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Monday, 16 May 2011

## Annual Meeting of the Council

Dear Member

I am pleased to invite you to attend the annual meeting of Torbay Council which will be held in **Ballroom, Oldway Mansion, Torquay Road, Paignton, TQ3 2TE on Tuesday, 24 May 2011 commencing at 11.00 am**

The items to be discussed at this meeting are attached.

Yours sincerely,

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.)

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**Our vision is for a cleaner, safer, prosperous Bay**

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

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(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 meeting of the Council held on 24 March 2011.

(Pages 1 - 10)

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. **Election of Chairman/woman of the Council**

To elect the Chairman of the Council for the Municipal Year 2011/2012.

6. **Appointment of Vice-Chairman of the Council**

To appoint the Vice-Chairman of the Council for the Municipal Year 2011/2012.

- 7. Adjournment**  
To consider adjourning the meeting until 1.30 p.m. on Tuesday, 24 May 2011 to deal with the remainder of the business set out on the following pages.
- 8. Communications**  
To receive any communications or announcements from the Chairman, the Mayor, the Overview and Scrutiny Co-ordinator or the Chief Executive.
- 9. Members' questions**  
To answer any questions asked under Standing Order A13.
- 10. Composition and Constitution of the Executive and Record of Delegations of Executive Functions** (To Follow)  
To receive details on the composition and constitution of the Mayor's Executive for 2011/12, together with the record of delegations of Executive functions (in accordance with Standing Order C4).
- 11. Appointment of the Overview and Scrutiny Co-ordinator and Scrutiny Lead Members for 2011/12**  
To consider:
- (a) appointing the Overview and Scrutiny Co-ordinator for 2011/12; and
  - (b) appointing the following scrutiny lead members for 2011/12:
    - People
    - Place
    - Business
    - Health
- (Note: Executive Leads shall not be appointed as the Overview and Scrutiny Co-ordinator or scrutiny lead members.)
- 12. Appointments to Committees and Other Bodies for 2011/2012** (To Follow)
- (a) To appoint committees and other bodies, agree their terms of reference and to review the allocation of seats to political groups in line with statutory requirements.
  - (b) To request nominations from the group leaders of members to serve on those committees and other bodies.
- 13. Calendar of Meetings for 2011/12** (To Follow)  
To consider the provisional calendar of meetings for 2010/11.
- 14. Scheme of Delegation for Council Functions**  
To agree the scheme of delegation for Council functions as set out in Part 3 of the Constitution in so far as they relate to Council functions.

- 15. Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust** (Pages 11 - 32)  
To consider the recommendations of the Mayor (as set out in the attached record of decision) and Report 76/2011 on the Annual Strategic Agreement with the Torbay NHS Care Trust for 2011/12.
- 16. Overview and Scrutiny Board Annual Report 2010/2011** (Pages 33 - 44)  
To receive the Overview and Scrutiny Annual Report for 2010/11 (as set out in the attached report).
- 17. Statutory Officer Appointment**  
To confirm the following statutory officer appointment:  
  
Section 151 Officer – Paul Looby
- 18. Urgent Decisions taken by the Chief Executive under the Officer Scheme of Delegation** (Pages 45 - 46)  
To note the details of decisions taken by the Chief Executive on the grounds of urgency as set out in the attached report.



## Minutes of the Council

24 March 2011

-: Present :-

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

The Mayor of Torbay (Nick Bye)

Councillors Amil, Baldrey, Bent, Butt, Carter (C), Carter (R), Charlwood, Darling, Doggett, Ellery, Excell, Faulkner (J), Hodge, Horne, Hytche, Lewis, McPhail, Mills, Morey, Oliver, Parrott, Pentney, Richards, Scouler, Stocks, Stringer, Thomas (D) and Thomas (J)

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### 643. Opening of meeting

Members observed a minute's silence as a mark of respect in memory of the late Councillor Kevin Carroll who passed away recently after losing his battle with cancer and who will be greatly missed. The Chairman's Chaplain then opened the meeting with a prayer.

### 644. Apologies for absence

Apologies for absence were received from Councillors Addis, Faulkner (A) and Tolchard.

