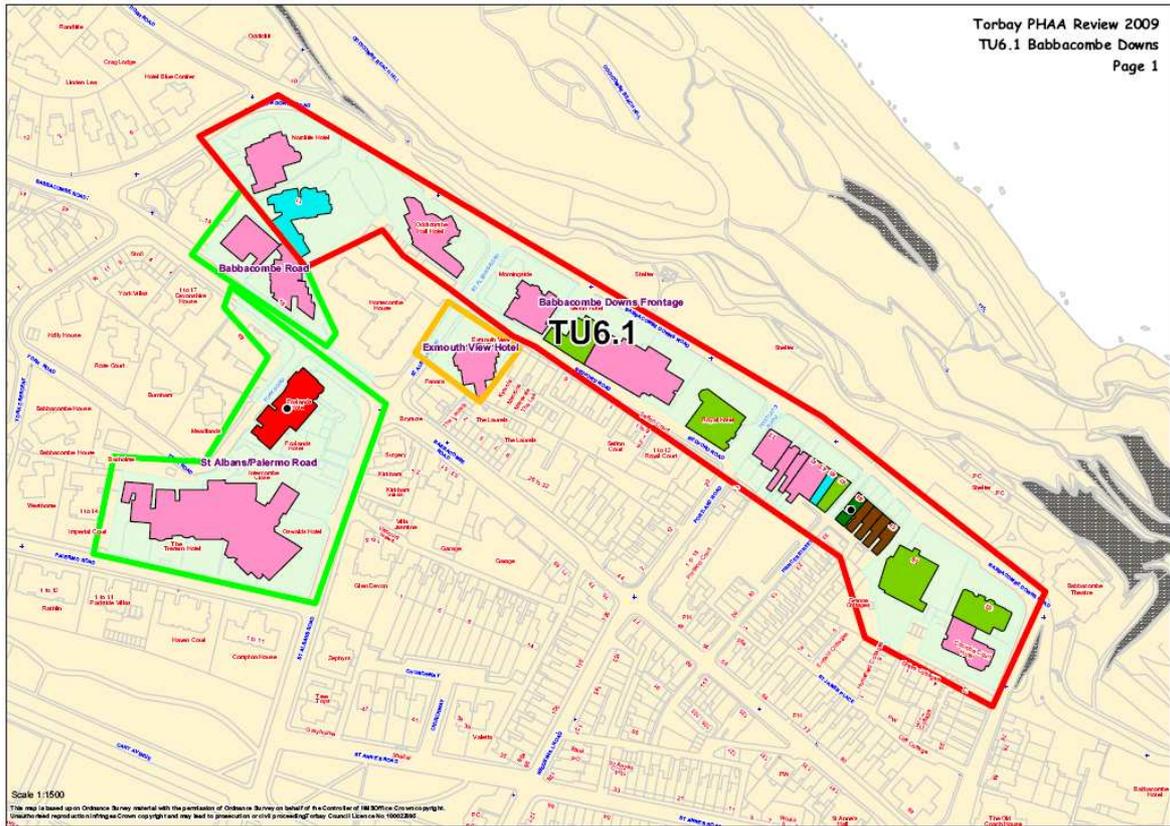
Appendix 1: Maps showing traffic light coding of PHAAs

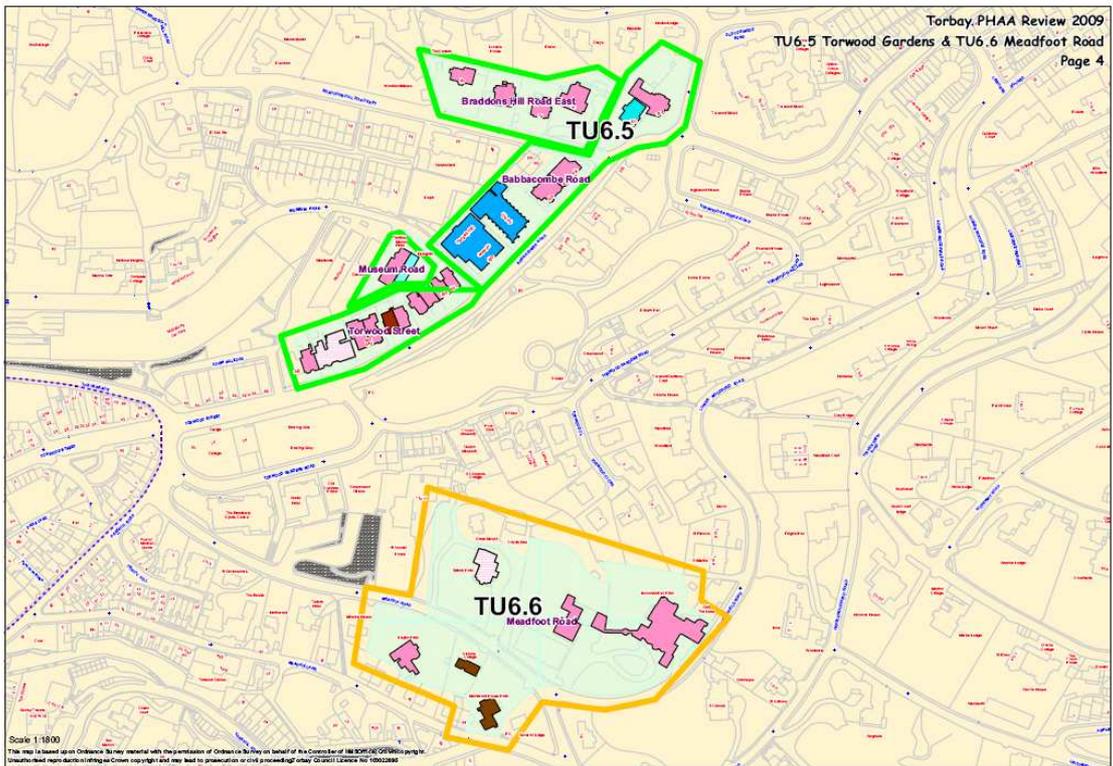
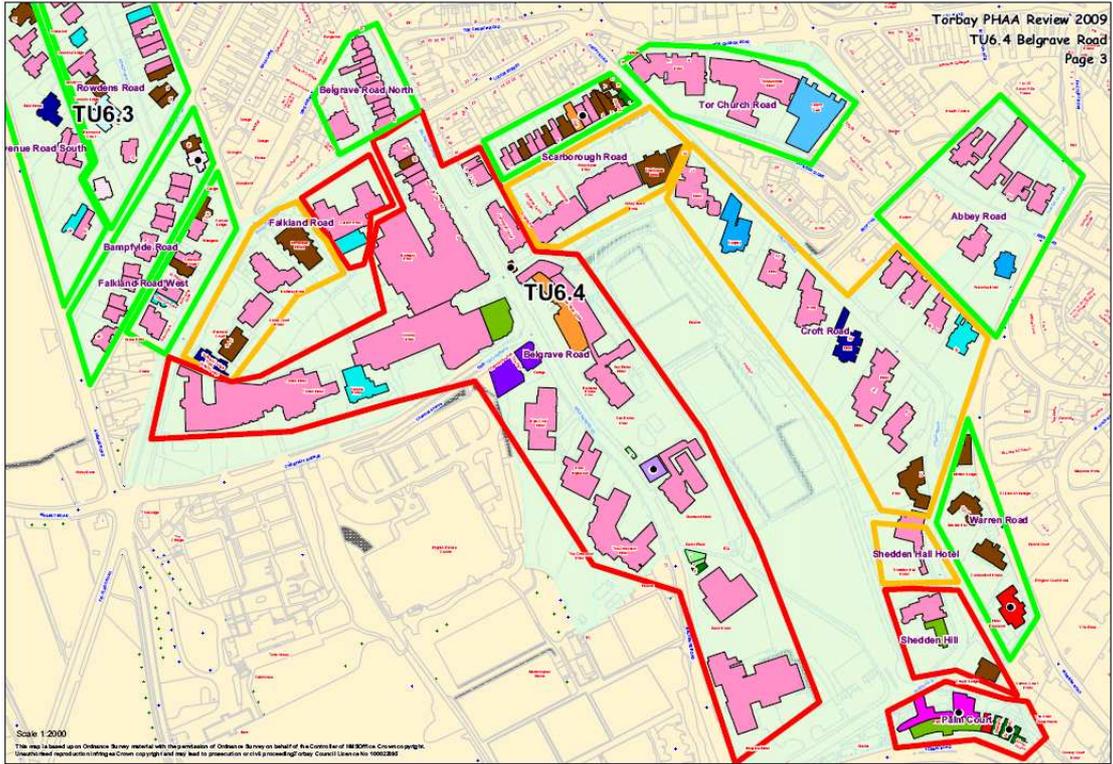
Table: Summary of Considerations for Different Colour Coded Areas.

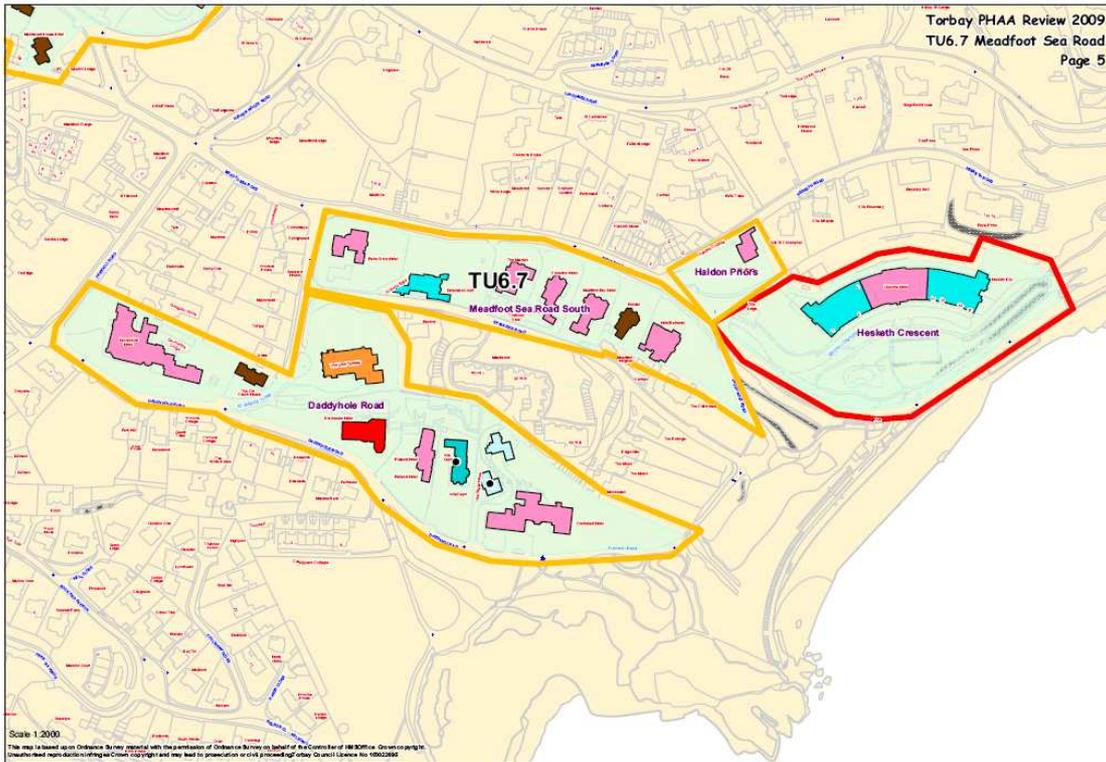
	Serviced accommodation (Hotels and Guest houses)			Holiday Apartments
	Small up to 10 bedrooms	Medium 11-49 bedrooms	Large 50+ bedrooms	
Red "Core" Areas	Should be retained as serviced accommodation	Should be retained as serviced accommodation	Should be retained as serviced accommodation	Conditions on holiday occupancy unlikely to be relaxed
Amber Areas	Residential use likely to be allowed	Residential use may be permitted, subject to consideration of facilities and viability	Should be retained as serviced accommodation	Conditions on occupancy likely to be removed
Green Areas	Residential use likely to be allowed	Residential use likely to be allowed	Should be retained as serviced accommodation	Conditions on occupancy likely to be removed
Outside PHAAs (Policy TU7)	Residential use likely to be allowed, unless of special character etc	Residential use likely to be allowed, unless of special character etc	Should be retained as serviced accommodation unless not viable	Conditions on occupancy likely to be removed

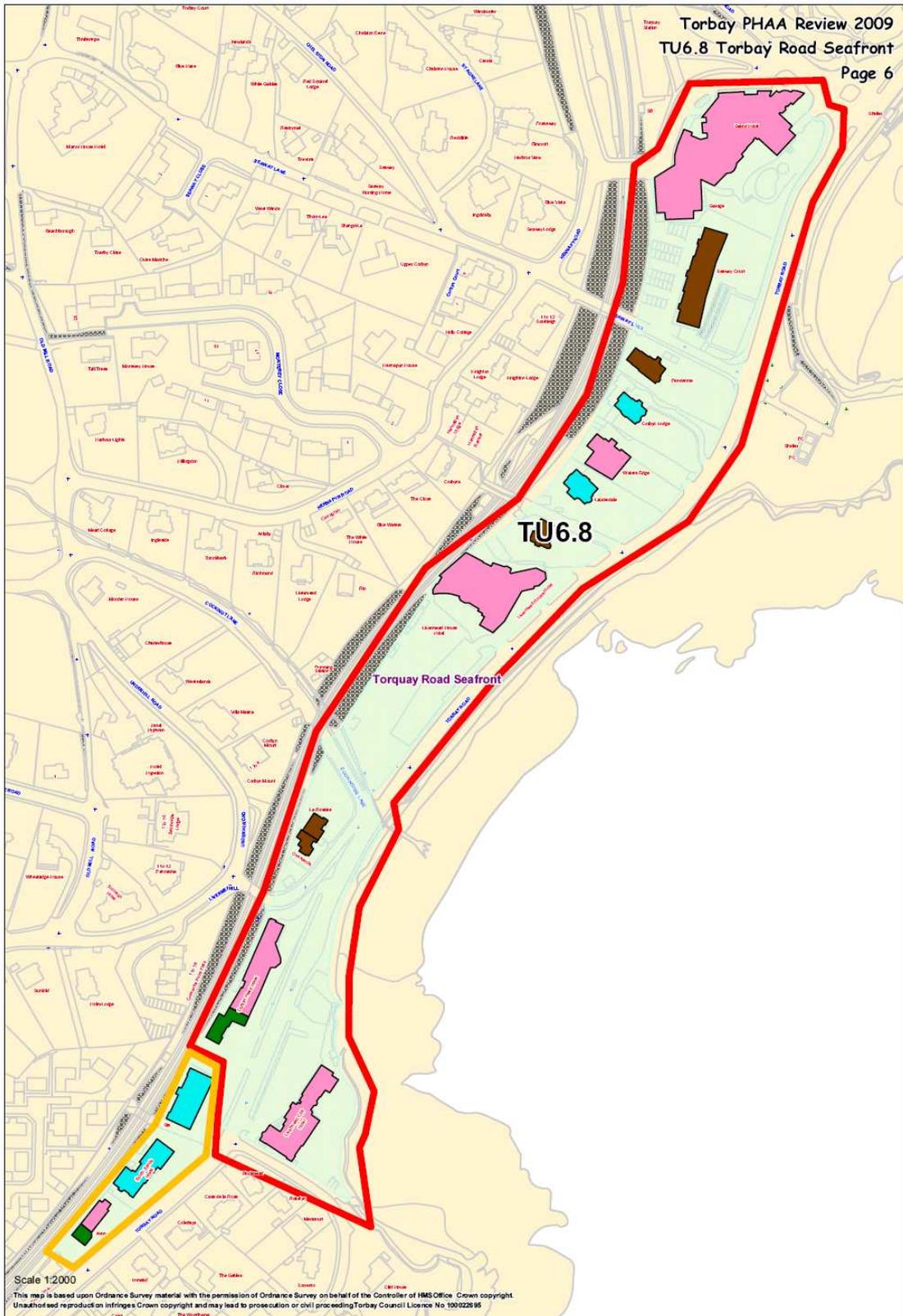
Key to uses within PHAAs from the PHAA Monitor

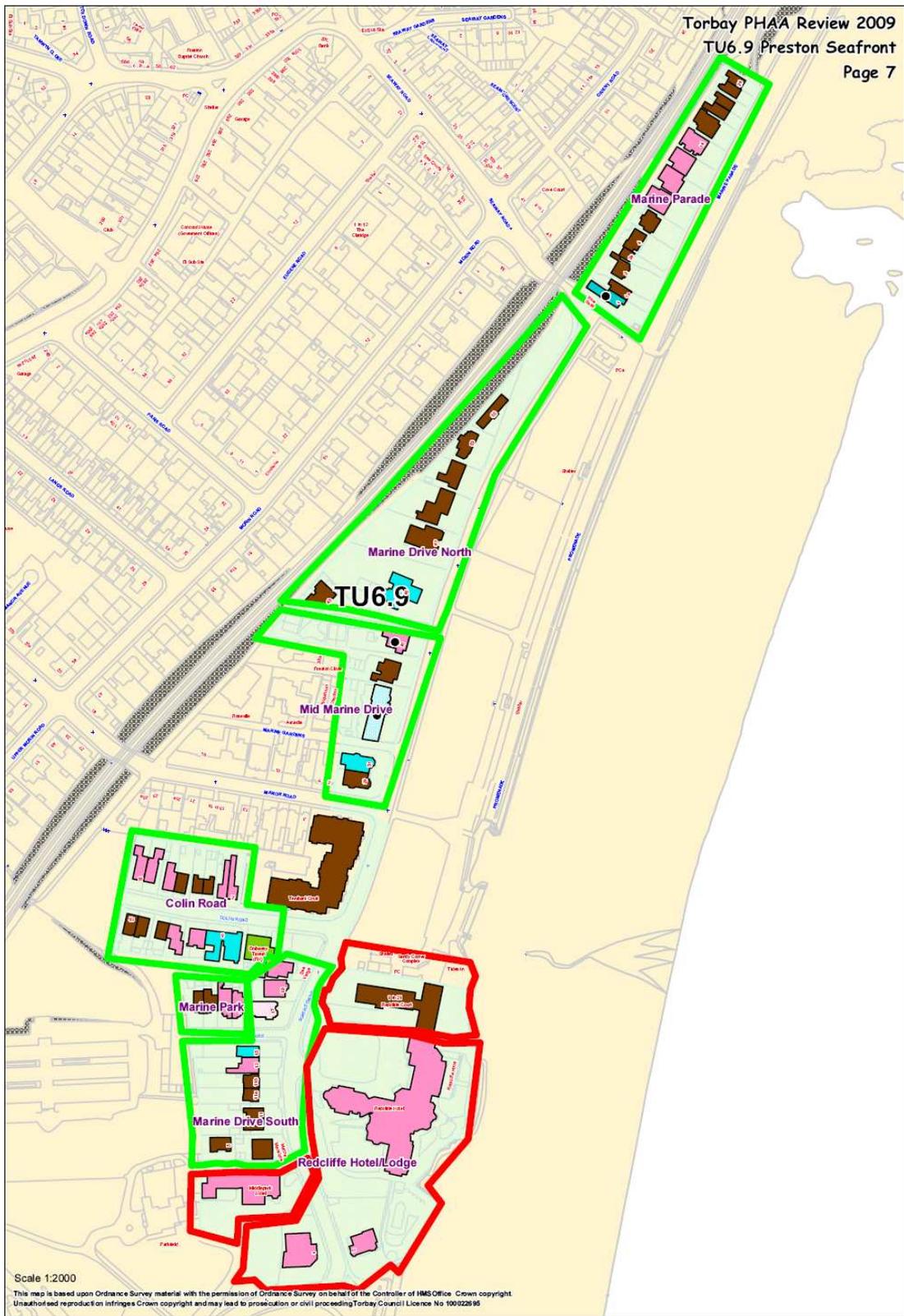
-  A1 Shops
-  A3 Cafes, Restaurants
-  A4 Drinking Establishments
-  A5 Hot Food Takeaways
-  B1 Business
-  B2 General industrial uses which generate noise and/or fumes
-  C1 Hotels, Guest Houses and B&Bs
-  C2 Care Homes and other residential institutions
-  C3 Holiday Flats
-  C3 Houses and Residential Flats
-  D1 Museums, Churches, Doctor's Surgeries and other non-residential institutions
-  D2 Assembly and Leisure Uses
-  Sui Generis - uses that do not fall within the use classes laid down in the Use Classes Order and are therefore in a class of their own
-  Indicates a property is vacant