### 645. Minutes

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

### 646. Declarations of interests

The following personal interests were declared:

<b>Councillor</b>	<b>Minute Number</b>	<b>Nature of interest</b>
Doggett	649	Member of Y2KS Quiz Team based at Churston Golf Club
Stocks	649	Member of Churston Golf Club WY2K's Quiz Team

## Council - Thursday, 24 March 2011

Amil	654	Council nominated NED on TCT
Stocks	654	Council nominated NED on TCT

### 647. Communications

The Mayor:

- (a) announced that the Council had received £1.75 million in Performance Reward Grant from the Government. Torbay had a high success with the reward due to its partnership working on projects such as Paignton Library, litter campaigns, crime reduction initiatives, working with Health to reduce smoking, Closing the Gap project and Business Incubator Units. The Mayor congratulated the Council and partners on this achievement;
- (b) provided an update on the South Devon link road. The project was listed in the national final development pool and a final decision was expected from the Government in the near future; and
- (c) advised that this would be his last Council meeting as the first elected Mayor of Torbay and expressed thanks to colleagues, fellow members and those who had worked with him during this time.

### 648. 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 8 (Churston Golf Club Proposals – Notice of Call-in) to be considered before item 6 (Members' Questions).

### 649. Churston Golf Club Proposals - Notice of Call-in

At its meeting on 17 February 2011, the Overview and Scrutiny Board considered the Notice of Call-in of the decision of the Mayor (taken at the Cabinet meeting on 2 February 2011) to grant a variation to the lease of Churston Golf Club. The Board resolved that the decision of the Mayor be referred to Council for consideration. The Council considered Report OSB/4/11 which set out details of the Notice of Call-in and advice from the Monitoring Officer.

It was proposed by Councillor Thomas (J) and seconded by Councillor Oliver:

that the Mayor be requested to consider making a decision on the points outlined in Report 34/2011. The Council also recommend that all parties concerned are contacted to reach a compromise decision.

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: **For:** Councillors Amil, Baldrey, Carter (C), Carter (R), Charlwood, Darling, Doggett, Ellery, Excell, Faulkner (J), Hodge, Horne, Hytche, Lewis, Manning, McPhail, Mills, Morey, Oliver,

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Pentney, Phillips, Richards, Scouler, Stocks, Stringer, Thomas (D) and Thomas (J) (27); **Against:** The Mayor, Councillors Aiton, Bent, Butt and Parrott (5); and **Absent:** Councillors Addis, Faulkner (A) and Tolchard (3). Therefore, the motion was declared **carried**.

(**Note:** During consideration of Minute 649, Councillor Stocks declared her personal interest.)

### 650. **Princess Parade, Princess Gardens, Marina Car Park, Pavilion and Theatre - Notice of Call-in**

At its meeting on 16 March 2011, the Overview and Scrutiny Board considered the Notice of Call-in of the decision of the Mayor (taken at the Cabinet meeting on 3 March 2011) to authorise the Chief Executive of Torbay Development Agency to investigate and deliver a solution to the repairing liabilities at Princess Gardens, Princess Parade, the Pavilion and Princess Pier. The Board resolved that the decision of the Mayor be referred to Council for consideration. The Council considered Report OSB/6/11 which set out details of the Notice of Call-in and advice from the Monitoring Officer.

The Chairman advised that the call-in was considered by the Overview and Scrutiny Board after the agenda for this meeting had been published and after the 10 clear working day deadline for public questions had expired. Requests for a public question time session on the call-in had been received and as it was not possible for members of the public to submit questions or statements by the deadline, the Chairman had accepted three questions/statements on this item (copies of which were circulated prior to the meeting).

Therefore, in accordance with Standing Order A24, the Council heard from Julie Brandon, Alan Griffey and Len Short who had submitted questions and statements in relation to the proposed development at Princess Gardens. The Mayor responded to the questions and statements that had been put forward.

It was then proposed by Councillor Thomas (J) and seconded by Councillor Oliver:

that the Mayor be requested to reconsider his decision in light of the following:

- (i) whilst the Council acknowledge the need for redevelopment in the Princess Gardens area, it would wish to safeguard what makes Torbay special; and
- (ii) the Council shares the concerns listed on the call-in notice namely:
  - (a) the Mayor's decision authorises the Chief Executive of the Torbay Development Agency to "investigate and deliver a solution to the repairing liabilities" in consultation with the Mayor, Portfolio Holder for Regeneration, the Environment Commissioner and the Executive Head of the Torbay Harbour Authority. What input will

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there be into this project from the Harbour Committee, Harbour users, the wider community and elected representatives?;

- (b) the Chief Executive of the Torbay Development Agency is being asked to “revisit the principle” of a Torquay Inner Harbour Pontoon Berthing Project. How will the Council ensure that residents can secure affordable berths in the inner harbour? What consultation has the Mayor undertaken on this? How will the Executive Head of the Tor Bay Harbour Authority be involved?; and
- (c) the Mayor has failed to give any clear guidance as to what would or would not be acceptable in terms of development.

In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: **For:** Councillors Amil, Baldrey, Butt, Carter (C), Carter (R), Charlwood, Darling, Doggett, Ellery, Excell, Faulkner (J), Hodge, Horne, Hytche, Manning, McPhail, Mills, Morey, Oliver, Pentney, Phillips, Richards, Scouler, Stocks, Stringer, Thomas (D) and Thomas (J) (27); **Against:** The Mayor, Councillors Aiton, Bent, Lewis and Parrott (5); and **Absent:** Councillors Addis, Faulkner (A) and Tolchard (3). Therefore, the motion was declared **carried**.

### 651. Members' questions and answers

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 and answered by Councillor Butt (question 3) and the Mayor (urgent question).

### 652. Notice of Motion - Elected Mayor System

Members considered a motion in relation to the elected mayor system, notice of which was given in accordance with Standing Order A14.

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

- (i) that this Council urges the Secretary of State, Mr. Eric Pickles, to scrap the elected mayor system at the expiration of the next four year term and allow the people of Torbay to choose a more democratic and transparent form of local government; and
- (ii) that all the mayoral candidates be invited to sign a letter to Mr Eric Pickles stating their objection to the mayoral system.

In accordance with Standing Order A14.3(b), the Deputy Chief Executive advised the motion would be dealt with by this meeting.



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In accordance with Standing Order A19.4, a recorded vote was taken on the motion. The voting was taken by roll call as follows: **For:** Councillors Amil, Baldrey, Carter (C), Carter (R), Darling, Doggett, Ellery, Excell, Faulkner (J), Hodge, Hytche, Lewis, Manning, McPhail, Mills, Morey, Oliver, Pentney, Phillips, Richards, Scouler, Stocks, Stringer, Thomas (D) and Thomas (J) (25); **Against:** The Mayor, Councillors Aiton, Bent, Butt, Charlwood, Horne and Parrott (7); and **Absent:** Councillors Addis, Faulkner (A) and Tolchard (3). Therefore, the motion was declared **carried**.

(**Note:** Prior to the meeting Councillor Morey suggested the addition of paragraph (ii) to the motion which was accepted by Councillor Oliver.)

### 653. Notice of Motion - Swim Torquay

Members considered a motion in relation to Swim Torquay, notice of which was given in accordance with Standing Order A14.

Councillor Darling advised that he wished to withdraw the first two paragraphs of the Notice of Motion as submitted. It was then proposed by Councillor Darling and seconded by Councillor Stocks:

- (i) this Council resolves to fund the pool for the 2011/12 financial year with a one off £15,000 (on top of the £5,000 already given) from the Comprehensive Spending Review Reserve. During the next 12 months the Council will work with interested parties on a strategy to provide a 21<sup>st</sup> century swimming facility for local residents and visitors alike; and
- (ii) this Council asks the Environment Commissioner to bring a report to the meeting of the full Council on 30 June outlining what action has been taken.

In accordance with Standing Order A14.4(a), the Deputy Chief Executive advised that the motion stood referred to the Mayor.

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

The Council considered Report 76/2011 and the recommendations of the Mayor on the Annual Strategic Agreement (ASA) for 2011/12 between the Council and Torbay NHS Care Trust for the delivery of Adult Social Care. A revised Appendix 1 to Report 76/2011 was circulated prior to the meeting.

It was proposed by Councillor Bent and seconded by the Mayor:

- (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

## Council - Thursday, 24 March 2011

- (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.

An amendment was proposed by Councillor Thomas (J) and seconded by Councillor Oliver:

that the Council refers the Annual Strategic Agreement for 2011/12 back to the Mayor to allow full consideration of the revised agreement (revised Appendix 1 to Report 76/2011) circulated on 24 March 2011.

On being put to the vote the amendment was declared **carried**.

The substantive motion (to refer back to the Mayor) was then before Members for consideration.

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

**(Note 1:** Councillors Amil and Stocks required their abstention from voting on the decision in Minute 654 to be recorded.)