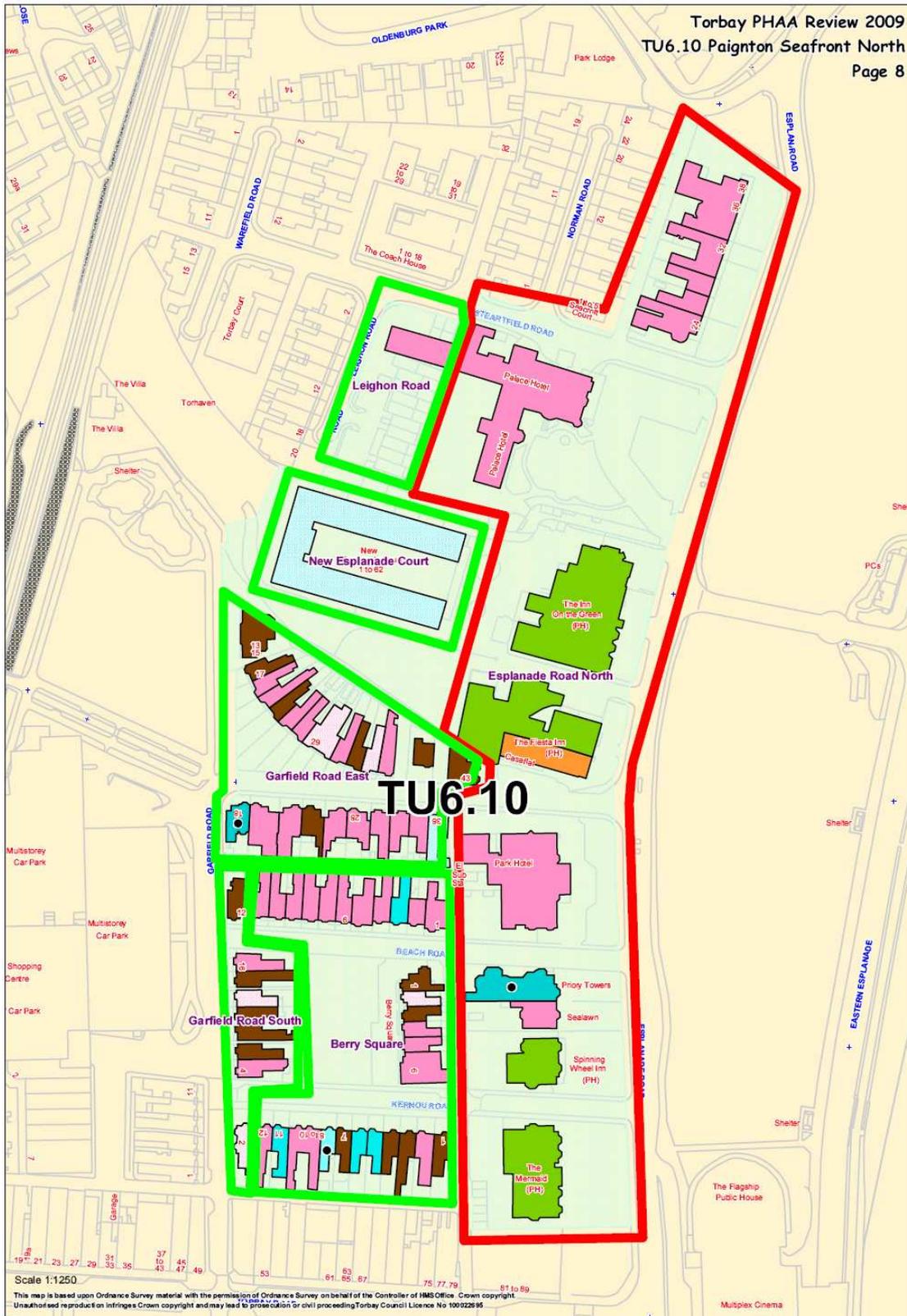


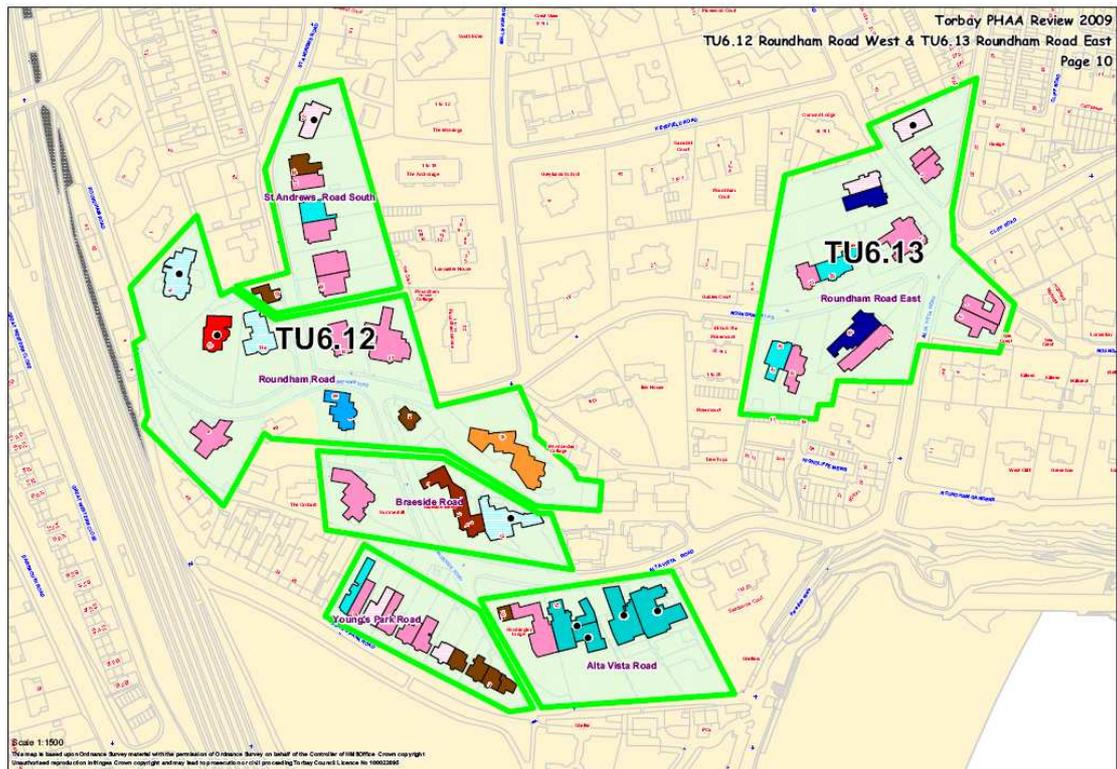
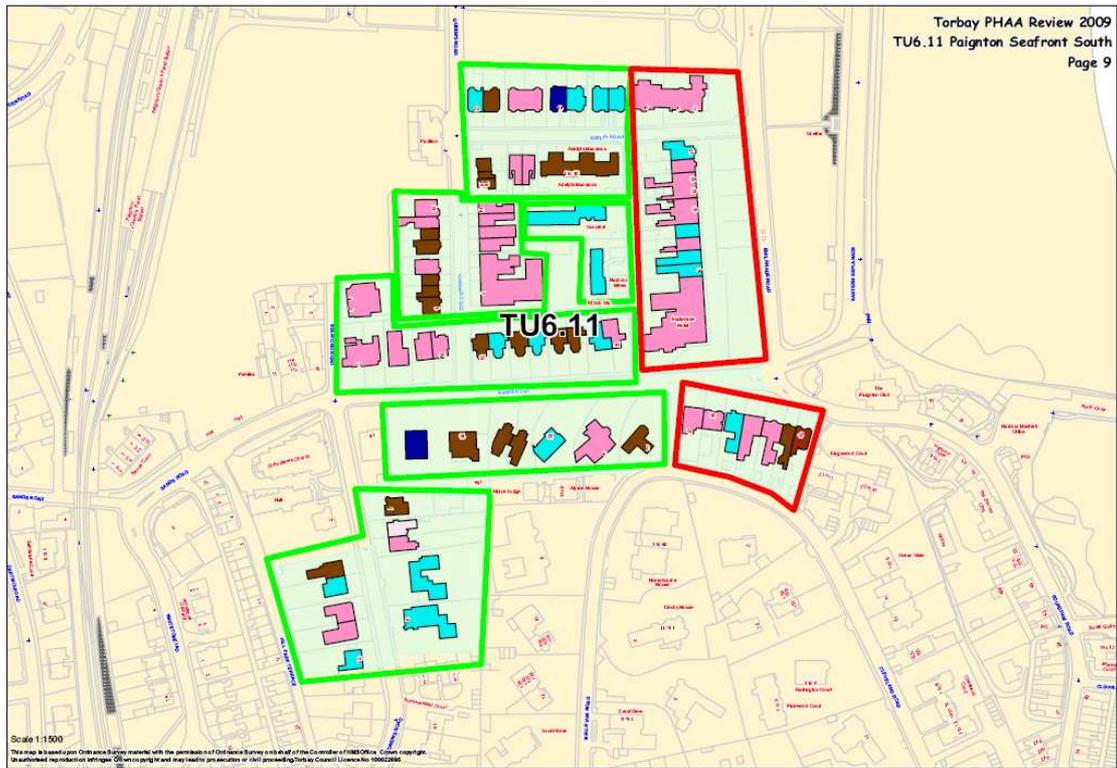












Appendix 2 Quantitative Implications of Relaxing Controls in PHAAs: Estimate of Contribution to the Adopted Torbay Tourism Strategy Figures.

The Torbay Tourism Strategy 2010-2015 recommends a reduction of 3500 bed spaces in the 4-10 bedroom size of hotels/guest houses. Most hotel bedrooms will be double rooms, and singles/triples cancel each other out overall. Assuming an average of 7 letting bedrooms, this would mean an average of 14 bed spaces per small hotel. 3500 bed spaces would equate to 250 small hotel/guests houses. ($3500 \div 14 \text{ bed spaces} = 250$).

The review of PHAAs suggests that up to 235 hotels/guests houses could be redeveloped (this is the stock of serviced accommodation in PHAAs outside the proposed Green Area).

This would represent at least 3290 bed spaces, but in practice considerable more as it includes some larger hotels.

In practice, many properties will remain as holiday accommodation. Clearly, different take up rates will yield different figures. The table below sets out a range of forecasts. . The 'core' forecast of 30% conversion rate is considered by the Tourism Strategy Project manager to be the most likely outcome. This could see a reduction the stock of bed spaces in PHAAs by about 1750 bed spaces by 2015. This is about half of the required figure. About 50% of serviced accommodation is outside PHAAs (Torbay Local Plan, Paragraph 5.55) where a less restrictive policy applies. On this basis it is argued that the review appears to make ample provision to meet the Tourism Strategy figures for bedspace reduction. However these figures are estimates based on broad assumptions, and the effect of the shift in policy will need to be carefully monitored.

	Number of hotels/ guesthouses/ bed space reduction if 100% conversion	Low Forecast: Number of hotels/ guesthouses/ bed space reduction if 10% conversion	Core Forecast Number of hotels/ guesthouses/ bed space reduction if 30% conversion	High: Number of hotels/ guesthouses/bed space reduction if 75% conversion
Unadjusted total (assumes 14 bedspaces per hotel average)	235/ 2390	24/ 336	70/ 987	176/ 2468
Adjusted Total *	235/ 7050	24/ 336	90/ 1750	176/ 5280

*In practice many larger hotels would be included in higher take up rates, so a greater number of bedspaces will be reduced. This is reflected in the assumed adjusted average bedspace numbers above: 10% take up average 14 bedspaces; 30% take up 25 bedspaces; 75% take up 25 bedspaces; 100% take up: 30 bedspaces.



Title: **Match Funding for South Devon Link Road**

Public Agenda Item: **Yes**

Wards Affected: **All Wards in Torbay**

To: **Council** On: **13 July 2011**

Key Decision: **Yes – Ref. X9/2011**

Change to Budget: **Yes** Change to Policy Framework: **No**

Contact Officer: **Les Crump**

Telephone: **207656**

E.mail: **les.crump@torbay.gov.uk**

Paul Looby

207283

paul.looby@torbay.gov.uk

1. **What we are trying to achieve and the impact on our customers**

- 1.1 Delivery of the South Devon Link Road (SDLR) is seen as a major factor in sustaining, promoting and enhancing Torbay's economy. It will also bring major benefits to the sub-region, including Teignbridge and South Hams. Most importantly it will protect existing jobs and deliver new ones and without it Torbay and its neighbours will face increasing challenges in the future in tackling the high levels of socio-economic deprivation we currently endure.
- 1.2 Devon County Council are equal partners in promoting the scheme and have identified SDLR as its highest priority of unfunded schemes in Devon. The new road will provide enormous benefits to residents and tourists alike and there are also substantial benefits to Kingskerswell as congestion is removed and the Newton Road reverts to a green travel route with opportunities for cycling, walking, bus use and improved public realm.

2. **Recommendation(s) for decision**

- 2.1 **That the Executive Head of Finance, as Section 151 Officer, be authorised to commit Torbay Council to approximately £11.5 million of additional match funding required to deliver the South Devon Link Road scheme if the bid is successful. (Information in relation to the potential spending programme is set out at Appendix 1 to the submitted report).**
- 2.2 **That the additional £11.5 million be provided from prudential borrowing.**

- 2.3 That the potential sources of funding available to the Council to repay and service the interest on that borrowing, particularly in relation to New Homes Bonus (NHB) and Community Infrastructure Levy (CIL) be noted.**
- 2.4 That the risks associated with this borrowing and the potential impact on the delivery of other infrastructure and services be noted.**
- 2.5 That the Council authorises signature of a formal Agreement with Devon County Council committing to a 50/50 Cost Share arrangement for preparation of the bid and delivery of the scheme if the bid is successful.**
- 3. Key points and reasons for recommendations**
 - 3.1 The business case for South Devon Link Road has been made elsewhere at length. It is vital to Torbay's and the sub-regions' future economies and a fundamental pre-requisite of attracting inward investment and regeneration – the keys to tackling our current socio-economic problems. It will help in providing a sustainable future for the Bay. It delivers excellent value for money.
 - 3.2 It is considered to be Torbay's Number 1 infrastructure priority.
 - 3.3 A briefing note explaining the current position in relation to planning and finance and delivery and programme is at Appendix 2.

For more detailed information on this proposal please refer to the supporting information attached.

**Les Crump
Executive Head of Spatial Planning**

**Paul Looby
Executive Head of Finance**

Supporting information

A1. Introduction and history

- A1.1 This report does not attempt to make a case as to why we need South Devon Link Road. Torbay, Devon County Council and the neighbouring Authorities of Teignbridge and South Hams have all identified the road as a fundamental component of regeneration over many years. There is an enormous weight of argument in favour of the road's delivery in other reports which can be made available on request, including the extensive bids for funding made to the recent Public Inquiry into side road orders and land acquisition.
- A1.2 As the briefing note at Appendix 2 makes clear, we are bidding with Devon County Council in attempting to secure £75 million of Government funding to deliver the scheme, with a potential start on site in August 2012. The total cost of the scheme is in the order of £108 million.
- A1.3 In 2007 the Council approved £6.5 million of prudential borrowing which is repaid by a £400,000 revenue budget which sits in Spatial Planning. We have been spending money on this scheme as capital for the past 2 years – almost £1 million with £600k already funded from revenue sources. To deliver the scheme we will therefore require an additional £11.5 million.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

- A2.1.1 The principal risk associated with the recommendation is that the Council will have difficulty in servicing the prudential borrowing required to front end delivery. In general terms it is anticipated that to borrow an additional £11.5 million it would cost in the order of £850,000 per annum with repayment over 25 years, or £650,000 per annum over 40 years. The Council's financial difficulties are well rehearsed and in the context of the Critical Spending Review both the Council's revenue and Capital Budgets are under severe pressure. The most likely sources of funding to service the loan are New Homes Bonus (NHB) and Community Infrastructure Levy (CIL), but both are dependant on achieving new homes and development in a period of acute financial difficulty for the building industry.
- A2.1.2 A final bid will be made to DfT and the Minister in September this year and as part of that bid we must guarantee that our share of the necessary match funding will be available to deliver the scheme. The match funding is split 50/50 with Devon County Council and amounts to some £17-£18 million for each Authority. A report will be presented to each Authority in July (Torbay date 13th July). Preparing the bid itself will incur considerable expense (over £500,000 required in 2010/11) and there is a risk that this money will be lost if the bid is unsuccessful. Every effort is, however, being made by Devon and Torbay to ensure the quality of our bid is of the highest standard and there is confidence that it will be successful.

A2.2 Remaining risks

A2.2.1 There will no doubt be a wide range of demands on NHB and CIL. Whilst not ring-fenced, the Government have identified that NHB should be available as a tool in Neighbourhood Planning to foster and encourage growth. CIL will substantially replace Section 106 contributions and whilst the Council has latitude in fixing the rate, it is important not to inhibit inward investment by setting the bar too high. There will also be an extensive list of other infrastructure more directly needed to deliver development such as drainage infrastructure or local highways improvements required to enable growth to practically proceed.

A3. Other Options

A3.1 The fundamental alternative option is to no longer proceed with SDLR because the match funding requirements are too onerous. This would be contrary to the clear advice about the enormous difference the road will make to Torbay's economy and future and is not considered further.

A3.2 Given that there is a need to deliver the money it is possible to consider a cocktail of other sources of funding which could either obviate or diminish the requirement to borrow.

A3.3 These could include:

- 1) Reallocation of unspent New Growth Points funding
- 2) Sale of Council assets
- 3) Adjustment of capital programme
- 4) Tax Incremental Financing
- 5) Business Rate Investment.

A3.4 It is recommended that further thought be given to all of the above if the Government confirms that the bid is successful and the scheme is funded. We should know this in December this year. The priority at this juncture is for the Council to guarantee its intention to match fund this project if we are successful. It is anticipated that CIL and NHB should be able to provide all the necessary funds to service the loan and that the guarantee can be made, but in a worse case scenario financial advice is that in 2015 the Council builds the cost of outstanding debts against the road into its forward plan and budget process.

A4. Summary of resource implications

A4.1 Assuming prudential borrowing of an additional £11.5 million, a choice will be needed as to whether the Council chooses to repay over 40 or 25 years with costs at £650,000 or £800,000 per annum respectively. Servicing the entire £18 million is likely to cost £1.2 million per annum.

New Homes Bonus

A4.2 As an incentive to Growth, the Government have pledged to match Council Tax Receipts for new homes for 6 years. The trigger for payment is the Council Tax Base Return. Extra incentives are provided for affordable homes and also for bringing empty homes back into use. These payments are of course a bonus to the receipt of Council Tax new properties would attract in any event.

A4.3 The table at Appendix 3 identifies the potential receipts for the Council from NHB over an initial 6 year duration of the scheme. Assuming 320 new dwellings per annum in year 1 rising to 500 in years 3 and 4 and thereafter based on average tax band levels, it is estimated that £11,194,000 could be available from this source.

New Homes Bonus has, however, only been funded by the Government for the first 4 years of CSR as follows:

Year 1	196 million
Year 2	250 million
Year 3	250 million
Year 4	250 million

	946 million

A4.4 The sum is finite for that period and it has been made clear that any National overspend on NHB will be made good by reductions on all Councils' Revenue Support Grant. Growth levels were comparatively low in 2010/11 and given the way receipts rise in steps as shown in Appendix 3, it seems likely that £250 million per annum will be insufficient to fund all NHB commitments across the country with consequent reductions of RSG across the board. If Torbay is to benefit rather than disbenefit from this system it is therefore vital that higher than average growth levels in the next 2 years are obtained. The Government has so far indicated that NHB can be relied on as a long term commitment but there are concerns about whether it is affordable for the Government in the long term.

Community Infrastructure Levy (CIL)

A4.5 This is a levy which effectively replaces Section 106 payments for everything except essential on or close to the site infrastructure and affordable housing. In simple terms the Council will calculate the overall costs of infrastructure delivery on a broad range of requirements, e.g. road and transport improvements, schools, parks and open space which the Council will need to provide because the developer has not delivered on site. Unlike NHB, CIL is a one-off payment usually received at trigger points from commencement to completion to occupation. The total amount of CIL anticipated to be received from residential development over a six year period is illustrated in Appendix 4. There will also be opportunities to charge CIL for commercial development but as yet this figure has not been calculated.

Summary of resource implication

A4.6 It is clear that with potential receipts of £11.195 million from NHB and £5.5 million from CIL that in the medium term repayments of an £18 million loan are affordable. With the timing of expenditure identified in Appendix 1 which shows the need to draw down over 5 years the structure of the loan is also likely to reduce the repayment requirement. As well as CIL and NHB we will of course also receive core Council Tax for all new properties but this will be required to provide services, infrastructure and facilities for the new residents.

A4.7 Clearly, however, the allocation of NHB and CIL to SDLR, particularly in the short term, will inhibit the Council in its ambitions to provide other infrastructure and in its delivery of services. There are also risks to be assessed in relation to the delivery of the numbers of houses referred to in a depressed housing market and potential changes to the planning system. These funding packages, particularly NHB, may not be sustainable in the longer run.

A4.8 On balance, however, given the structure of funding, i.e. £75 million from Central Government and £33 million from the two Councils and also the enormous direct benefits the road will bring to Torbay's economy and long term sustainability it is considered that the resource implications can and must be managed.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 The benefits SDLR brings to these issues have been addressed at length in various other submissions and reports. It is clear that in facilitating new jobs the road will greatly reduce benefit reliance and social and economic deprivation thus improving equalities. On environmental grounds great care has been taken in designing the road to minimise its impact and it has planning permission. The road provides a sustainable future for Torbay. Reducing social deprivation can only reduce crime and disorder in the Bay and the sub-region.

A6. Consultation and Customer Focus

A6.1 SDLR has been the subject of extensive consultation. The scheme was first considered in 1951! It has been examined and supported by the public and stakeholders on numerous occasions. The latest position is that to enlist support in the bid and also to ensure consultation is fully conclusive, a series of public exhibitions are proposed as set out in Appendix 5.

A7. Are there any implications for other Business Units?

A7.1 The delivery of SDLR will benefit every Business Unit in the Council. Most particularly it is supported by the TDA in the interests of regeneration. The financial implications of delivery are also of particular relevance corporately in understanding what impacts this commitment will bring on the resources available to the rest of the Council.

Appendices

Appendix 1	SDLR – Match Funding Needs Timetable
Appendix 2	Briefing Note re: South Devon Link Road (SDLR)
Appendix 3	New Homes Bonus – Potential Income
Appendix 4	Community Infrastructure Levy – Potential Income
Appendix 5	Programme of Consultation Events – June 2011

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report:

Advice from Spatial Planning staff and colleagues in Finance regarding the potential costs of borrowing and the sources of finance available (handwritten notes only)

SDLR – Match Funding Needs Timetable (assuming Bid is successful)

	Total	Torbay Council share
2011/12	£1.15 million	£575k
2012/13	£5 million	£2.5 million
2013/14	£5 million	£2.5 million
2014/15	£5 million	£2.5 million
2015/16	£8.7 million	£4.35 million
2016/17	£8.6 million	£4.3 million
	£33.45 million	£16.725 million

Briefing Note re: South Devon Link Road (SDLR)

- The project is in partnership with Devon County Council on a 50/50 Cost Sharing Basis.
- We have planning permission and we are in the process of satisfying outstanding planning conditions. Within a few months we will be building some small parts of the scheme to keep the planning consent alive in perpetuity. This will be much cheaper and less risky than having to apply for renewal. Planning permission expires in August 2012.
- All the necessary legal orders to alter existing roads and footpaths and acquire land to enable development have been served and have been subjected to examination at a Public Inquiry. However, the Secretary of State will not release the results of that Inquiry until it is clear that the necessary funding is in place. It is believed that there are no fundamental problems in respect of the Orders and the issue is simply one of timing.
- As part of the Comprehensive Spending Review (CSR) the Government identified 5 categories of schemes which could be considered for implementation within a 4 year window:
 - Category A were the schemes already underway or fully committed;
 - Category B were schemes accepted into the so-called 'Delivery Pool' for delivery without any further bidding process;
 - Category C were the schemes which would be subjected to a further bidding process for approximately £630 million of funds. The so-called 'Development Pool';
 - Category D were the schemes which were considered by the Secretary of State not to be included in the Development Pool but worthy of further consideration for inclusion in a competitive bidding process;
 - Category E were the schemes not to be proceeded with.
- SDLR was in Category D but following a successful bid by Devon and Torbay it was promoted to Category C.
- The two Councils are, therefore, currently preparing the necessary bid for final funding approval which must be submitted in September.
- Key elements of the bid are public support, value for money, reducing carbon and the ability to deliver.

Public Support

- We are currently running a campaign to enlist public support. The Herald Express has been very supportive with a series of articles from business leaders. There will be public exhibitions and opportunities to obtain comment from the public at large in June.

VFM

- The value for money score for the road in accordance with DfT standard computation is very high. We are majoring on the economic benefits the road will bring to Torbay in jobs, prosperity and reduction in social deprivation. A recent consultant's report showed that for every £1 spent on the road £9 could be saved from the public purse through the value of new jobs and consequent reduction in benefits reliance and the cost of social support etc.

Carbon

- There are national bodies of objection to new roads in general and there is some focus on SDLR locally based on the argument that the road will increase CO₂ and adversely affect the environment. Our funding bids and also the arguments rehearsed in the Inquiry into the legal orders make it clear that there is no alternative to this proposal which would meet the objectives and deliver the benefits to the economy and produce less carbon. Alternatives such as contraflows on the existing road will not deliver. To bolster our case, however, we are working on a plan to show how the existing Newton Road corridor can be made into a sustainable bus and cycle route once the new road goes in.

Deliverability

- It is understood that there are approximately £900 million of bids for £630 million of available funding. SDLR is however far further forward than many of the other schemes in the Development Pool and it is questionable whether several of them can actually deliver within the CSR window. SDLR has planning consent, legal orders and a contractor committed to deliver to budget in place and a start could be made in 2012 once funding is confirmed and outstanding minor details are resolved.
- We therefore believe that we have an excellent chance of success. The outcome of the bid will be known in January 2012.
- In order to promote the scheme from Category C to Category B and in effect keep it alive the cost of the scheme overall was reduced by some engineering changes and the contribution from the two Councils increased. The current cost is approximately £110 million with £75 million provided from DfT and each Council providing approximately £17 - £18 million as match funding.
- The Council's Section 151 officers will be required to confirm in the September bid submission that each Council is committed and capable of making their contributions.
- Reports are currently in preparation which will be placed before the respective Councils in July. The construction contract could be completed by the end of 2015 and the expenditure programmed accordingly. Potential sources of funding for Torbay will include prudential borrowing, Community Infrastructure Levy, New Homes Bonus, Tax Incremental Financing, Business Rate Investment. It is clear, however, that commitment to the scheme will have substantial impact on the Council's ability to deliver other services and new initiatives.

Conclusion

- The South Devon Link Road has staunch support from Members and colleagues at Devon County Council and the Torbay Community at large. Because of the socio-economic benefits the scheme will bring as well as all the environmental advantages, it is considered to be Torbay's No. 1 infrastructure project.
- The mayor and the Council will therefore be asked to endorse the bid in July.

Match Funding for South Devon Link Road

New Homes Bonus – Potential Income

New Homes Bonus (NHB) is intended to create a “powerful, simple, predictable and effective incentive” to local authorities and communities to facilitate housing growth. The scheme match funds average council tax receipts for 6 years following a new house being registered for council tax, or net number of empty homes being brought back into use.

The amount of New Homes Bonus earned is determined by net increase in the Council Tax Base return submitted each October. Therefore ensuring a comprehensive Tax Base return is important to make sure that the correct amount off New Homes Bonus is earned.

New Homes Bonus- Pessimistic Scenario: £6.4 Million over 6 Years

A pessimistic scenario is that completions stay at 2010/11 levels. There were 322 completions (April 2010 - March 2011), but the New Homes Bonus earned was based on an increase of 249 new dwellings registered and 7 empty home being brought into use.

Table A3.1 Shows that New Homes Bonus will generate about £6.4 million over 6 years. As noted the market was bad in 2010/11 so this figure is a very pessimistic one.

Table A3.1 Pessimistic New Homes Bonus Scenario, based on 2010/11 Building levels (£s).

Year	2011/12	2012/13	2013/14	2014/5	2015/6	2016/7
1	305,000	305,000	305,000	305,000	305,000	305,000
2		305,000	305,000	305,000	305,000	305,000
3			305,000	305,000	305,000	305,000
4				305,000	305,000	305,000
5					305,000	305,000
6						305,000
Total	305,000	610,000	915,000	1,220,000	1,525,000	1,830,000

6 year total £6,405,000.

New Homes Bonus- Optimistic Scenario: £11.2 Million over 6 Years

The emerging Core Strategy seeks to provide around 500 dwellings per year. The Council has previously supported this level of growth, and it has been subject to a sustainability appraisal (2006). The scenario below assumes that house building recovers over a two year period, so that 500 dwellings per year are built in 2013/14 and after, with an intermediate figure in 2012/13.

Table A3.2 Optimistic New Homes Bonus Scenario, based on market recovery to 500 dwellings per year by 2013-14 (£s)

Year	2011/12	2012/13	2013/14	2014/5	2015/6	2016/7
1	305,000	305,000	305,000	305,000	305,000	305,000
2		500,000	500,000	500,000	500,000	500,000
3			686,400	686,400	686,400	686,400
4				686,400	686,400	686,400
5					686,400	686,400
6						686,400
Total	305,000	805,000	1,491,400	2,177,800	2,864,200	3,550,600

Notes: This assumes that house building recovers to 500 dwellings per year by 2013/14.

The model above assumes 100 new homes each in Council tax bands A, B,C,D; 50 band E properties, 20 band F and G and 2 band H. This would earn about £686,400 per year. New Homes Bonus in year 2

(£500,000) is based on a midway position. Six year total is £11,194.

This more sanguine assessment suggests that about £11.2 Million of new homes bonus could be achieved in a 6 year period. It will be noted that supporting this growth scenario will require development of some greenfield land to build houses, at an early stage of the Core strategy Plan period.

Affordable Housing New Homes Bonus

Affordable homes earn a supplement of £350 per year (£2,100 over 6 years). Building 135 affordable homes a year, which is the target in the Saved Torbay Local Plan, would generate an additional £992 thousand over 6 years.

Long Term Affordability of New Homes Bonus

The 2010 Comprehensive Spending Review allocated £946 million, over 4 years, of new money for New Homes Bonus. The Government has indicated that councils should assume that New Homes Bonus is a long term measure, but funding beyond 2014/15 is not known. A significant amount of NHB will be taken from existing local authority rate support grant.

Even if national house building remains at its very low 2010 levels (about 147,000 dwellings a year), New Homes Bonus will require a top-slice of over £600 million in 2014/15, and over a billion pounds by 2015/16.

Match Funding for South Devon Link Road

Community Infrastructure Levy – Potential Income

Community Infrastructure Levy (CIL) is a tax on developments that create 100 sq m or more of new floor space. It cannot be charged on conversions of existing buildings, social housing or charities.

Forthcoming legislation in the Localism Bill will require a “meaningful proportion” of funding goes directly to local communities. However a major use of CIL is intended to be to help fund the infrastructure needed to make development sustainable. A reduced S106 Agreement regime remains in place to deal with matters such as direct site mitigation, that are needed to make the development acceptable in planning terms. The scope for these has been reduced by the CIL Regulations. In addition, affordable housing is still sought through S106 Agreement.

Baker Associates are currently preparing an Infrastructure Delivery Study. This report will be completed in Summer 2011 and will provide an updated assessment of viability which can be used as a basis for Torbay’s CIL Charging Schedule. The Draft CIL Charging Schedule will need to be published for consultation and examined by an independent examiner before it can be adopted. There are currently no adopted CILs, and only a handful of published draft or Submitted CILs. Therefore the scope for benchmarking is currently limited.

On this basis, the estimate of how much CIL could raise is a very interim assessment, that is likely to change.

CIL From Residential New Build

Initial advice from Baker Associates is that a CIL of about £7000 per dwelling may be achievable. Newark and Sherwood’s submitted draft residential CIL is between £45-75 per Sq m, i.e. between £4,050 and £6,750 for a 90 sq m house. On this basis an average CIL of £5,000 per new build house seems to be reasonable.

It is assumed that CIL could be introduced in late 2012, given the need for consultation, public examination etc. Therefore a 50% CIL for 2012/13 is assumed.

CIL is only chargeable on new-build market homes (i.e. affordable housing and conversions will not be liable for CIL). As a rough assessment, based on a “brownfield first” approach, it is estimated that a building rate of 500 dwellings per year could include 200 new build homes, of which 60 (30%) would be affordable. This leaves 140 CIL chargeable homes per year.

However, it seems feasible to push this up to around an average of 200 CIL liable dwellings per year. A key way would be to bring forward greenfield sites. Reducing the proportion of affordable housing would increase the number of homes that were CIL liable, but would have negative consequences for “Closing the Gap” and may therefore be less sustainable than allocating new development.

Table A4.1 assesses the contribution to CIL that this could make. In summary, it appears feasible that residential CIL could raise around £5.5 million in the first 6 years of operation. It is reiterated that this is an interim assessment, and that achieving this level of CIL chargeable housing may entail making controversial decisions to develop greenfield sites at an early stage in the Core Strategy Plan period.

	2012/13 (50%)	2013/14	2014/15	2015/16	2016/17	2017/18	Six year total
140 new CIL chargeable dwellings per year, based on average of £5,000 per home)	£350K	£700k	£700k	£700k	£700k	£700k	£3.85m
200 New CIL Chargeable dwellings per year	£500K	£1m	£1m	£1m	£1m	£1m	£5.5m

CIL from Non Residential Development

It is much harder to estimate CIL arising from Commercial and other non-residential development. The Core Strategy will prioritise urban regeneration, particularly within the harbourside and waterfront areas. Much of this will be conversion or redevelopment of existing buildings, which is not CIL chargeable. CIL is only charged on buildings.

New “B” Class employment land tends to be at the margins of viability, and given the need to encourage new jobs it is likely that either a zero or a very low CIL should be applied to new employment buildings (possibly with a caveat that CIL would become payable if a change of use to non-B use took place).

Retail, and to a lesser extent leisure, developments may be sufficiently viable to support a CIL. The Sherwood and Newark draft charging schedule has a CIL of £100 per sq m for large retail developments but a zero rate for leisure. Similar rates are sought in Portsmouth, but only £50 per sq m is sought for in-centre retail.

Pending Baker Associates’ comments, it is suggested that we should assume a zero rate for leisure developments, £50 for new retail in town centres and £100 per sq m for out of town centre retail. Developing about 7,000 sq m in centre retail could generate about £350k CIL. A large (4000 sq m) out of centre store could reasonably be expected to generate a CIL of about £400K. However, this would have significant policy implications in terms of impact on town centres.

On the basis of the above, whilst it appears that some CIL could be generated from non-residential development, it is less certain at this stage than CIL from residential, and would require a policy decision as to the acceptability of development.

Exhibitions

Monday 20th June, Rosetor Room, Riviera Centre, Torquay.

Tuesday 21st June, Kingskerswell Primary School, Coffinwell Lane.

Wednesday 22nd June, Old Forde House, Newton Abbot.

Saturday 25th June, Union Square Shopping Centre, Torquay.

Monday 27th June, St Luke's Church Hall, Laburnum Road, Milber, Newton Abbot.

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Public Agenda Item: **Yes**

Title: **Health and Safety Enforcement Service Plan 2011/12**

Wards Affected: **All Wards in Torbay**

To: **Council**

On: **13 July 2011**

Key Decision: **Yes – Ref X6/2011**

Change to Budget: **No**

Change to Policy Framework: **Yes**

Contact Officer: **Helen Perkins**

☎ Telephone: **01803 208009**

✉ E.mail: **Helen.perkins@torbay.gov.uk**

1. What we are trying to achieve

- 1.1 For Members to agree the contents of the Health and Safety Enforcement Service Plan, which is an annual requirement of the Health and Safety Executive (HSE). By approving this plan, Members will ensure that businesses, residents and the wider community of Torbay are continued to be provided with a suitable level of protection by the health and safety team.

2. Recommendation(s) for decision

- 2.1 **That the Health and Safety Service Plan attached in Appendix 1 to this Report be approved.**

3. Key points and reasons for recommendations

- 3.1 The production of the Health and Safety Enforcement Service Plan is a statutory requirement of the Health and Safety Executive and a requirement of the Councils Policy Framework. The plan adheres to the guidance produced by the Health and Safety Executive and is a factual account of this statutory service.
- 3.2 From the 1st April 2010 the Community Safety Business Unit implemented a restructure following a transformation programme from three teams into two teams, with a new strategic manager overseeing the whole of the commercial regulatory side of the department. The aim was to achieve better integration of the different services, providing a more business friendly support service, offering advice and support to business. This has also lead to better intelligence sharing so that inspections and interventions can be targeted at higher risk businesses. A cross professional working project is also underway across the Commercial Team of which Health and Safety is a part.

- 3.3 During 2010/11, a piece of work has reaffirmed its compliance to ensure that the health and safety enforcement work carried out by the Commercial Team is compliant with new Section 18 Guidance as required by the Health and Safety Executive. This work has been completed in partnership with the other nine Devon Local Authorities who make up the Devon Health and Safety Sub Group, this work has meant that a number of new approaches to working have been introduced such a new Accident and Complaints prioritisation procedure which allows resources to be targeted more effectively and avoiding the need to intervene with compliant businesses.
- 3.4 Following the publication of Lord Young's report on health and safety enforcement 'Common Sense Common Safety' in 2010 there has been a committed effort by HSE to both assist and engage with local businesses to facilitate their compliance with health and safety standards without significant financial burden, this has meant an increased emphasis on web based sector support for businesses which is relevant to them and needed by them. The Commercial Team already operate a sensible risk management system and already offer a considerable amount of advice and support to businesses and the contents of Lord Young's report has reaffirmed our commitment to taking this approach. In support of this, one significant piece of work that was undertaken this year in conjunction with the other Devon authorities was the production of a Safer Workplace Better Business pack. This has been written for small and medium sized businesses that once read and completed will provide a basic level of compliance with the requirements of the Health and Safety. This work has attracted considerable support and interest from the Health and Safety Executive as well as Local Better Regulation Office and resulted in a runner up award at the MJ Awards. This pack is now available on the Council's website for all businesses to download.