**(Note 2:** During consideration of Minute 654, Councillors Amil and Stocks declared their personal interests.)

### **655. Corporate Plan 2011+**

Further to the meeting of the Cabinet held on 22 March 2011, Members received the recommendations of the Mayor and Report 77/2011 on the annual refresh of the Council's Corporate Plan 2011+. It was noted that the refresh of the Corporate Plan identified both the achievements of the previous year and the priorities for the year ahead.

It was proposed by the Mayor and seconded by Councillor Bent:

that the Council be recommended to:

- (i) approve the format and general content of the Corporate Plan 2011+ as set out in Appendix 1 to Report 77/2011; and
- (ii) authorise the Mayor and Chief Executive (or Deputy Chief Executive) to agree the final version of the Plan should it be appropriate to make any minor amendments to the current version.

An amendment was proposed by Councillor Charlwood and seconded by Councillor Faulkner (J):

- (ii) authorise the Chief Executive (or Deputy Chief Executive) in consultation with the Group Leaders, the Mayor and the Overview and

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Scrutiny Co-ordinator to agree the final version of the Plan should it be appropriate to make any amendments to the current version.

On being put to the vote the amendment was declared **carried**.

The substantive motion (the original motion with the amendment to (ii)) was then before Members for consideration.

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

At the invitation of the Chairman, the Mayor advised that he accepted the original motion with the amendment. Therefore, as the Mayor had accepted the amendment the matter would not be referred back to the Cabinet for consideration as required under Standing Order F4.8(iii).

### **656. Planning Contributions and Affordable Housing Supplementary Planning Document: Threshold for Contributions**

The Council considered the recommendations of the Mayor on the above (as set out in Reports 78/2011 and 39/2011), which he had put forward following consideration of the amendment that was made at the meeting of the Council held on 24 February 2011.

It was proposed by Councillor Butt and seconded by Councillor Bent:

that the Council be recommended:

- (i) that paragraph 6.5 of the Planning Contributions and Affordable Housing Update and Mitigation Paper 2010 be revised to read:

“Smaller developments must also contribute towards mitigating any adverse impacts they may have, individually and collectively, on Torbay. Consequently there is no minimum threshold for contributions. This approach also avoids creating perverse incentives, or unintended consequences (such as artificial division of planning units), which could result in no contributions towards mitigation of adverse impacts. Due to the cost of drafting and monitoring S106 Agreements, applicants for smaller schemes, specifically those where the contribution would be less than about £5,000 will be encouraged to pay the contribution before grant of permission in exchange for an agreement by the Council to return these sums in the event that development does not proceed. In seeking financial contributions from smaller schemes, regard will be had to the need for them to be reasonable (as per Circular 5/2005), and the need to avoid imposing undue costs on businesses. In addition, regard will be had to whether the application is a standalone scheme or affects part of a larger planning unit (e.g. a block of holiday apartments)”;

## **Council - Thursday, 24 March 2011**

- (ii) that the first sentence of Paragraph 4.19 of the Interim Guidance on Principal Holiday Accommodation Areas (March 2010) be deleted, as will any other reference to the £5,000 threshold;
- (iii) that the principle of charging smaller developments for a fair proportion of the infrastructure for which they create a need, be incorporated into the emerging Community Infrastructure Levy; and
- (iv) that all references to “overage” of “clawback” be changed to read “deferred contribution”.

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

### **657. Composition and Constitution of the Cabinet and Record of Delegations of Executive Functions**

Members noted Report 79/2011 which provided details of changes made by the Mayor to his Cabinet.