For more detailed information on this proposal please refer to the supporting information.

**Frances Hughes
Executive Head Community Safety**

Supporting information

A1. Introduction and history

A1.1 In September 2001, the Health and Safety Commission (HSC) issued mandatory guidance to Local Authorities on how they must implement adequate arrangements for the enforcement of health and safety law and to perform those duties in accordance with guidance from the HSC. The Health and Safety Commission has recently amalgamated with the Health and Safety Executive (HSE). These requirements were issued under Section 18 of the Health and Safety at Work etc Act 1974. The requirements included a range of issues against which Local Authorities would be measured. One of these requirements was to produce “a service plan detailing the Local Authorities priorities and its aims and objectives for the enforcement of health and safety.”

A1.2 The guidance requires that the Service Plan includes information on the following:

- future objectives and major issues that cross service boundaries;
- key programmes, including a planned inspection programme in the context of current HSE plans and strategies;
- information on the service that is being provided;
- the means by which these services are going to be provided;
- any performance targets and how they will be achieved; and
- a review of performance to address any variance from meeting the requirements of the service plan.

A1.3 As well as specifying the need for a Service Plan, the guidance also requires:

- a clear published statement of enforcement policy and practice;
- a system for prioritised, planned inspection activity according to hazard and risk, and consistent with any advice given by the Health and Safety Executive and Local Authorities Enforcement Liaison Committee (HELA);
- the capacity to investigate workplace accidents and to respond to complaints by employees and others against allegations of health and safety failures;
- arrangements for benchmarking performance with peer Local Authorities;
- provision of a trained and competent inspectorate; and
- arrangements for liaison and co-operation in respect of the Lead Authority Partnership Scheme.

The way in which Community Safety Business Unit will accommodate these requirements are included throughout the Service Plan. Health and Safety responsibilities are divided between two teams within the Community Safety Business Unit. The Licensing and Public Protection Team which addresses health and safety matters in licensing premises and some non-food commercial premises. Whilst the Food and Safety Team addresses health & safety matters in most businesses producing food and the remaining non-food commercial premises.

A1.4 The Service Plan highlights the pressures on this statutory service from:

- the Health and Safety Executive, in terms of qualitative and quantitative

targets;

- businesses and consumers in Torbay, as part of the service is demand led;
- competition for resources within the team, against, for example, Food Standards Agency requirements, other demand led services, need to ensure continuing competencies of Officers in the full range of services delivered; and
- the Health and Safety Authority is also a prescribed statutory consultee under the new Licensing Act 2003.

A1.5 From the 1st April 2010 the Community Safety Business unit undertook Transformation from three teams into two teams, with a new strategic manager overseeing the whole of the commercial regulatory side of the department. This has resulted in more efficient working. This achieved better integration of the different services at the front line, providing a more business friendly support service, offering advice and support to business. This has also lead to better intelligence sharing so inspections and interventions are targeted at higher risk businesses.

A1.6 Better intelligence allows the better managed premises to be trusted with advice, while poorer performing premises, often with a record of poor compliance, will be targeted with further inspections, so making the 'playing field' more even and improving the overall safety of premises.

A1.7 During 2011/12 there are a number of changes proposed which may impact onto the way in which health and safety is regulated within local authorities and the Health and Safety Executive and are part of a national review of health and safety enforcement by the Government. Sector based interventions across whole industries is one of the proposals along with changes to the allocation of premises in which Local Authorities enforce with LA,s taking over more of the higher risk premises currently dealt with by the Health and Safety Executive.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

A2.1.1 There is no risk associated with accepting this report as it is a statutory plan required by the Health and Safety Executive.

A3. Other Options

A3.1 Not to approve the plan, however this would mean that we are not meeting our statutory obligation.

A4. Summary of resource implications

A4.1 The Service Plan as presented is within the budget allocated for this service.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 Health and Safety work has a positive impact on quality, environmental sustainability and crime and disorder. Its overall aims are to protect the health, safety and welfare of persons and work and all those who may be affected by a

work activity.

A6. Consultation and Customer Focus

A6.1 The team has been engaged with ongoing consultation with a range of business organisations from across the South West throughout the year on future service developments, the outcomes of which have informed this service plan.

A7. Are there any implications for other Business Units?

A7.1 There are no implications for any other business unit by approving this Service Plan.

Appendix

Appendix 1 Health and Safety Service Plan 2011/12

Documents available in members' rooms

None

Background Papers:

The following documents/files were used to compile this report: None

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Health & Safety Service Plan

2011-2012



This document is available in large print
or other formats on request.



In 2010 the Employment Tribunal found in the Council's favour and agreed that the Council had acted correctly in serving a Prohibition Notice on a large hotel following a fatality where a member of the public had fallen over a balcony.



In partnership with other Devon Local Authorities the Safer Work Better Business pack is now launched and is designed to help small to medium sized businesses manage health and safety in their premises.



In 2010/11 the Food and Safety Team inspected every residential home in the Bay (approx. 120) to ensure compliance with health and safety law. There has been a very positive response from the homes and there has been an improvement in the management of health and safety as a result of this project.



The Food and Safety team have now completed their targeted intervention on improving the safety of swimming pools. This has been a successful piece of work and it means that the tourists and residents in Torbay can now swim in much safer swimming pools.



97% of the high risk health and safety inspections have been completed in 2010/11.

TORBAY COUNCIL

HEALTH AND SAFETY SERVICE PLAN 2011/12

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Appendix I Performance Indicators

TORBAY COUNCIL HEALTH AND SAFETY SERVICE PLAN

1.0 Service Aim, Objectives, Key Tasks and Targets

1.0 Introduction

This is the ninth Health and Safety Service Plan produced by Torbay Council's Community Safety Business Unit in response to the Health and Safety Executive's mandatory guidance produced under Section 18 Health and Safety at Work etc Act 1974, in September 2001. The plan is intended to inform residents and the business community of Torbay and the wider audience of the arrangements Torbay Council have in place to regulate health and safety at work.

The primary function of the Business Unit is to provide education and advice to businesses in Torbay to help them comply with the requirements of the legislation. It provides this support in partnership with the Health and Safety Executive.

In addition to providing education and advice, inspections and investigations are undertaken at premises that are classified as either high risk, or there is intelligence or complaints about working practices or the safety of premises.

Where businesses fail to comply with the advice given and fail to provide a safe working environment for employees and the public at large, then the Business Unit will use its enforcement policy to protect them, and in doing so provide a fair and even playing field in which businesses can operate.

To many, health and safety is seen as a burden on business. In fact the opposite is true, in that poor health and safety will result in accidents and poorer health which results in extensive time off work, and this impacts directly on the business and ultimately on the economy of Torbay. It also potentially gives an unfair advantage to those who might ignore the law.

1.1 Aims and Objectives

The objectives of the Health and Safety at Work etc Act 1974 are:

- securing the health, safety and welfare of persons at work;
- protecting persons other than persons at work against risks to health or safety arising from work activities;
- controlling explosive, highly flammable or dangerous substances;
- controlling the emission of noxious or offensive substances from prescribed classes of premises.

1.1.2

Since 1974 all Local Authorities have had statutory duties to enforce health and safety at work legislation in premises. Nationally, Local Authorities enforce this legislation in 1.2 million premises. These are offices, shops, retail and wholesale distribution outlets, the hotel and catering sector, residential care homes and the leisure industry.

If a Local Authority fails to meet its statutory obligations, the Secretary of State may invoke intervention powers, following a local enquiry. Torbay Council meets these requirements.

1.1.3

The Health and Safety at Work etc Act is the primary statute, under which there are numerous regulations, e.g. COSHH, First Aid at Work, accident reporting (RIDDOR), etc. The regulations are aimed at improving and preserving standards for the health, safety and welfare of persons at work and those who may be affected by the work activity.

1.1.4

In implementing its policy the Council is mindful of the pressures on local businesses particularly where, for example, the economy is seasonal and subject to fluctuation.

1.1.5

This policy will be put into effect by the Commercial Team within the Community Safety Business Unit. Procedural notes will support the policy where necessary to assist staff in delivering a high quality and consistent service.

1.1.6

Whilst the Commercial Team offers a full range of education, advice and enforcement duties under the Health and Safety at Work etc Act 1974, it does not offer this on premises operated by the Council. The Council employs staff independently to offer advice to the Council and any enforcement is undertaken by the Health and Safety Executive. There will however be much closer working with the Council's internal health and safety team as they are now also under the management of the Executive Head of Community safety.

1.2

**Links to
Corporate
Objectives and
Plans**

The desired future for Torbay is contained within its overall vision:

“A cleaner, safer, prosperous Bay”

1.2.2

We are committed to living up to these principles in everything that we do and in all decisions we make.

There are four key corporate themes that feed from the new community plan, 'Turning the Tide for Torbay' 2007/27. These are

1. The New Economy
2. Stronger Communities
3. Pride in the Bay
4. Learning and Skills for the Future

The Health & Safety function significantly contributes to the priorities highlighted above. The service links directly with an Elected Member who is the Cabinet Member for Community Safety

1.2.3

The health and safety service also links directly with other corporate policies on Equal Opportunities, Sustainability and Crime and Disorder.

2.0 Background

2.1 Authority Profile

Torbay is a Unitary Authority comprising the coastal towns of Torquay, Paignton and Brixham. It has an estimated population of 136,300 rising to 200,000 during the summer months. The Council covers an area of 25 square miles (6450 hectares). There are 22 miles of coastline, and its geographical location and reputation as the English Riviera demand that it is an area heavily dependent on tourism. Torbay hosts 9 million bed nights each year, and the industry employs 15,000 people both directly and indirectly. The industry accounts for 13.5% of the areas gross domestic product. Many of the smaller premises are seasonal, opening only between Easter and October each year.

At the start of 2011/12 there are 3177 businesses registered on the Division's database, within Torbay for whom Torbay Council is the enforcing Authority. These can be profiled as:

33.51%	Retail shops
18.16%	Catering, restaurants and bars
12.86%	Hotels, campsites and other short stay accommodation
13.46%	Consumer services
11.00%	Offices
4.51%	Leisure and cultural services
3.56%	Residential care homes
2.21%	Wholesale shops, warehouses and fuel storage depots
0.73%	Other

2.1.2

The Community Safety Business Unit is located at Roebuck House in Torquay. Torbay Council also has a one-stop-shop in each town (Torquay, Paignton and Brixham) known as "Connections". Normal office hours are 9.00 am – 5.00 pm. There is also an Emergency Out of Hours system which is currently under review.

2.2

Scope of the Health and Safety Service

The principle areas of health and safety work are:

- (i) Providing targeted training to identified sectors.
- (ii) Inspection of workplaces;
- (ii) Investigation of accidents;
- (iii) Investigation of health and safety related complaints made by residents and visitors to Torbay;
- (iv) Health and safety advice to traders, residents and visitors to Torbay;
- (vi) Inspection and sampling within workplaces, e.g. swimming pools, legionella;
- (vii) Administering, inspecting and taking enforcement action under Petroleum Licensing legislation
- (viii) Administering, inspecting and taking enforcement action under Sunday Trading legislation.
- (ix) Administering, inspecting and taking enforcement action under Manufacture and Storage of Explosive Regulations.
- (x) Supporting Trading Standards with regard to Test Purchasing operations, notably fireworks and petroleum products
- (xi) Administering and undertaking annual inspection of premises with Zoo licences.

At the present time, two operational teams within Community Safety undertake health and safety

enforcement. These are the Food and Safety team and the Licensing and Public Protection Team

In premises where food issues take precedence over health and safety, then the Food and Safety team will continue to take the lead for the purpose of inspection and enforcement in both food safety and health and safety. Officers from the Licensing and Public Protection team will take the lead in premises where health and safety matters are predominant over food (e.g. DIY stores and nightclubs). This may be altered from time to time to allow flexibility between the teams.

2.3 HSE Priorities

The HSE has identified a number of priority hazards to be tackled during 2011/12 by Local Authorities as part of their enforcement activities. This is undertaken through partnership working with the Health and Safety Executive. Although these priorities remain the same, the emphasis within these priorities changes and the types of premises being targeted changes. The main five hazards have been determined as:

- Dermatitis in catering
- Workplace temperatures
- musculoskeletal disorders;
- Vulnerable and migrant workers
- Slips and trips.
- Management of asbestos

To enable Torbay Council to effectively target resources to areas of highest health and safety priority, both national and local priorities are incorporated into the teams annual work plan.

2.4 Enforcement Policy

Torbay Council's approach to enforcement reflects the responsibilities placed upon it by the Health and Safety at Work etc Act 1974 (the 'Act') and the range of powers that the Act makes available, including regulations made under the Act.

It is Torbay Council's policy that enforcement action, be it verbal warnings, the issue of written warnings, statutory notices or prosecutions, is primarily based upon an assessment of risk or/and the seriousness of any alleged offence.

2.4.1

Torbay Council endorses and fully supports the Principles of Good Enforcement as set out in the Enforcement Concordat published by the Cabinet Office in March 1998. The Council formally adopted the Enforcement Concordat in 2000. The Regulatory Compliance Code came into effect on 6th April 2008, and Torbay Council is required to comply with this. As part of demonstrating its compliance, the Business Units Enforcement Policy has been reviewed and published.

2.4.2	It is Torbay Council's policy to follow guidance on enforcement action contained in the HELA and Health and Safety Executive guidance. Any departure from this policy will be exceptional, capable of justification and will, where appropriate, involve consultation with the Devon Health and Safety Liaison Group and HELA. All health and safety enforcement officers are required to support and comply with this policy and will be given sufficient information, instruction and training to enable them to do so.
2.4.3	In accordance with the Health and Safety Executive (HSE) Enforcement Policy Statement, Torbay Council implemented the Enforcement Management Model (EMM) during 2005/06 and has used it since. The EMM is a standard reference document that is intended to help enforcement officers make enforcement decisions.
2.4.4	<p>Initial and ongoing training will be given to all health and safety enforcement officers to ensure they understand the requirements of these policies and abide by the terms of the policies where making an enforcement decision. EMM training for all officers was completed in March 2004 through the Devon Health and Safety Sub Group.</p> <p>Over the last year an Enforcement Panel has been introduced within Community Safety where officers from Community Safety bring any pending formal action to the table to discuss with representatives from the Council's Legal team. This helps to ensure a consistent approach and that legal cases are dealt with in a timely manner.</p>
2.4.5	All Council employees hold identity cards, which state the name, position and incorporate a picture of the cardholder. Enforcement Officers carry an additional identification card, again incorporating a photograph, which details their powers and duties under the legislation they have the powers to enforce. Enforcement Officers when calling to a home or place of business will always show their enforcement identification card.

3.0 Resources

3.1 Allocation of Staff

	EHO/ FSO	Additional HSW Qualifications	APD or Equivalent	FTE	Authorised S19 Inspector
Environmental Health Manager (Commercial)	EHO	✓	✓	0.1	✓
Principal Environmental Health Officer (Food and Safety)	EHO	✓	✓	0.2	✓
Principal Environmental Health Officer (Licensing and Public Protection)	Vacant				
Senior Environmental Health Officer	EHO	*	*	0.2	✓
Senior Environmental Health Officer	EHO	✓	*	0.2	✓
Senior Environmental Health Officer	EHO	✓	*	0.5	✓
Senior Environmental Health Officer	EHO	*	*	0.2	✓
Senior Environmental Health Officer	EHO	*	*	0.2	✓
Environmental Health Officer	Non Ehorb	*	*	0.2	*
Senior Environmental Health Officer	EHO	*	*	0.1	✓
Senior Environmental Health Officer	EHO	✓		0.2	✓
Health and Safety Officer	HSO	✓	N/A	0.2	✓
Licensing Officer	LO	✓	N/A	0.1	✓
School Meals Client Officer	EHO	*	✓	0.1	✓

3.1.1

The commercial side of the Community Safety team has been restructured to meet the challenges presented to it by the reduction in resources and the changes following the Hampton review with the introduction of the Local Better Regulation Office.

3.1.2

The area of health and safety has also recently been reviewed by Lord Young and a number of the recommendations will have an impact on the work of Local Authorities. Some of the main recommendations covered areas such as minimising the regulatory burden on businesses, ensuring sensible Risk management and encouraging a multi agency approach. There are also discussions being held by the Health and Safety Executive which may result in a shift in the types of premises that the Local Authority inspect and leading to a change in the Enforcement Allocation Regulations.

3.1.3	<p>From the 1st April 2010 Community Safety has re-organised from three into two teams, with a new strategic manager overseeing the whole of the commercial regulatory side of the department. This has resulted in a slight reduction in resources, however the restructure has off set some of this reduction by more efficient working. The overall aim was to achieve better integration of the different services, providing a more business friendly support service, offering advice and support to business. This has also led to better intelligence sharing so inspections and interventions are targeted at higher risk businesses, particularly those where the intelligence identifies the need for intervention.</p>
3.1.4	<p>The outcome has been that the better managed premises are trusted with advice, while poorer premises, often with a record of poor compliance, are targeted with further inspections, so making the 'playing field' more even and improving the overall safety of premises.</p>
3.2 Staff Development Plan	<p>Staff development is an ongoing process and takes the form of both formal structured training and ongoing workplace training. Training is made available wherever possible.</p>
3.2.1	<p>There is a two monthly Health and Safety meeting, chaired by PEHO (Food and Safety), which provides opportunities for staff to raise any relevant issues, including those relating to consistency, in an open forum situation. This provides a useful training opportunity and sharing of information. There are also monthly team meetings of both the Food Safety Team and Licensing and Public Protection Team.</p>
3.2.2	<p>Procedural manuals are regularly reviewed with the team as a whole. Officers then have the opportunity to influence future work and direction. Much work has been undertaken with the Devon-wide Health and Safety Sub Group in the development of such procedures to improve local consistency.</p>
3.2.3	<p>Torbay Council is committed to ensuring that its Officers are able to fulfil equivalent requirements of the NVQ5 Standard for Inspectors, through the implementation of the Regulators Development Needs Analysis (RDNA) tool and new Section 18 standard. This is a rolling programme of in-house and Devon wide training, which will contribute towards Officers competencies. Following completion of the RDNA tool in 2010/11 some areas of additional training were identified e.g. Gas Safety and Electrical Safety and this is now being provided both internally and by the Devon Health and Safety Sub Group.</p>
3.2.4 Access to Information	<p>There is a wide range of technical information available to Officers to assist in their enforcement duties. The majority of information is received and stored electronically from HSE, with more complex, regularly used publications being stored on hardcopy. All Officers have Internet access and access to publications. A new register of Expertise in Devon has been set up through the health and safety Sub Group should officers require more expertise in a particular area of work e.g. legionella, asbestos.</p>

3.2.5 Liaison with Other Statutory Agencies

Health and safety enforcement routinely requires liaison with other statutory agencies. Within the Community Safety Business Unit this includes: Food and Safety; Licensing and Public Protection; Trading Standards Officers; and Environmental Protection. Much of this liaison is informal, as the teams are co-located.

An arrangement exists with the Council's Planning and Development Business Unit, to enable Health and Safety Officers to view the weekly Planning Application lists. This enables Officers to detect new businesses and identify potential welfare issues with new developments, and offer advice on corrective issues to the applicants at any early stage.

Long established liaison arrangements also exist with Devon and Somerset Fire and Rescue Service. Information on potential hazards is shared, in both directions, where there is a shared enforcement responsibility. Devon Fire and Rescue Service have a nominated Local Authority Liaison Officer through whom referrals are made.

4.0 Service Delivery

4.1 Health and Safety Premises Inspections

The purpose of a health and safety inspection is to identify hazards and risks within a working environment, both to employees and others who may be affected by the work activity, and seek to ensure that they are controlled. Officers visit premises on a routine basis, as well as when following up complaints or investigating accidents. Officers may take samples of equipment or environmental samples for analysis to ensure that health and safety provisions are complied with.

Premises are categorised according to risk, and in the past this determined their frequency of inspection. The risk category can change year on year, as the actual risk changes, due to factors such as improved management, or change of management. The risk rating system has changes with new Section 18 guidance being produced by the Health and Safety Executive. Categories B3 and B4 have been amalgamated in to the bands below. At the start of 2011/12 the breakdown of premises was:

A	=	13	Every year
B1	=	37	Every 18 months
B2	=	709	Every 3 years
C	=	2415	Contact every 10 years
unrated	=	000	
Total		3175	

	<p>The whole approach to inspection of premises has changed over recent years, following the publication of the Hampton Report and with that the introduction of the Local Better Regulation Office. The focus is increasingly on high risk businesses, either by risk assessments completed at previous inspections, or inspections based upon complaints or intelligence.</p>
4.1.2	<p>As part of the reorganisation of Community Safety, the Business Unit is increasingly making use of data held by other agencies as well as our own databases, helping to identify these high risk businesses. The Business Unit has also introduced training to all officers, so that when they attend their 'primary' inspection, they can look at targeted risk areas in the other disciplines. An example is that all officers undertaking inspections also enquire about 'falls from height' by asking how work at height is undertaken.</p>
4.1.3	<p>Those business that refuse to take the safety of others seriously or fail to comply with expected standards, will be targeted to ensure compliance. This will ensure that they do not have an unfair competitive advantage over other business.</p>
4.1.4	<p>A work programme has been developed in partnership with the Health and Safety Executive and other Devon authorities, as well as with authorities from Cornwall and the wider South West region.</p>
4.1.5	<p>An important part of this work is Safety Health Awareness Days (SHAD's). These events give those attending an opportunity to learn about good practice and to take that information back and implement it, without the need for inspections.</p>
4.2	<p>Performance Measurement</p> <p>Health and Safety performance is measured by both internal and external means, which are summarised as below.</p> <p>There has been a change in the way the work has been increasingly targeted, which is based upon education and advice first, inspection and support second and only when a business fails to heed advice or except support will enforcement action be taken. Quite clearly some matters are so serious that enforcement powers have to be implemented immediately to protect employees, contractors or members of the public visiting premises.</p> <p>See Appendix I.</p>
4.2.1	<p>Review of Performance</p> <p>Overall the Health and Safety function has performed reasonably well; achieving many of its targets, in a year when its resources were stretched by reduced staff resources as well as dealing with a high profile legal case.</p>

4.3 Health and Safety Complaints

The number of health and safety service requests has remained very stable, over the past four years, with the peak in 2007/08 being due to an increase in smoking complaints relating the new smoke free legislation.

	No of Service Requests	Requiring Investigation
2002/03	394	150 (40%)
2003/04	354	112 (31.6%)
2004/05	280	165 (58.9%)
2005/06	284	130 (46%)
2006/07	216	85 (39%)
2007/08	312	75 (24%)
2008/09	211	57 (27%)
2009/10	213	61 (28.63%)
2010/11	192	45 (23.44)

4.4 Accident Investigation

All accidents received are assessed and preliminary investigations carried out. This may involve contacting the injured party or the workplace, to prioritise the need for a more in depth investigation, in accordance with internal procedures. Following such an assessment, more in depth investigations are instigated involving site visits and more formal investigatory work where necessary.

4.4.1

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) requires certain types of injury when it happens at a workplace to be reported to the enforcing Authority. This report is made directly to the Incident Control Centre, which is a national call centre to whom statutory reports must be made. When the Incident Control Centre is notified, the Council receives the notification via the Internet throughout the day.

	Accidents Reported	Non-Reportable	Site Visits Required
2002/03	367	123	106 (28%)
2003/04	323	108	192 (59%)
2004/05	381	127	92 (24%)
2005/06	327	31	78 (24%)
2006/07	261	15	69 (26%)
2007/08	323	30	88 (27%)
2008/09	253	21	63 (25%)
2009/10	245	10	145 (59%)
2010/11	315	40	123 (39%)

Over the last five years the number of accidents that have been reported have remained fairly static although there is a slight increase this year.

In the latter end of 2010/11 as a result of revised Section 18 guidance a new accident filtering system was introduced to ensure that officers only investigate those accidents which really need it. This has ensured that resources are targeted more effectively.

<p>4.5 Sampling</p>	<p>The two teams have the ability to sample a range of issues, which may affect safety and health including swimming pool water for disinfection level, water sampling for legionella and pseudomonas. Where potentially faulty equipment or hazardous substances are implicated in an accident investigation, the Team is able to liaise with laboratories and colleagues at HSE to have this type of product examined.</p> <p>Where community acquired infections may be attributable to business/commercial premises, Officers will be involved in sampling to try to identify potential sources and causes of infection.</p> <p>Routine, proactive sampling is not undertaken, unless it is part of a national initiative.</p>
<p>4.6 Formal Action</p>	<p>Of the 153 inspections undertaken, 79 needed a formal letter requesting that improvements be carried out. There were also 5 Improvement and 1 Prohibition notices served. There is one large legal case pending relating to health and safety within a hotel premises.</p>
<p>4.7 Work Plan for 2011-12</p> <p>4.7.1</p>	<p>The work plan for 2011/12 is a mixture of National, Devon Sub Group project work and local priorities, which will be delivered, where appropriately with our partners across Devon, the South West and nationally. Locally this will include inspections of high risk premises or those that come to our attention through shared intelligence, complaints or accidents.</p> <p>Our primary aim is to raise awareness of issues, through education and advice. One primary way of achieving this is to run Safety Health Awareness Days (SHAD's). This targets a group of businesses through a half day training event, giving the business bit sized pieces of information on a number of key topic areas. This includes slips and trips, falls from height, muscular skeletal problems, asbestos, sun safety, workplace transport, to mention some. This year there is one event in the area of Tyre and Exhaust premises.</p> <p>During 2008 and 2009, significant work was undertaken looking at the safety of swimming pools. The work during 2009/10 resulted in most premises becoming compliant with the latest guidance. Whilst this project is now complete there will be a small amount of work which continues to monitor standards in the pools in Torbay.</p>

- 4.7.2 Most of the remainder of our work will be undertaking **inspections** of high risk business and those that come to our attention through intelligence, accident information or due to complaints. The Commercial team are also trialling cross working between teams which follows on from the Retail Enforcement Pilot, from last year. The aim is to collect intelligence, so when a primary inspection e.g. food is undertaken, then a limited inspection of Health and Safety is undertaken, at the same time in a chosen topic area to assess compliance. This is linked with an overall confidence in management score.
- 4.7.3 In addition to this work, the Council also has responsibility for premises that sell and store **fireworks** under the Manufacture and Storage of Explosive Regulations (MSER), **Petroleum premises**, which includes the permitting of those premises under the Pollution, Prevention and Control Act 1999. Test purchasing does take place with regard to the sale of underage products, notably fuel and alcohol, in conjunction with Trading Standards.
- 4.7.4 The Health and Safety Executive **Guidance**, covered under Section 18 Health and Safety at Work Act 1974, has been changed and this is resulting in significant work load in preparation for the changes that will commence on 1st April 2011. As a result of this work a number of new procedural documents have been introduced and the team is on target to be fully compliant with the new Section 18 guidance by April 2011.
- 4.7.5 Finally there is an **annual return** to complete for the Health and Safety Executive (HSE) on levels of advice, inspection and enforcement activity undertaken during the year.

5.0 Achievements 2010/11

- 5.1 **Working in Partnership in Devon** The Devon Health and Safety Sub Group, of which Torbay is a leading member, works in partnership across the County, with both the nine other local authorities and the Health and Safety Executive to deliver a programme of work. The primary role is education and advice, but if businesses fail to respond to this help and advice and fail to consistently provide adequate health and safety, then the secondary role is enforcement.

5.1.2	<p>This is working very well and Devon is being recognised nationally for some of the work it has done in recent years. It works together running events across the county. This year a series of Safety Health Awareness Days (SHAD's) for residential care homes was organised where officers from the 10 authorities share the workload of delivering advice and presentations. This event was well received in Torbay and was attended by 54 delegates from the care homes. This event was part of a large residential care home project undertaken by the Food and Safety team which involved carrying out a targeted inspection of every residential care home in the Bay to ensure compliance with health and safety particularly in relation to falls from height, legionella and scalding issues.</p>
5.2	<p>Service Requests and Complaint Investigations</p> <p>The number of health and safety service requests/complaints remained low at 192, this past twelve months. This is only two above last year which was a record low in the past 8 years. The trend suggests is there is increasing compliance, which must reflect positively on the work being undertaken by the two teams.</p>
5.3	<p>Inspections and Targeted Interventions</p> <p>During 2010/11 153 inspections and targeted interventions were undertaken, under the high risk inspections and the FIT3 programmes, which was an increase on last year. In addition there were 695 proactive actions undertaken, through advice, training as part of proactive work, accidents and complaints.</p>
5.4	<p>Promoting Awareness of Health and Safety with the Young</p> <p>As part of our commitment to promoting health and safety and developing a coordinated programme of activities, we organised a number of events during 2010/11</p> <p><u>Junior Lifeskills</u></p>
5.4.1	<p>Two events were held in 2010. In May a total of 19 schools and 700 pupils attended, while in September, 17 schools and 795 pupils attended.</p> <p>There were ten scenario providers: these were Torbay Council (Building site safety & road safety, food safety and alcohol awareness), BT (appropriate use of 999), Western Power (Electrical safety), RNLI (Beach safety), St John Ambulance and British Red Cross (both First Aid), Devon and Cornwall Constabulary (Bullying and Internet safety), Torbay Care Trust Lifestyles Team (Healthy eating and smoking awareness) and Devon and Somerset Fire and Rescue (Fire safety).</p>

6.0 Quality Assessment

6.1	Introduction	<p>Torbay Council recognises the need to measure the effectiveness of its health and safety enforcement duties. Auditing, peer review and external monitoring is seen as part of this process to ensure that its procedures result in high quality, consistent inspections. The interpretation and action taken by Officers following an inspection should also be consistent within the Authority. The Commercial Team has an up to date Internal Quality Monitoring procedure which includes an internal audit process along with procedures on how to ensure consistency across the team.</p>
6.2	Qualifications and Training	<p>The Authority will ensure that it only appoints appropriately qualified and experienced personnel to health and safety enforcement duties.</p> <p>The Authority will have regard to the competencies defined in NVQ5 for health and safety regulators when assessing the competency of its Officers. Where an Officer cannot be shown to achieve the standard in all areas, the Authority will ensure that that Officer is supervised by an Officer who does possess these competencies.</p> <p>The department is working to being fully compliant with the new Section 18 guidance by the required date of April 2011 and as part of this the authorisation process for health and safety functions is being fully reviewed and updated to ensure that all ten Local Authorities in Devon are consistent and using the same authorisation procedure.</p>
6.3	Procedural Documents	<p>Torbay Council operates a system of procedural documents for key areas of health and safety enforcement. These are issued in a controlled document format. A number of these procedures have already been updated this year in line with Section 18 guidance and this will continue in 2011/12.</p>
6.4	Standard Letters	<p>Each Officer involved in health and safety enforcement is issued with standard phrases and standard letters in the form of controlled documents. Each approved format is signed by the Principal Environmental Health Officers (Food Safety) and cannot be changed without their prior consent and the reissue of a signed amendment. The Principal Environmental Health Officers periodically review the formats and issue amendments as required. It is each individual Officers responsibility to ensure that they update their documentation in accordance with the amendments issued.</p>
6.5	Results and Development Annual Review (RADAR)	<p>Torbay Council provides for personal review and development through its RADAR procedure. At least twice a year each employee is given the opportunity to raise and discuss issues with their line manager and agree performance or personal development plans.</p>

6.6	Customer Feedback	<p>To ensure we are responsive to customer needs, and to ensure we attain our agreed performance standards, we survey all service users to gauge our performance. As part of this process a percentage of customer satisfaction forms are sent out to those who receive inspection or have made complaints about a health and safety issue.</p>
6.7	Maintaining Premises Database	<p>The Community Safety Business Unit operates and maintains a property database known as Flare. The system holds property based information on premises in Torbay and is shared with our Trading Standards colleagues.</p> <p>Maintaining a reliable picture of premises subject to health and safety enforcement in Torbay is difficult, as few businesses opt to register with us. The limited number of inspections undertaken does not allow regular maintenance of risk categories, and businesses in Torbay frequently change ownership. The Team relies on its own local intelligence to detect changes of business, but this is also supplemented by information gathered by other Teams within the Community Safety Business Unit, in particular the Trading Standards Team</p> <p>However, the following systems also allow us to check the database for accuracy:</p> <ul style="list-style-type: none"> • A weekly list of planning applications is received. Those of interest from a health and safety perspective are checked against the AUTHORITY database. • Types of premises subject to special survey or project work, e.g. builders merchants, are checked against the database. Any amendments are then made expediently in accordance with Divisional procedures. <p>Officers also reviewed many premises, which become unrated during the year, so reducing the number of unrated to zero at this time, though this is an ongoing job.</p>
6.8	Identification of achievements and any variation from the service plan	<p>Table 6 below identifies the status of planned service improvement actions from 2010/12. Any remaining improvement objectives are shown in the table below along with the reason for the delay and a revised target, which will be included in the work programme for 2011/12 where appropriate.</p>

Table 6

Service Improvement	Planned Outcome/Output	Actions	Target Date
Produce a Health and Safety Service Plan for 2010/11	To provide a structured plan to help formalise the annual workplan for health and safety functions and to provide information to both Elected Members and the public on the work of Community safety in relation to the area of health and safety	Achieved – Production of Health and Safety Service Plan for 2010/11	
Completion of Safer Work Better Business pack onto the Torbay Council website	To provide small to medium sized businesses in Torbay with an effective tool to improve the health and safety within their premises	Achieved - SWBB pack finished and available for businesses to use on the website	
Run a project to inspect all the residential care homes in Torbay.	To raise the level of health and safety compliance in residential care homes particularly in relation to areas such as legionella control, falls from height, manual handling and scalding	Achieved – all 120 residential care homes inspected. Feedback from officers on revisits was that the level of health and safety compliance had increased following our intervention.	
Ran a Safety Health Awareness Day for Residential Care Homes in Torbay	To increase the level of knowledge and awareness of health and safety within these premises Build on and improve communication with this business sector	Achieved – Event completed and attended by 50 delegates. Evaluation of the event showed that the delegates felt their knowledge of health and safety had increased as a result of the event.	
Secure compliance with new Section 18 Guidance	To ensure that the health and safety function carried out by Community Safety is performed in a consistent manner and that there is an effective method of organising that function.	Achieved - A large amount of this work is now complete and a number of new procedures have been introduced. Some further work particularly on authorisations and complaints to be completed by April 2011	Final by April 2011

6.9 Areas of Improvement for 2011/12

Some of the current planned improvements for 2011/12 are outlined in Table 7.

Table 7

Service Improvement	Planned Outcome/Output	Target Date
Secure full compliance with Section 18 Guidance	To ensure that the health and safety function carried out by Community safety is performed in a consistent manner and that there is an effective method of organising that function. This will involve updating all the remaining procedures.	April 2011
To inspect all high risk A and B1 premises	To secure compliance with Health and Safety legislation	March 2012
To review and improve Work Related Death Policy	To improve the approach the department takes when dealing with Work Related Deaths and Major Injury investigations	March 2012
Undertake a Tyre and Exhaust premises project in partnership with the Devon Health and Safety Sub group members	To increase the knowledge of health and safety within these premises thereby helping to ensure compliance.	March 2012
Following a training needs assessment organise Gas and Electrical safety training for all officers involved in health and safety	To increase the knowledge and competency of officers in these areas of work	March 2012
To take part in a Nail Bar/Beauty Salon project run throughout Devon Health and safety Sub Group	To increase the level of knowledge of health and safety of the operators of such premises	March 2012
Contribute to production of an Event safety pack	To provide information for the organisers of small scale events.	March 2012
To ensure that the requirements of the new Sunbed (Regulations) Act 2010 are met by businesses in Torbay	To ensure that coin operated sunbed premises comply with the new requirements and in turn the general public and specifically those under 18 are protected.	March 2012

Appendix I

Performance Indicator

	Type of PI (Local, National, BVPI)	Type of Performance Indicator	Target 2010/11	Actual 2010/11	Target 2011/12	Source of Evidence for Indicator
1	Statutory Duty	Prepare and publish an annual Health and Safety Service Plan in line with Health and Safety Executive requirements and ensure that the targets within it are met.	YES	YES	YES	Committee Report
2	Local Indicator	Inspect all A risk rated premises (highest risk)	100%	95%	100%	Flare
3	Local Indicator	Inspect 75% of all B1 risk rated premises (second highest risk)	75%	94%	75%	Flare
4	Local Indicator	Process all premises licence applications within 28 days of receipt.	100%	100%	100%	Flare
5	Local Indicator	To participate in two Devon SHAD events involving 200 business interventions.	2 (200)	2 (200)	2 (200)	Flare & Manual
7	Local Indicator	To undertake over 500 FIT3 interventions at health and safety premises. Interventions include all types of advice and information.	500	695	500	Flare

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Public Agenda Item: **Yes**

Title: **Food Safety Service Plan 2011/12**

Wards Affected: **All Wards in Torbay**

To: **Council** On: **13 July 2011**

Key Decision: **Yes – Ref X7/2011**

Change to Budget: **No** Change to Policy Framework: **Yes**

Contact Officer: **Helen Perkins**

☎ Telephone: **01803 208009**

✉ E.mail: **helen.perkins@torbay.gov.uk**

1. What we are trying to achieve and the impact on our customers

- 1.1 By approving the contents of the Food Safety Service Plan required annually by the Food Standards Agency, Members will ensure that residents and the business community of Torbay continue to be provided with a statutory food safety service.
- 1.2 By targeting our interventions based on risks created by businesses, we can ensure the public's health, safety and welfare is not compromised due to poor practices. Food Safety work is focused on assessing, correcting and preventing the impact of poor practices on the health of the local population. Much of the work undertaken by the team is "unseen" by the wider population, yet it impacts on every person's daily life.

2. Recommendation(s) for decision

- 2.1 **That the Food Safety Service Plan set out in Appendix 1 to this Report be approved.**

3. Key points and reasons for recommendations

- 3.1 The production of a Food Safety Service Plan is a requirement of the Food Standards Agency. Detailed guidance on the format and the content of the Plan is contained in the Framework Agreement on Local Authority Food Law Enforcement. The appended Food Safety Service Plan adheres to the guidance and is a factual account of this statutory service.

3.2 The developments and actions for the coming year are in line with supporting wider policies addressing inequalities in health e.g. closing the gap, tackling childhood obesity and food safety in the home.

For more detailed information on this proposal please refer to the supporting information attached.