# Minute Item 651

## Meeting of the Council

Thursday, 24 March 2011

### Questions Under Standing Order A13

<b>Question (1) by Councillor Darling to the Cabinet Member for Community Services</b>	<p><b>Torbay Council has received a substantial 106 agreement payment which was going to increase the frequency of the 64 and 65 bus route from 2 hourly to hourly.</b></p> <p><b>Can you confirm when the money was received by the Council, and when it is going to be used to increase the frequency of the 64/65 bus service?</b></p>
Councillor Butt	<p>The operator has been contacted and will be arranging to meet officers at the beginning of April 2011 when a commencement date and service schedule can be agreed.</p>
<b>Question (2) by Councillor Carter (C) to the Cabinet Member for Community Services</b>	<p><b>Quaywest Car Park is closed during the winter season.</b></p> <p><b>Youngs Park Car Park is closed at night time.</b></p> <p><b>Why are they both flood lit during the night when they are closed, and what does this cost in financial terms and in carbon emissions?</b></p>
Councillor Butt	<p>Quay West Car Park was requested to be lit by the Police in the past to reduce anti social behaviour however the lights have now been turned off for some weeks on a permanent basis to save energy and anti social behaviour is no longer an issue in this location.</p> <p>All the remaining surface level car park lighting will be reduced as part of the overall budget cuts in relation to street lighting planned in the next financial year. We are currently installing time clocks where appropriate to ensure all surface level car park lights can be controlled effectively.</p> <p>Over the past few years the 'Parking Team' have worked closely with Frances Bullock, The Councils Carbon Reduction Officer in reducing emissions from car parks and in particular have installed energy saving devices in the multi storey car parks and more projects are planned for the coming year.</p>
<b>Question (3) by Councillor Darling to the Cabinet Member for Community Services</b>	<p><b>Why did it not come to light during the budget process that the funding of the adhoc grant to Swim Torquay in Plainmoor was coming to an end?</b></p>



## Record of Decision

### Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust

#### Decision Taker

The Mayor at the Cabinet meeting held on 5 April 2011.

#### Decision

- (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.**

#### Reason for Decision

To respond to the recommendation of Council.

#### Implementation

The recommendation will be considered at the Annual Council meeting on 24 May 2011.

#### Information

Report 85/2011 set out the following recommendation of the Council following its consideration of Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust as set out in Report 76/2011 and the revised Appendix 1, which was circulated prior to the meeting:

“that the Council refers the Annual Strategic Agreement for 2011/12 back to the Mayor to allow full consideration of the revised agreement (revised Appendix 1 to Report 76/2011) circulated on 24 March 2011.”

In accordance with Standing Order F4.9 the Mayor considered the above recommendation of the Council.

The Mayor reconsidered the revised agreement set out in revised Appendix 1 to Report 76/2011 and reproduced as Appendix 1 to Report 85/2011 and supported the original proposal set out above.

#### Alternative options considered and rejected at the time of the decision

The alternative options were set out in Report 85/2011 and not discussed at the meeting.

**Is this a Key Decision?** (Give reference number if applicable)

Yes – Reference Number X35/2010

**Does the call-in procedure apply?** (If no, please give reason)

No, as the Council will make the final decision.

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

None

**Published**

Friday, 8 April 2011





Report No: **76/2011** Public Agenda Item: **Yes**

Title: **Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust**

Wards Affected: **All Wards in Torbay**

To: **Cabinet Council** On: **22 March 2011  
24 March 2011**

Key Decision: **Yes – Ref X35/2010**

Change to Budget: **Yes** Change to Policy Framework: **Yes**

Contact Officer: **Anthony Farnsworth**  
Telephone: **(01803) 210502**  
E.mail: **Anthony.farnsworth@nhs.net**

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

1.1 To agree the areas of development and performance targets required of Torbay NHS Care Trust for 2011/12 as stipulated in the legally binding Partnership Agreement between the Council and Torbay NHS Care Trust.

**2. Recommendation for decision**

2.1 **That, subject to any views of the Overview and Scrutiny Board, the Council be recommended to approve the Annual Strategic Agreement for 2011/12 as set out in Appendix 1 to this report.**

2.2 **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.**

**3. Key points and reasons for recommendations**

3.1 The Annual Strategic Agreement (ASA) for each financial year is prepared by the Council and, subject to negotiation with the Trust, is agreed upon for implementation from the beginning of each financial year.

3.2 The ASA provides a 'commissioning framework' for the Council by, amongst other things, setting out the financial inputs for the year ahead (i.e. the revenue and capital budgets transferred from the Council to the Trust) and the key performance targets for the year ahead. It is important to note that the proposed budget (comprising both income and expenditure targets) to be transferred to the

Care Trust in 2010/11 is detailed in Report 20/2010.

- 3.3 The performance targets relate to the national performance indicators used by the Care Quality Commission to monitor and judge adult social care performance. It is important to note that the judgement of the performance of adult social care (star rating) is of the Council even though the Council has delegated responsibility for the delivery of adult social care. This is because the Council is accountable for the performance of these delegated statutory functions. Full details of the Care Quality Commission assessment process for 2011/12 are not known. It is expected that the Care Trust and the Council will comply with any variation to the assessment regime as it becomes known.
- 3.5 If the proposed performance targets are met in full by March 2012 the Care Trust will remain eligible for a judgement of performing well using the Care Quality Commission criteria that have existed until recently. However, other factors such as the results of any specific service inspections impact on the final performance judgement. Success also impacts on the Community Plan's priorities relating to 'stronger communities'.