**Frances Hughes
Executive Head of Community Safety**

Supporting information

A1. Introduction and history

- A1.1 Food Standards Agency guidance entitled Framework Agreement for Local Authority Food Law Enforcement details many requirements for Local Authorities, which had to be implemented from April 2001. These requirements include the production and implementation of an annual Food Safety Service Plan and a Food Sampling Policy. The guidance provides information on how enforcement services plans should be structured and what information they contain. Service plans developed under these arrangements will provide the basis on which Local Authorities are monitored and audited by the Food Standards Agency.
- A1.2 The document shown in Appendix 1 is the Food Safety Service Plan prepared by the Community Safety Business Unit. It includes food standards and food hygiene requirements in accordance with the Food Standards Agency prescribed format. It builds on the previous years Plan and details matters such as achievements in service delivery, a review of last years implementation and this years work plan for 2011/12, this may alter during the year as the service is very reactive and responds to changes in legislation as and when is necessary.
- A1.3 The Community Safety Business Unit has undergone a recent transformation and significant restructure last year which included the Food and Safety team. This transformation has created an environment where more effective joint working between the various professional disciplines of the teams has been achieved, thereby allowing resources to be utilised more effectively. This in turn improves the customer experience and we continually aim to work on new approaches as to how we deal with the Business Community to support their business development and in doing so secure compliance with public health legislation.
- A1.4 In 2011/12 the Food Safety Team will be implementing a number of initiatives with the aim of improving compliance with food safety legislation. These are focused on high risk businesses making sure that our resources are targetted to best effect. The main focus of work will be to implement the national Food Hygiene Rating Scheme mentioned below in A1.5.
- A1.5 Following the national model in 2009/10 the Food Safety Team started preliminary work to implement the national Food Hygiene Rating Scheme which will allow the Authority to publish the food hygiene rating of food businesses in Torbay following their food hygiene inspections. This will provide our customers with increased information and allow them to make informed choices about where they eat. It is also hoped that this scheme, once fully implemented will encourage compliance and encourage businesses to obtain a high standard of food safety in their premises. This scheme is a considerable amount of work for the Food and Safety Team and it will therefore be launched in a phased approach across specific sectors of food businesses rather than an all-encompassing approach.
- A1.6 In 2011 the Food Standards Agency are starting to undertake a review of food safety enforcement across England and a report is being taken to the Food Standards Agency Board in July 2011 to give an update and this may set out the

brief for the future. This review is expected to look at how food enforcement currently operates in England in consultation with the business community and enforcement authorities alike.

- A1.7 Members can be reassured by the appended report that food safety and therefore the health of the local population is being proactively protected by the work of the Food and Safety Team. Some of the Food and Safety Team's highlights and achievements of 2010/11 can be seen on Page 2 of the appended Report.

A2. Risk assessment of preferred option

A2.1 Outline of significant risks

A2.1.1 There are no significant risks if the decision is made to take the preferred option. The Food Safety Service Plan aims to deliver a stated service within the budget already allocated.

A2.1.2 If the preferred option is not taken then the Council would be at risk of not fulfilling its statutory functions in relation to food hygiene and food standards.

A3. Other Options

A3.1 The Food Safety Service Plan is an annual requirement and has been prepared to reflect existing resources. Members may wish to add or amend the contents of the Plan.

A4. Summary of resource implications

A4.1 The Food Safety Service Plan as presented is within the budget allocated for this service.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 The work of the Food Safety Team has a positive impact on the equality, environmental sustainability and crime and disorder. The Food Safety Team already works closely with the ethnic food business community of Torbay and uses a range of alternative means of service delivery, in terms of access to data, translation services and bespoke training to deliver key messages. The areas of work highlighted in this years work plan will continue to improve the services offered by the food safety team and will ensure that what is provided is accessible to those who need it.

A5.2 Through close working with Licensing colleagues high risk premises across Torbay are identified and resources targeted effectively. The team focuses its efforts collaboratively with partners working across the crime, disorder and safety agendas.

A6. Consultation and Customer Focus

A6.1 During the year comments and feedback from the customer survey forms sent back following inspections and complaint visits are used to develop future

targets. This Plan will also be published on the Food Safety Teams website for any comments.

A7. Are there any implications for other Business Units?

A7.1 No

Appendices

Appendix 1 The Food Safety Service Plan

Documents available in members' rooms

None

Background Papers:

The FSA Food Standards Agency Framework Agreement for Food Law Enforcement

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Food Safety

Service Plan

2011-2012



This document is available in large print
or other formats on request.

Some of our highlights/achievements of 2010/11



100% of high risk food premises inspected (apart from those where access could not be obtained as closed for season or part of the Bengali project)

88% of premises broadly compliant (target of 80%)



Following some intelligence from another Local Authority, the Food and Safety Team were involved in removing illegal meat that had been supplied to a number of Torbay food premises. By doing this it ensured that the public were not exposed to any public health risk that could have arisen from eating the meat.



700 children taught about the importance of food hygiene and how to keep food safely at home.



Following the recommendations of the Pennington report the Food and Safety team have undertaken a project relating to the food safety management systems in butcher shops. This project has involved a number of inspections, food and environmental swabbing and organising a Level 2 Food Hygiene course for the Food Business Operators.



Various food standards samples were taken during the year. Most proved to be satisfactory and compliant with food standards legislation however a small number were non compliant and needed interventions from the Food and Safety Team to secure compliance. These samples included fresh crab meat, raw minced meat and ready to eat deli food.



Work was undertaken to improve businesses awareness of allergy issues in relation to food preparation and service. This project is currently being evaluated.

TORBAY COUNCIL

FOOD SAFETY SERVICE PLAN 2011/12

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Appendix A

Organisational chart for the Service

TORBAY COUNCIL FOOD SAFETY SERVICE PLAN

1.0 Service Aims and Objectives

1.1 Aims and Objectives

The Food Standards Agency (FSA) Framework Agreement, July 2004, sets out the Agency's expectations on the planning and delivery of food law enforcement. This Service Plan has been developed by Torbay Council in line with this Agreement, and shows the on-going commitment to providing an effective and value for money Food Law Enforcement Service. This Plan also forms the basis on which Torbay Council will be monitored and audited by the Food Standards Agency.

For the period 2000/05 the FSA reported that the incidence of food borne diseases had reduced by 19.2%, with over 1.5 million fewer cases in England and Wales. This is as a result of the Agency's Food Borne Disease Strategy, which the work of Local Authorities has formed an important part.

The role of this service plan, through the following aims and objectives, is to continue this work on reducing the incidence of food related diseases and improve the health and wellbeing of the public.

Torbay Council's Food Safety Service Aims and Objectives are:

Aim 1: "To promote, through education and enforcement, the sale and/or production of food which is fit and without risk to health".

Objective 1.1: "To undertake a risk-based programme of inspections and interventions in food premises in accordance with the Food Standards Agency Food Law Code of Practice"

Objective 1.2: "To register food businesses in accordance with EC852/2004 and the Food Hygiene (England) Regulations 2006.

Aim 2: "To prevent and control the spread of food borne illness through education and enforcement".

Objective 2.1: "To provide a risk-based response to all notifications of food related illness or suspected illness in order to minimise effects on the community".

Objective 2.2: "To carry out pro-active sampling in accordance with nationally and locally set programmes".

Objective 2.3: "To provide information, advice and education on food safety and public health issues to the business and residential community".

Objective 2.4: "To respond to complaints concerning food

1.2 Links to Corporate Objectives and Plans

and food safety”.

The Council’s Corporate priorities fed from the Community Plan 2007 to 2011 sets out a number of corporate goals. One of these goals has direct links to the Food Safety Service:

- “To ensure a cleaner, safer and more prosperous Bay”

Food safety is a statutory duty of the Council. Whilst there are no specific food safety targets set out in the Corporate Strategy, a commitment has been given to ensuring that community protection strategies aim to raise health standards and reduce health inequalities through the delivery of relevant services, in partnership with other agencies.

The Food Service Plan is a key Policy Document and is reported annually to full Council for approval.

A corporate performance management framework monitors performance of all services within the Council. Local performance indicators are reported on a quarterly basis through the SPAR system and the use of the Balanced Scorecard.

The Food Safety Service has the following vision:

- “To improve public health and safety through partnership, education and enforcement”

2.0 Background

2.1 Authority Profile

Torbay Council is a Unitary Authority which comprises of the three main towns of Torquay, Paignton and Brixham, on the south coast of England.

The current population is approximately 130,100 of which 4% are from ethnic minority groups. The population rises to approximately 200,000 in the summer months. Tourism is Torbay’s dominant industry with the industry accounting for 13.5% of the areas gross domestic product. Employment in the service industry is higher than the national average. There are 1907 food premises in Torbay, including the busy fishing port of Brixham, a number of large national manufacturers as well as numerous hotels and other tourist accommodation.

2.2 Organisational Structure

The chart attached at Appendix A shows the structure of the Food and Safety Team. The Food and Safety Team sits within the Commercial Team of the Community Safety Business Unit and comprises both Trading Standards Officers and Environmental Health Officers. The Commercial Team also contains Licensing Officers and Health and Safety Officers. Day to day service delivery is supervised by the Principal Environmental Health

Officer (Food Safety), lead food officer responsibility also lies with this officer.

As a result of current national and local drivers for change such as the recent Hampton review, the formation of the Local Better Regulation Office and the Rogers Review of regulatory priorities, and the councils transformation agenda the Community Safety Business Unit has reviewed its arrangements to ensure it can be in a strong position to respond to any changes. As part of this, the Food Safety Team along with other teams within Community Safety became a national pilot authority for a scheme known as the Retail Enforcement Pilot (REP) designed to reduce the burden of regulation on businesses and increase communications between the various regulatory agencies such as Devon Fire and Rescue. Whilst this pilot is no longer running many lessons have been learnt which are now included in the Cross Professional Working project currently being developed by the department to make better use of the intelligence gathered by all teams.

Additionally appointed specialist services are provided by the Food Examiner at the NAMAS accredited Health Protection Agency Laboratory in Bristol and a Public Analyst from Somerset Scientific Services based at Somerset County Council in Taunton.

2.3 Scope of the Food Service

The Food Safety service comprises a range of key functions:

- Programmed food hygiene and food standards inspections of food premises within the Bay.
- Health and safety inspections, accident investigations and project work in commercial food premises
- Responding to food alerts
- Dealing with food and food related complaints and other service requests
- Carrying out an annual food sampling programme
- Registering food premises and mobile vehicles
- Dealing with imported food and its origin.
- Education e.g. Allergy Awareness Courses and other Food Hygiene awareness seminars and Junior Lifeskills.
- Food Safety Newsletter and web site information.
- Investigating cases of food related illness and other infectious diseases.

The Food and Safety Team has the main responsibility for food standards enforcement work, this work is carried out by both qualified Environmental Health Officers and Trading Standards Officers within this team.

The Food Safety service operates from Roebuck House offices between 9.00am and 5.00pm, Monday to Friday. Evening and weekend sampling and inspections are carried out as determined by the risk based inspection programme and the premises opening hours. Officers are also present on a weekly basis in the early hours of the morning at Brixham Fish Market to ensure food hygiene standards are being maintained.

2.4 Demands on the Food Service

Emergency food safety issues are currently directed initially to a 24 hour central control team and then onto authorised food officers as required. In addition the Council's website, www.torbay.gov.uk is used to provide information about food safety services for consumers and business and also provides a direct email address for service requests food.safety@torbaygov.uk

On 1st April 2011 the Council had 1916 registered food businesses. The risk profile of these premises shown in Table 1 has been determined in accordance with the FSA's Food Law Code of Practice.

Table 1

Priority	Premises Category	Frequency of Inspection/ Intervention	Total number of premises in category (April 2011)
A	High	6 months	15
B	High	12 months	135
C	High	18 months	903
D	Other	24 months	236
E	Other	36 months	518
U	-	Awaiting inspection	109
Total			1916

The inspection portfolio includes 385 retailers, 25 manufacturers, 582 restaurants and other caterers.

There are 158 public houses and clubs, 257 caring premises and 389 hotels and guesthouses. Further demands are placed on the service by the team's responsibility for the school meals client function Commissioned by Children's Services. There are 39 schools which have this additional element of support and enforcement. An additional workload this year has been the involvement of the School Meals Client Officer in the inspection of high risk businesses in addition to his normal workload, this was due to having to cover for staff on maternity leave.

There are also two medium sized premises producing dairy products and 14 EC approved fish processing establishments. As mentioned earlier the fishing industry is a vital part of Torbay's economy and the port of Brixham is the largest in England and Wales in terms of value of direct landed catch, which totalled £20 million in 2006.

Brixham Fish Quay is also a significant contributor to the work of the Food and Safety team with its daily auction and regular exports to the EU and other nations and involves at least weekly inspections by officers. There is also a mussel bed off Brixham which requires monthly sampling and has Category B status which means the mussels are required to be purified before sale. In 2010/11 a considerable amount of time for the lead officer on fish has been spent liaising and consulting on the new proposed fish market, this will be reduced in 2011/12 as the new fish market has been officially opened and is now fully operational.

The Torbay area has already been described primarily as a tourist area and there are a large number of hotels and other tourist attractions which are only open during the tourist season between Easter and October.

Additional demands on the Food Safety service in 2010/11 included:

In 2010/11 the Food and Safety team were also involved in a large residential care home project in which approximately 100 care homes were inspected for health and safety and various courses of action taken from informal letters to Statutory Notices to secure compliance.

In 2010/11 the Food and Safety Team suffered from a number of staff shortages due to maternity leave and sickness absence. As no additional cover was provided other staff within the team took on extra duties as well as their own workload to ensure the reactive work was dealt with.

Additional demands for 2011/12 include:

Earlier this year the Food Standards Agency launched the National Food Hygiene Rating Scheme when food businesses will be required to display their score rating following their food hygiene inspection. Torbay Council is due to formally sign up to the scheme and plans to start rating food premises from July 2011. The implementation of the scheme will in the initial start up involve significant administrative and procedural demands on the service and its support staff. This piece of work will be the main project for the Food and Safety team in 2011 and 2012.

As during 2010/11 officers working in the Food and Safety Team have been heavily involved in a large and complicated targeted intervention to improve swimming pool safety in the Bay following a fatality. This work has meant that some of the resources normally allocated to food safety work have had to be directed towards this area. This work has been very successful with the majority of businesses having improved their health and safety standards thereby helping to reduce the likelihood of fatalities occurring. The work on this intervention in 2011/12 will be minimal and will involve monitoring of the pools over the summer months.

In 2011/12 the Food Standards Agency will be undertaking a review of food safety enforcement in England. An initial action plan report is due out in July 2011 and the review is expected to take up to two years. Whilst there may not be any immediate effects on the Food and Safety team, the findings of the review may have considerable implications for the way the Food and Safety team operate in the future.

The Public Health White Paper introduced by Government is expected to have an impact into the way the whole of Community Safety works and there may be considerable opportunities for the Food and Safety team to be involved in other areas of public health work as the Executive Head of Community Safety will be sitting on the new Health and Wellbeing Board once it comes into effect next year.

2.5 Enforcement Policy

The Environmental Health and Consumer Protection Enforcement Policy sets out what food businesses and others being regulated can expect from the service. The Policy is based on the principles contained within the Good Enforcement Concordat and the Regulators Compliance Code. The Policy covers the following areas:

- The Guiding Principles of Enforcement which officers will adhere to whilst undertaking their duties
- the approach we will adopt
- practical arrangements for putting the policy into effect
- how we will endeavour to ensure the quality of the service consistency and effective targeting and proportionality of enforcement activity

A copy of the Enforcement Policy is available for inspection at the Council offices on request or via the Council's website. All formal enforcement actions such as prosecutions are taken before the departments Enforcement Panel made up of officers from Community Safety and the Councils Legal team.

The service is committed to ensuring the active implementation and monitoring of the Council's Corporate Equality and Diversity Policy, which states that services will be provided in a fair and equitable way to all groups and individuals in the community. An initial Equality Impact Assessment was completed in November 2010 for the whole Food and Safety Service

3.0 Service Delivery

3.1 Food Premises Inspections

Torbay Council has a number of internal performance indicators relating to food safety. For 2011/12 these are as follows:-

- Number of high risk A and B food premises (food hygiene) inspected (Target 100 %)
- Number of high risk food standards premises inspected (Target 100%)

In relation to other C risk inspections the targets for 2011/12 are contained within the Food Hygiene Rating scheme Project Plan and are divided into sector specific inspections in relation to the rating scheme. This project means a significant increased inspection target from previous years and therefore apart from the day to day statutory work no other projects have been identified for 2011/12. It is also anticipated that other authorised food officers in other teams may pick up some of the other work that the Food team are involved in to allow them to launch the Rating scheme successfully.

The inspection programme is based on the inspection rating scheme and the new intervention Strategy contained in the FSA Food Law Code of Practice.

It is envisaged that alternative enforcement will continue to

be undertaken during 2011/121 for identified low risk food such as D and E risk premises.

The number of inspections for category A premises is doubled as they require an inspection frequency of 6 months.

New premises are normally inspected within 28 days of opening and will be in addition to this total inspection figure and it is anticipated that there will be approximately 52 such premises during the year.

All premises where a statutory notice has been served or which are found to require significant work to be carried out will be subject to a secondary visit within an agreed timescale. It is estimated that at least 140 re-visits will be carried out in addition to the programmed inspections and alternative intervention initiatives. There may also be a number of businesses formally requesting to be revisited for the purposes of rescoring under the Food Hygiene Rating Scheme.

Environmental Health currently has an estimated FTE of 6.5 officers, including administration ([See Table 4](#)), working on food safety issues.

The primary objectives when carrying out interventions are in accordance with the Food Standards Agency Food Law Code of Practice, however, a special emphasis is placed on the level of compliance with the requirements for documented control systems. Specific consideration is also given to whether samples need to be taken during routine food hygiene inspection work.

3.2 Food Complaints

The Environmental Health Service responds to all complaints about food or food premises made to the Council. There were 24 complaints about defective food received up to the end of March 2011. There were also 583 other service requests received relating to issues such as unhygienic food premises, requests for information and advice that were handled by the Food Safety team in 2011/12.

3.3 Primary Authority Principle

The previous Home Authority Scheme has now been replaced by the Primary Authority Scheme under the new Regulatory Enforcement and Sanctions Act 2009. This aims for the first time to give companies the right to form a statutory partnership with a single local authority. The objective of this is to provide robust and reliable advice on compliance that other Councils must take into account of when carrying out inspections or dealing with non compliance.

The Food and Safety Team is not currently signed up as a Primary Authority however the team will be undertaking a piece of work in 2011/12 which will be looking at new ways of working with businesses and will include areas such as the Primary Authority Scheme and potential business mentoring.

3.4 Advice to Business

The Authority is committed to improving food safety standards through both education and enforcement. In order to use limited resources most effectively advice is targeted and is as follows:

- During inspections and as part of follow up documentation;
- Via Food Safety Newsletters delivered to all registered food businesses
- Start up advice on request.
- Through guidance information available on the Food Safety teams fully revised website pages
- Distribution of relevant food safety material to food businesses particularly via the website.
- Advice and information is given to businesses requesting guidance either by telephone or e-mail.

In 2010/11 the Food and Safety Team has continued to work hard to implement the Food Standards Agency Safer Food Better Business scheme within many of the Bays food premises thereby increasing the level of communication with local businesses.

During 2010/11 the Food Safety Team further developed links into the local business community by the organisation of a Food Hygiene Training Day for Butchers as they are some of the highest risk premises in the Bay due to the nature of the products they handle. On this day the businesses could obtain information on food safety issues. The aim of which was to improve communication and consultation with businesses in order to refine and develop service delivery performance.

3.5 Food Inspection and Sampling

The Service has in place a documented and publicised sampling policy and a separate documented procedure and programme.

The sampling programme is drawn up in consultation with the Devon Chief Environmental Health Officers Food Sub Group and the SWERCOTS Food Group , in partnership with the Food Examiner from the Health Protection Agency Laboratory covering the Torbay area and the Public Analyst at Somerset Scientific Services

The programme covers authority, county, national LACORS and when required European sampling objectives. Each Authority is allocated sampling credits by the Health Protection Agency in order to undertake food hygiene sampling and food standards sampling which is resourced from an allocated budget within the Food Safety overall budget. During 2008/09 the Health Protection Agency Laboratory network went through a major reorganisation which led to the closure of the HPA Food and Water Laboratory at Exeter and Torbay now sends its food and water samples to the Bristol HPA Laboratory.

During 2010/11, 141 samples were taken of a range of products including raw and cooked meat, ready to eat deli foods, environmental swabbing and mussel samples. Food standards sampling also included fresh crab meat, raw minced meat, takeaway meals from Indian restaurants and alcohol testing to check for substitution.. Most of the results from these samples were found to be satisfactory and no further follow up action was required, however some of the samples were found to be unsatisfactory and follow up work was required to secure compliance. Following an incident of alcohol substitution the Food and Safety team issued a business with a Simple Caution.

The programme does not preclude the need to undertake reactive sampling, which includes food complaints, and investigations for food poisoning outbreaks.

3.6 Control and Investigation of Outbreaks and Food Related Infectious Disease

All formal and informal notifications are recorded on the Environmental Health Service Authority database. Subsequent investigations are based on the type of organism, the number of cases, and are in accordance with Department of Health and Health Protection Agency guidance.

A documented procedure has been produced and agreed with the Health Protection Agency and follows the principles established in a countywide procedural document, prepared by the Devon Food Safety Sub Group. During 2010/11 294 infectious disease notifications were received.

Campylobacter was the highest of those reported in Torbay and forms part of the FSA's Food Borne Disease Strategy for targeted campaigns. The team also investigated an outbreak of E Coli 0157 which involved a considerable amount of detailed investigation in partnership with the Health Protection Agency and the Veterinary Laboratory Agency to identify the source of the organism and control any further spread of infection.

3.7 Food Safety Incidents

The service has a documented procedure which deals with action to be taken following the receipt or initiation of a food alert.

The FSA Food Law Code of Practice has required specific recording of actions taken following the receipt of a food alert.

Food alerts are received by a direct email from the Food Standards Agency (FSA), by direct emails to the Principal Environmental Health Officer and the Food Safety email box which is checked every day and by text messages to officers' mobile phones.

The Food Alert warning procedure for food incidents recognises that such issues are required to be dealt with quickly in accordance with the categories for each food alert. The procedure identifies the mechanism for passing on the food alert to the appropriate officer, an outline of the action to be taken. Most food alert warnings received require only a small amount of officer resource.

However on occasions it is necessary to provide more resources to deal with food alerts. Any actions taken on a food alert are documented within the Authority data recording system.

During 2010/11 49 Food Alerts were received by the Food Safety Team.

3.8 Liaison with other Organisations

Consistency and value for money is a key feature in all of the Council's environmental health functions. With regard to the food safety service, this is achieved by:

- Priority being given to attendance and active participation by the Principal Environmental Health Officer at the Devon Chief Environmental Health Officers' Food Sub Group. This Group co-ordinates benchmarking exercises, acts as the discussion forum for topical issues and a means of optimising countywide consistency in enforcement and advice.
- The Food Safety Service also liaises with the following :
 - Health Protection Agency
 - Torbay Care Trust
 - The Food Standards Agency
 - Devon and Cornwall Police
 - The Immigration Service

The Environmental Health Service have access to all development and building control applications and acting as a formal consultee on key planning and building control applications and a statutory consultee on all Licensing Act applications.

3.9 Food Safety Promotion

Educational and promotional activities are considered to be important aspects in the delivery of a comprehensive food safety service and it is achieved in the following ways:

- Food Safety articles in the bi annual Food and Safety Newsletter sent to all food businesses in the Bay.
- Food information available directly from the Food Safety section of the Council website and from the team directly.
- Targeted advice/information sent to relevant groups on issues of county or national significance.
- Targeted seminars and training sessions are undertaken on various food safety subjects. In 2010/11 the Food Safety team ran a Food Hygiene Training Day for Butchers where all the delegates rated it as either Good or Excellent.
- The Food Safety Team has also continued its involvement with the Torbay Junior Lifeskills event coordinated by Community safety. In 2010/11 the team ran a food safety scenario at this event and taught over 700 schoolchildren including young adults with learning difficulties about the importance of food safety using two characters called Sam and Ella and their fridge of food safety horrors!

4.0 Resources

4.1 Staffing Allocation

The Community Safety Business Unit structure is based on a number of multidisciplinary teams. The Food Safety Team is located within the wider Commercial Team. Following the recent restructure the links between the various teams have become much closer and there is more joint working between teams and the sharing of intelligence to ensure resources are focused in the right place i.e. those with highest risk.

[Table 4](#) shows the current full time equivalent of staff working on food safety enforcement, broken down by the competency requirements of the Food Standards Agency Food Law Code of Practice (England) - General qualification and experience requirements.

EHRB officers are Environmental Health Officers who are registered with the Environmental Health Officers Registration Board, (EHRB), after attaining the approved qualifications in Environmental Health.

Non-EHRB staff are other officers, who may be involved in the service, such as for administration duties.

Table 4: Staff resources dedicated to food safety

Environmental Health Officer (Food and Safety Team)	EHORB	FTE	Other
Principal EHO	YES	0.8	
Senior EHO	YES	0.8	Lead Assessor
Senior EHO (School Meals Client Officer)	YES	0.1	Lead Assessor
Senior EHO	YES	0.8	
Senior EHO	YES	0.4	Lead Assessor
Senior EHO	YES	0.8	Lead Assessor
Senior EHO	YES	0.8	Lead Assessor
EHO	NO	0.8	
Technical Clerks x 2 (Part of Operational Support team)	NO	0.8	Level 3 Food Hygiene Cert
Trading Standards Officers (Food and Safety Team)	Dip TS/DCAT	FTE	Other
Trading Standards Officer x 3 (1 Trainee)	YES	0.3	New posts in team since April 2010

4.2 Staff Development Plan

All food safety staff are subject to an annual appraisal and one progress review which tracks and identifies training and development needs. Food safety training needs are prioritised in the context of wider Environmental Health requirements identified within the service wide training plan.

All food safety staff complete a training record log to further assist in identifying development and training needs and for monitoring the competency of individual officers. The officers undertaking specific duties, such as dealing with approved premises, are identified and the training requirements assessed accordingly.

Some of the specific food safety training courses attended by staff during 2010/11 include:-

- FSA Food Hygiene Rating Consistency course (Followed by internal training for officers on consistency)
- Approved Premises training
- Lead Assessor Training

5.0 Quality Assessment

5.1 Quality Assessment

The provision of quality services is one of the Council's three guiding principles and food safety is no exception. With regard to food safety the quality agenda is pursued via a number of methods.

Management Monitoring

A percentage of food businesses inspected receive a post-inspection questionnaire requesting comments on the manner in which the inspection was carried out, the quality of the feedback on site and on the inspection report received. The Principal EHO will then follow up any negative comments or suggested improvements.

The documented quality management procedure specifies additional relevant monitoring arrangements that are in place for example checking of inspection letters and notices and joint consistency/quality monitoring visits undertaken by the Principal Environmental Health Officer. Complaints against the service are monitored on a Service and Corporate basis.

Food Standards Agency

The service is required to submit an Annual return, detailing the inspections, enforcement and educational activities undertaken, to The Food Standards Agency who closely monitor performance to ensure compliance with the FSA framework agreement.

The FSA also has the power to set standards and to monitor local authority food law enforcement services under the Food Standards Act 1999. The FSA collects information from all United Kingdom food authorities and submits the information to the European Commission.

As detailed in section 3.8, the Principal Environmental Health Officer attends meetings of the Devon Food Sub Group to discuss relevant issues on a regular basis. This group comprises of representatives of all the District and Unitary councils, and the Health Protection Agency.

This forum offers the opportunity to discuss, in detail, a wide range of quality and consistency issues relevant to food safety.

6.0 Review Process

6.1 Review against the service plan

As detailed within Section 1.2, the Council has an established performance management board to monitor the performance of its services.

From an operational perspective the Principal Environmental Health Officer reviews the key performance measures and service improvements contained in the plan on a quarterly basis. [Table 5](#) shows some of the internal indicators covering service delivery and performance as well as the national indicator for food safety and the wider key indicators on the Community Safety Balanced Scorecard that the Food Safety Team feed into and it is those which are reported to management team and members through their internal SPAR performance boards.

In addition, regular one to one meetings are held with staff involved in the Food Safety Service. This is to ensure that on-going projects and improvements outlined in this service plan are effectively monitored and managed. The notes for these meetings are documented, along with actions and timescales for relevant staff.

Table 5 – Food Safety Service Performance Indicators

SERVICE DELIVERY INDICATORS		2009/10	2010/11	2011/12
Number of Category A risk food hygiene premises (due every 6 months) inspected	Target	100%	100%	100%
	Outcome	100%	100%	
Number of Category B risk food hygiene premises (due every 12months) inspected	Target	100%	100%	100%
	Outcome	94%	87%	
Number of high risk food standards inspections carried out	Target	100%	100%	100%
	Outcome	71%	67%	
% of food premises in the area that are Broadly Compliant with food hygiene law (National indicator up to April 2010)	Target	80%	80%	80%
	Outcome	90%	88%	

Figures for 2010/11 (NA – not applicable)

6.2 Identification of achievements and any variation from the service plan

Table 6 below identifies the status of planned service improvement actions from 2010/11. Any remaining improvement objectives are shown in the table below along with the reason for the delay and a revised target, which will be included in the work programme for 2011/12 where appropriate.

Table 6

Action	Planned Outcome/Output	Achieved Or reason	New Target Date
To implement a project on butchers shops handling both raw and cooked meats.	To implement the recommendations of the Pennington Report (following the E Coli outbreak in Wales) and ensure that all butchers are fully compliant with food hygiene legislation	Achieved – all butchers included in the scope of project have been visited and action plans to secure compliance in terms of the Pennington report have been issued. Food Hygiene/HACCP Training Day run in Jan 2011	Ongoing work
To implement the recommendations of the Pennington Report (following the E Coli outbreak in Wales) and ensure that all butchers are fully compliant with food hygiene legislation	To assess schools compliance with the Pennington report in terms of their suppliers of meat	Achieved- all schools contacted and have been checked to ensure that they are using reputable suppliers in terms of their meat products	
To implement a project with ethnic food businesses	To aim to work with these businesses to ensure that they are broadly compliant with food hygiene legislation and in doing so develop good working relationships with the businesses and have a better understanding of specific cultural issues.	Achieved – Bengali food hygiene trainer now in place and project plan in place and work has commenced.	To complete all inspections in line with FHRS plan
To implement the FSA Sandwich shop project	To implement the FSA Sandwich shop project	Achieved - initial work on project completed as requested by FSA however no businesses were happy to volunteer to change their menus as part of the scheme. This was fed back to the FSA.	
To work on a number of food standards proformas	To improve consistency between officers when completing food standards inspections	Achieved - draft forms complete.	
To develop a filing system that is totally electronic and on the Flare database	To ensure that all files are in electronic form in order that this can fit in with any future move to the Civic hub and future mobile working projects.	All inspection forms and other correspondence now scanned and attached to electronic file. Paper files gradually being phased out.	

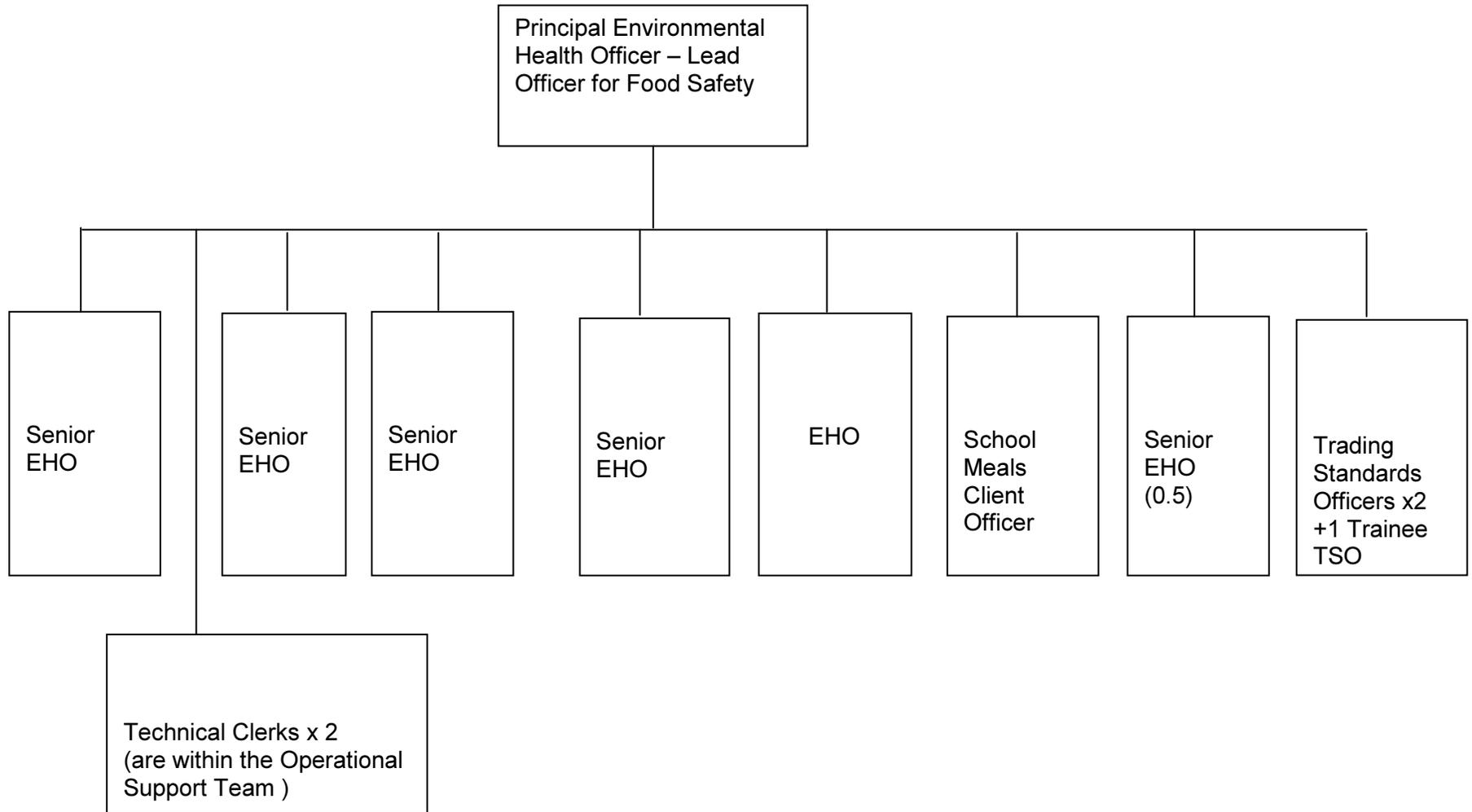
6.3 Areas of Improvement for 2011/12

Some of the current planned improvements for 2011/12 are outlined in Table 7.

Table 7

Service Improvement	Planned Outcome/Output	Link to FSA framework agreement	Target Date
To raise the standards of food hygiene in food businesses in Torbay	Implement the FSA's Food Hygiene Rating Scheme to ensure both hygiene standards are raised and that consumers have better access to information on food businesses and thereby making informed choices on where they wish to eat.	All areas of Framework agreement	To complete Year One of project plan by agreed date.
To continue the Cross Professional Working pilot	To ensure that intelligence from other teams within Community Safety is used effectively.	All areas of framework agreement	Ongoing

Appendix A - Organisational Structure Chart for Food and Safety Service





Title: **Report on an Investigation into Complaint No 10 002 564
Against Torbay Council**

Wards Affected: **All**

To: **Council** On: **13 July 2011**

Contact Officer: **Anthony Butler**

☎ Telephone: **207155**

✉ E.mail: **Anthony.butler@torbay.gov.uk**

1. Key points and Summary

- 1.1 Following a complaint from Mr Castle (a false name used by the Ombudsman in their report (Appendix 1)) to the Local Government Ombudsman, a finding of maladministration causing injustice has been found against the Council.
- 1.2 The Ombudsman report is required to be noted by the Full Council.

2. Introduction

- 2.1 The Local Government Ombudsman received a complaint that the Council took bankruptcy proceedings against the complainant in response to a Council Tax debt of £2,248 without having proper regard to the personal circumstance of the complainant in particular his mental health.
- 2.2 The Ombudsman concluded that the Council had not followed due process in making Mr Castle bankrupt. The Ombudsman found the Council failed to document its decision making in respect of the recovery action by way of bankruptcy and failed to reconsider its decision to pursue bankruptcy when information came to light that Mr Castle might be considered suicidal. As such the Ombudsman considered that had such failings not occurred the Council would not have continued with the bankruptcy proceedings against Mr Castle and would not have incurred high punitive costs of some £24,000 associated with that action.
- 2.3 The Council has until 4 August 2011 to respond to the report of the Local Government Ombudsman

Anthony Butler
Monitoring Officer

Appendices

Appendix 1 Local Government Ombudsman Report

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Report

on an investigation into
complaint no 10 002 564
against Torbay Council

4 May 2011

Investigation into complaint no 10 002 564 against Torbay Council

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The Local Government Act 1974, section 30(3) generally requires me to report without naming or identifying the complainant or other individuals. The names used in this report are therefore not the real names.

Key to names used

Mr Castle	-	the complainant
Mr Knight	-	bailiff
Mr Ash	-	a process server, employed by the bailiff
Officer A	-	Deputy Head of Customer Contact, at the time of the events complained of
Officer B	-	Senior Exchequer Officer, at the time of the events complained of

Report summary

Local taxation

Mr Castle complains that the Council took bankruptcy proceedings against him in response to a council tax debt of £2,248 without having proper regard to his personal circumstances, in particular his mental health.

The Ombudsman does not consider the Council followed due process in making Mr Castle bankrupt. First, she finds that the Council failed to document its decision-making in respect of the recovery action by way of bankruptcy. Second, she finds that the Council failed to reconsider its decision to pursue bankruptcy when information came to light that Mr Castle might be considered suicidal.

The Ombudsman considers that had such failings not occurred then the Council would not have continued with bankruptcy proceedings against Mr Castle and he would not have incurred the high punitive costs of some £24,000 associated with that action.

Finding

Maladministration causing injustice.

Recommended remedy

In order to put Mr Castle in the position that he would have been in had no maladministration occurred, and taking account of both the financial costs incurred and the distress and time and trouble caused, the Ombudsman recommends that the Council issues Mr Castle with a formal apology and makes him a payment of £25,000.

Introduction

1. Mr Castle complained that the Council took bankruptcy proceedings against him in response to a council tax debt of £2,248 without having proper regard to his personal circumstances, in particular his mental health.

Legal and Administrative Background

My Jurisdiction

2. There are a number of sections of the Local Government Act 1974 (as amended by the Local Government and Public Involvement in Health Act 2007) which fall to be considered in reaching a decision on whether I have jurisdiction to consider Mr Castle's complaint.
3. First, Schedule 5 paragraph 1 of the Act says that a Local Commissioner cannot conduct any investigation into

"the commencement or conduct of civil or criminal proceedings in any court of law".

However, this does not preclude an investigation into administrative actions prior to the issue of court proceedings and, where the Council instructs agents for enforcement of court orders, the actions of those agents (unless they are agents of the Court).

4. Second, Section 26(6) of the Act says that -

"A Local Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters, that is to say,

- (c) any action in respect of which the person affected has or had a remedy by way of proceedings in any court of law:

provided that a Local Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person affected to resort or have resorted to it."

5. I interpret this to mean that I have no jurisdiction to consider a complaint where court proceedings have been issued by the complainant in respect of the same matter. However, I retain jurisdiction to investigate if such Court proceedings were misconceived; that is where there was no legal basis for bringing the action.

6. Third, S26B of the Act says that a complaint should be made to me within 12 months from the day when the complainant first had notice of the matter. However, S26B(3) provides that I may disapply this requirement.
7. In a previously published report by the Local Government Ombudsman (reference 06B16600) on an investigation into a complaint against Wolverhampton City Council the Ombudsman found that the council made a man bankrupt over non-payment of his council tax, without fully considering all the alternatives. The Ombudsman found that the Council failed to consider the possibility of making a charging order against the man's home. It also gave him inadequate warning of the consequences of bankruptcy before commencing proceedings. The man faced costs of £38,000 for a debt of £1,105. The Ombudsman said: "The Council cannot, it seems to me, turn a blind eye to the consequences to the debtor of any recovery option it pursues. ... The dire and punitive consequences of bankruptcy, involving a multiplication of the original debt many times over and frequently incurring the loss of the debtor's home, must be a factor to be taken into account in deciding that the 'last resort' is indeed appropriate".
8. This decision was applied by the court in *Hunt v Fylde BC* [2008] BPIR 1368. Because of illness, Mr Hunt had withdrawn from the world and adopted an aggressive response to any attempt to assist. The Council had known about the debtor's condition, but District Judge Ashton said this was not the point. He considered that the council's evidence '...conspicuously failed to advise the court of the procedures adopted by the council for making the discretionary decision that bankruptcy proceedings were appropriate. There is no indication that the council had any information about Mr Hunt before the issue of the petition or even sought such information.' He said the onus cannot lie on the debtor to establish lack of either physical or mental capacity, because lack of capacity would itself render the debtor unable to do so.

Recovery of Council Tax

9. The primary legislation governing the administration of council tax is the Local Government Finance Act 1992. The Council Tax (Administration and Enforcement) Regulations 1992 SI 613 govern collection and recovery. Council tax is payable by monthly instalments. If payment is not made on the due date, the Council can start recovery proceedings. The Council must issue at least one reminder but if a payment is not made the full sum for the year becomes due and the Council can commence proceedings to recover that sum plus its reasonable costs in the Magistrate's Court. Once a liability order is made by the court, the council may instruct bailiffs, commence insolvency proceedings, seek a charge over the debtor's property or seek the debtor's commitment to prison. The Courts have held that while recovery action for a council tax debt can be

coercive, it is not unlawful if it becomes punitive because of the debtor's failure to pay.¹

The use of bailiffs

10. Bailiffs can be instructed to collect outstanding debts, if necessary through securing a levy against certain goods that might be owned by the debtor. However, in most circumstances bailiffs cannot take such a levy unless they have gained peaceful entry into a debtor's home or premises. If a debtor has insufficient assets to cover the debt, and cannot or will not agree to repay, other options for recovery would need to be considered.

Committal hearings

11. If the Council has attempted, but failed, to collect a debt through the use of bailiffs then it can request that the debtor appear before the Magistrates Court to consider if they should be committed to prison for wilful refusal or culpable neglect in the non-payment of their council tax. Magistrates must conduct a means enquiry to establish the reason for non-payment. They are given options including committing the debtor to prison, suspending any committal on terms (such as ordering a fresh payment arrangement) or remitting some of the debt (i.e. writing it off).

Charging orders

12. Another method of collection available to a Council is to seek a charging order against a debtor.² This is a way of securing a debt through the County Court against a debtor's property, so that in the event that the property is sold, the creditor must be paid from the proceeds of sale. For a Council to be able to pursue this course of action it must hold a liability order against the debtor and the debtor must owe at least £1,000. The Courts can consider suspending a Charging Order on repayment terms. Where a creditor holds an outright Charging Order or any payment terms are not adhered to, then the creditor can seek an Order for Sale. This too, can be suspended at the Court's discretion; for example on the basis of an order that regular repayments are made. A Charging Order can only be made in respect of the property upon which the council tax debt was owed.³

¹ R v Cannock Justices ex parte Ireland (Court of Appeal) (1995)

² Council Tax (Administration and Enforcement) Regulations 1992, regulations 50 and 51

³ Regulation 50, Council Tax (Administration and Enforcement) Regulations 1992 SI no 613/1992

The bankruptcy process

13. Bankruptcy can be used as a means to try and recover a debt where a creditor is owed at least £750. The aim of bankruptcy is to recover the debts due, ultimately by selling the debtor's property. The Insolvency Rules 1968 govern the process. The creditor must serve a document known as a statutory demand. This should explain the debt the Council is seeking to recover. The Insolvency Rules lay down detailed requirements for a creditor to take exhaustive steps to seek to serve the demand personally. Only if such steps have failed can postal service be used. It is for the court to be satisfied, at the application for a bankruptcy petition, that the statutory demand has been properly served. A council may use its own staff for service of bankruptcy proceedings or contract the process out to a private firm.
14. If a statutory demand is served and the debt remains unpaid after a further 21 days (or no arrangement has been made to the satisfaction of the creditor), then a bankruptcy petition can be served. The petition requests that the County Court (or High Court in London) make an order that the debtor be declared bankrupt. A debtor may oppose the making of a bankruptcy order on the grounds that the debt is not owed, and the Courts have the power to stay proceedings if it appears likely that the debt may be settled in a short period of time.
15. Where a bankruptcy order is made the Official Receiver will be appointed to act as Trustee of the debtor to manage their assets. If there are any assets it is likely that the Receiver will appoint a private insolvency practitioner to act as Trustee to manage the assets. The Trustee's role is to act in the creditor's interest by realising all assets and clearing all debts and costs owed. The Receiver and the Trustee may charge fees for their work. These fees can be substantial but as the Receiver and Trustee are officers of the court complaints about these fees are not within the Ombudsman's jurisdiction. A creditor or the bankrupt can apply to the court to have the bankruptcy annulled. If it is annulled the court will decide whether the Receivers' and Trustees' costs will be paid by the creditor or the debtor.

Investigation

What happened in this case

16. Mr Castle has lived at his present address for more than 40 years. He has lived alone since 1992 and before that with his mother, for whom he was the carer during the last year of her life. At that time he was also in full time employment. Mr Castle was made redundant in 1995. He lived off his savings and a small income from his membership of a musical band for the next 10 years or so. He paid all his bills including council tax until about 2006. From that time he describes himself as having followed 'a gradual descent into chronic

introspection' and 'mental instability'. He reports that he subsisted on less and less money, not replacing worn out household items or clothing and spending two winters largely without heating or hot water. His failure to pay electricity bills resulted in his electricity supplier installing a slot meter. He stopped opening his mail in 2004. He left it on the doormat for months at a time, visible through his glass panelled door. He thought it would give the impression to callers that nobody was home. He used the back door to access the property and stayed out of sight if callers came.

17. In 2006 Mr Castle's council tax account fell into arrears. After the application of a 25% sole occupier discount, Mr Castle's bill for the 2006 / 2007 financial year was £953.08 and the Council issued a bill for this sum on 15 March 2006 with provision to pay by ten monthly instalments. On 4 May 2006 the Council issued a reminder for the overdue April instalment of £98.08, and when it was not paid on 26 May a final notice was issued requesting payment of £953.08 being the total sum due for the year. Mr Castle again made no payment and on 6 June 2006 a Magistrate's Court summons was issued against him. On 30 June 2006 the Council obtained a Liability Order in the Magistrate's Court for £953.08 plus £50 costs.
18. The Council instructed certificated bailiffs to try to recover the debt. Certificated bailiffs are employed by private companies and enforce a variety of debts on behalf of organisations such as local authorities. They can seize and sell goods to cover the amount of the debt owed. They also hold a certificate, which permits them (and no-one else) to levy distress for rent, road traffic debts, council tax and non-domestic rates. Certificated bailiffs are required to gain peaceable entry into property before a levy of goods inside a property can take place. The bailiff's log shows that a first visit was made to Mr Castle's home on 14 August 2006. The bailiff's notes from that visit say 'effects appear poor - as seen via window'. Further visits were made on 24 August 2006, on 4 September 2006 and on 21 September 2006: on the two later visits a bailiff's van was sent but no goods were collected. The first enforcement attendance by bailiffs took place on 11 October 2006 when it was noted there were cobwebs over the front door and a large pile of post behind it. A further 'van visit' was made on 19 October 2006 when the bailiff knocked on the windows at the back of the house but received no reply. On 16 November 2006, a second enforcement visit was made. Again it was noted that mail was piled up behind the door. Further visits were made on 8 and 13 December 2006. The accumulation of mail was noted each time, as were the cobwebs over the front door. The bailiff noted there were no signs of food or cups visible through the window; he also noted there were no flies. A neighbour was spoken to and told the bailiff the resident was 'elderly' (Mr Castle was born in 1949) and said he had not been seen for some time. Further unsuccessful visits were made on 22 February 2007 (when a neighbour confirmed Mr Castle was still resident at the property), on 5 March 2007 and on 5 April 2007. The bailiffs returned the liability order to the Council on 25 April

2007 having been unable to gain access or recover property. The bailiffs had not seen or spoken to Mr Castle at any time.

19. For the 2007 / 2008 financial year Mr Castle's council tax bill after the application of a 25% sole occupier discount was £995.97 and the Council issued a bill for this sum on 12 March 2007. On 4 May 2007 the Council wrote to Mr Castle to say the liability order had been returned by the bailiffs as they had been unable to secure any payment from him and the debt of £1,182.08 remained outstanding. The letter advised Mr Castle that committal proceedings for non-payment could now be commenced, in which case a summons would be issued, or alternatively the Council might instruct an insolvency practitioner to commence bankruptcy proceedings against him. The letter advised that if Mr Castle was declared bankrupt, the Official Receiver (or a Trustee appointed by his creditors) would be able to sell his assets, including his property, to settle the debt.
20. In the meantime the Council continued to follow its usual procedures in respect of the council tax liability for the current billing period. On 8 May 2007 the Council issued a reminder for the overdue April instalment of £95.97, and on 25 May a final notice was issued for the total sum due for the year, £995.97. Mr Castle made no payment and on 5 June 2007 a summons was issued for this sum. On 29 June 2007 the Council obtained a Liability Order for the sum with an additional £70 costs. Bailiff fees of £179.00 were added to Mr Castle's council tax account on 3 December 2007.
21. The Council's written procedure for dealing with cases which have been returned without payment or goods in lieu having been secured by the bailiff required it to consider the possibility of recovering the debt by way of a charging order, committal proceedings or bankruptcy proceedings. The Council decided first to make enquiries with Land Registry to ascertain whether Mr Castle was the owner of the property in which he lived, with a view to registering a charge against the property if he was. Mr Castle was the owner of the property, which had been left to him following his mother's death. But the property was not registered with the Land Registry and so the Land Registry was unable to advise the Council about ownership. The Council did not make any further investigations to seek to establish ownership of the property. The Council next considered committal proceedings but decided that given the difficulties in making contact with Mr Castle he would be unlikely to respond to the court if proceedings were instigated, and such proceedings might become protracted. The Council therefore considered that it would be appropriate to pursue the debt by way of bankruptcy proceedings.
22. Solicitors acting on behalf of the Council issued a pre-action letter to Mr Castle on 9 January 2008 but received no response. A statutory demand was then served personally by a process server, Mr Ash, on 1 February 2008, giving 21 days for compliance. The notes made by Mr Ash stated that he told Mr Castle how to comply with the statutory demand and had suggested he seek legal advice. No

response was received and the Council's Senior Exchequer and Benefits Manager agreed jointly that the solicitor should proceed with action in respect of bankruptcy.

23. A bankruptcy petition was therefore obtained on 12 March 2008. On the following day Mr Ash attended Mr Castle's home in order to personally serve the bankruptcy petition. Mr Castle reports that the only face to face contact he had had with any representative from the Council was with this process server. Mr Castle says that Mr Ash approached quietly to the kitchen window and was invited in. Mr Castle was, in his own words, in an agitated and emotional state. The Council's notes in respect of Mr Ash's visit record that Mr Ash had some doubts about Mr Castle and had not been able to reach a view on whether Mr Castle was being evasive or was in fact suffering illness. He reported that he had not been able to establish much about Mr Castle's personal circumstances, except that he was not currently in employment. Mr Ash telephoned the solicitors to report service of the petition. The solicitor's notes state: "D [debtor] has been personally served with the bankruptcy petition today - D stated that he only had £800 to live on and couldn't afford to pay".
24. My investigator has interviewed Mr Ash and his manager, Mr Knight, the bailiff for whom Mr Ash worked at the time. Mr Ash told my investigator that his recollection was that Mr Castle had been extremely distressed and upset at the second visit. Mr Knight told my investigator that he recalled Mr Ash reporting that Mr Castle was suicidal and that he was very worried about him. Mr Knight also told my investigator that he had reported this to the Council verbally at a regular liaison meeting, at which the Council and bailiffs discussed their position in respect of ongoing debt recovery actions. At interview Officer A and Officer B were both asked about this. Officer A said he had never heard anyone refer to Mr Castle as suicidal, and Officer B said that he could not recall any conversation with Mr Knight in which any reference was made to Mr Castle being suicidal. The Council's minutes from the liaison meeting are very general and make no reference to any individual cases discussed.
25. Mr Knight provided my investigator with a copy of his invoice to the Council's solicitor dated 1 April 2008. That contains the following note: 'Please note the defendant is suicidal and I have raised this with [Officer A] at the Council'. An examination of the solicitor's file revealed the original copy of that invoice together with a record of a telephone call on 2 April 2008 from the Council to the solicitor in which the solicitor noted that the Council had concerns about Mr Castle's mental health. The note said 'Could be suicidal - Council to investigate other enforcement options'.
26. According to the Council's procedure, where bankruptcy proceedings are considered the most appropriate method of recovering a debt, any arrangement should be reviewed and discussed by senior officers, Officer A and Officer B. The Council says that following the concerns raised by Mr Ash, the case was

discussed by Officer A and Officer B on 2 April 2008. There is no record of the discussion. At interview both officers told my investigator that they had not been aware of any reference to Mr Castle potentially being suicidal. Officer A said he would not have pursued bankruptcy if it was stated that the debtor was suicidal. He said that consideration would be given to writing off the debt in such circumstances. Both officers said that they were aware of earlier cases where bankruptcy proceedings had been halted in such circumstances.

27. The Council says that when Mr Ash raised concerns about Mr Castle a telephone call was made to the social services department to check whether Mr Castle was known to them, but that department had no record of him. No record was made of the telephone call. The Council also then contacted the Citizen's Advice Bureau and made an appointment for Mr Castle to attend for specialist debt advice on 18 April 2008. Officers A and B decided that notification of that appointment, together with a council tax benefit application form and a means enquiry form, should be personally delivered to Mr Castle by Mr Ash. At interview Officer B advised my investigator that Mr Ash was given a specific instruction to get Mr Castle to read the letter and confirm he had understood it, and that he reported back afterwards that this had been done. But there is no documentary evidence to support this. Mr Castle reports that the letter delivered by the process server on 7 April 2008 remained unopened. He was not therefore aware of and did not attend the appointment which had been arranged for him at the Citizen's Advice Bureau. He reports feeling that his position was hopeless and that 'there was no point in solving this one particular problem'. In mid-April, a further letter was posted to Mr Castle advising him that it was not too late to make contact with the Council with a view to resolving matters. That letter also remained unopened.

28. On 2 May 2008 a bankruptcy order was made against Mr Castle in the County Court. The debt owed to the Council at this time was £2,336.57, made up as follows:

Council tax charges:	2006/07	£953.08
	2007/08	£995.97
	2008/09	£ 88.52
Liability order costs	30 June 2006	£ 50.00
	29 June 2007	£ 70.00
Bailiff fees	3 December 2007	£179.00

29. The Council was advised by the Insolvency Service on 15 September 2008 that as Mr Castle had not surrendered to the bankruptcy proceedings the Official Receiver would therefore appoint an insolvency practitioner to deal with his assets.

30. In November 2008 Mr Castle approached the Department for Work and Pensions to apply for benefits. He was asked to obtain a medical certificate, which he subsequently did. His doctor diagnosed anxiety and depression.

31. In January 2009 Mr Castle was visited by a solicitor from Bristol who was his Trustee in Bankruptcy. Before this visit Mr Castle had no knowledge of the fact that he had been made bankrupt by the Council in May 2008. With the help of a neighbour and following a meeting arranged with the Trustee, Mr Castle cleared the debt in full by taking a loan against his home. Mr Castle reports that after clearing the debt of £2,248.05 he owed to the Council and £3,940.99 owed to a utility company, the additional costs he incurred as a result of the bankruptcy action amounted to some £24,000.
32. Following contact by Mr Castle's neighbour, a meeting was set up with a representative from the Council's corporate debt team on 11 February 2009. Mr Castle's neighbour advised the Council that Mr Castle had not opened his post for some time and may have mental health issues. The Council agreed to hold further recovery on the sum of £1,028.74 owed in respect of the financial year 2008 / 2009 which had not been covered by the bankruptcy order. Mr Castle then completed a claim form for council tax benefit and a request for backdating of any entitlement to August 2008.

Conclusions

33. I accept that the Council has a duty to all its tax payers to try to recover money owed to it. I recognise that, having obtained liability orders and having tried to collect its debts through the use of bailiffs, the Council was short of options as to how it could collect the money it was due. It is clearly not the case that bankruptcy should never be contemplated, but the consequences bankruptcy can impose upon a debtor are severe and in selecting options for recovery the impact on the individual debtor should be taken into account.
34. The Council satisfied itself that there was no means other than bankruptcy by which the debt could be recovered in a realistic timescale. Because Mr Castle's home was not registered with Land Registry it could not pursue a charging order. But it seems to me that the facts about Mr Castle's ownership of the property could have been elicited through conversation with him if the Council had visited him. A charging order on the property would have been a less punitive option than bankruptcy.
35. In making decisions about debt recovery, I expect that Council officers should make reasonable efforts to contact the debtor in person. It is clear that the Council had difficulties engaging with Mr Castle. But it seems to me that there were warning signs noted by the bailiffs which might reasonably have alerted the Council to the possibility that Mr Castle was unwell: it was known that he did not open his post but left it to accumulate over a long period. None of the Council's own officers visited Mr Castle at home. He was seen only by the process server, who reported that he was unsure whether Mr Castle was unwell or was being evasive.

36. I expect that decisions about debt recovery should be recorded with evidence that the decision-maker is satisfied that the debtor can adequately defend themselves against the Council's actions. Although Mr Castle had in the past settled his debts, that payment history alone was not grounds for the Council to conclude that he was able to do so on this occasion. Once the process server reported that he had doubts about Mr Castle's health, the Council should have conducted a review of the case file in light of that information and that review should have been documented. The failure of the Council to document the action taken to review the case was maladministration.
37. The Council had a further opportunity to review the decision to proceed with bankruptcy action when its solicitor was advised that Mr Castle was considered suicidal. The failure to do so was maladministration, and it had significant consequences.
38. As a consequence of the maladministration identified above I consider Mr Castle has been caused an injustice. I consider that if the Council had properly reviewed the case in light of the information that Mr Castle was possibly suicidal it would not have continued with the bankruptcy action. The Council might have been able to engage with Mr Castle and to discuss and pursue an alternative way of securing payment of the arrears.

Finding

39. As explained above, I find maladministration by the Council. As a consequence of the Council's actions in pursuing bankruptcy Mr Castle incurred costs amounting to some £24,000 after his original debt had been cleared. In addition, he has been caused considerable distress, and has been put to time and trouble in trying to resolve the matter. I now seek to put Mr Castle in the position that he would have been in had no maladministration occurred. Taking account of both the financial cost and the distress and time and trouble, I recommend therefore that the Council issues Mr Castle with a formal apology and makes him a payment of £25,000.

Dr Jane Martin
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB



4 May 2011