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

**Anthony Farnsworth  
Chief Executive of Torbay NHS Care Trust**

## **Supporting information to Report 76/2011**

### **A1. Introduction and history**

- A1.1 The Annual Strategic Agreement (ASA) is legally binding and is produced under the auspice of the Council's Partnership Agreement with the Care Trust. It is a requirement that the ASA be agreed before the start of a new financial year.

### **A2. Risk assessment of preferred option**

#### **A2.1 Outline of significant key risks**

The proposed performance targets, if met, equate to at least a performing well performance using current Care Quality Commission criteria, and assuming all other performance levels being equal to those of 2010/11, as achieved in the 2010 assessment.

The proposed targets are judged to be achievable within the envelope of resources made available to the Trust by the council. To set them at a higher level increases the risk of them not being achieved and therefore the Council would be open to criticism from the Care Quality Commission. To set them lower would not enable us to ensure a continued trajectory of improved performance overall.

### **A3. Other Options**

- A3.1 The proposed agreement is required by the legally binding Partnership Agreement between Council and Torbay NHS Care Trust. This is subject to improvement and future delivery options will be explored as part of the review of the partnership agreement detailed in Appendix 1.

### **A4. Summary of resource implications**

- A4.1 Proposed performance targets are based on proposed revenue, grant and income targets laid out in Report 347/2011, which includes efficiency targets.

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

- A5.1 Achievement of the proposed ASA and its proposed targets will work towards reducing health and well-being inequalities, and promote access to services regardless of race, gender, disability, age, sexual orientation, religion or belief. Indeed, the ASA represents one of the most important vehicles by which the Council is seeking to create a more equal Bay. In addition, successful implementation of the ASA, which includes focus and targets around the community inclusion and safety of vulnerable adults will support the Council's efforts to reduce crime and disorder.
- A5.2 The key foci for 2011/12 are: greater service user involvement; additional resources for more deprived areas to reduce inequalities; adult safeguarding; personalisation (whereby people commission their own services and supports via direct payments or individual budgets); preventative services; reviewing and improving access to employment for vulnerable people; better integrated

community and services for older people and people with dementia; assisting people with mental health issues and those with substance misuse problems.

**A6. Consultation and Customer Focus**

A6.1 After a process of negotiation with the Care Trust, the draft ASA has been considered by Overview and Scrutiny.

**A7. Are there any implications for other Business Units?**

A7.1 The Business Unit responsible for monitoring the ASA has been fully involved in preparing these proposals; no adverse implications have been identified.

A7.2 It is important that the ASA is fully considered by Children's Services in order to deliver improved transition between children and adult services and joint management of cases where the adult social care needs of a parent have implications for their children.

A7.3 Finance Services in scrutinising spend and in developing proposals for the future funding of Adult Social Care.

**Appendices**

Appendix 1 – Annual Strategic Agreement 2011/12

**Background Papers:**

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

None

Revised Appendix 1 to Report 76/2011

Council – 24 March 2011

**Annual Strategic Agreement between Torbay Council and Torbay  
NHS Care Trust for the delivery of Adult Social Care 2011/12**

**Note:** up to date comparative data has now been added and recalibrated data for some NIs are now included in the Agreement – these are shown in bold type.

(The section on roles and responsibilities has been updated to reflect current governance arrangements as highlighted at the Integrated Governance meeting held on 13 May 2011.)

**Contents**

1. Introduction
2. Performance Outcomes
3. Spending Decisions and Key Decisions
4. Revenue Budget 2011/12
5. Chargeable Services – Rates 2011/12
6. Roles and responsibilities

**v10 updated for presentation to Council on 24 March 2011**

## **1. Introduction**

### **1.1 Overall strategy**

The Care Trust will continue to pursue a strategic direction that is designed to maximise choice and independence for those requiring adult social care support and care. As far as possible, within FACS and the constraints of resources, the Care Trust will seek to promote active and healthy lifestyles. In particular the DASS will play a lead role in developing a refreshed Active Ageing Strategy and in contributing to its implementation.

### **1.2 Financial context**

At a national level the funding arrangements for Adult Social Care (ASC) are under review. There is no immediate prospect of this review reporting in a timescale that would propose changes in 2011/12. Therefore the financial arrangements for 2011/12 are based on what is known at present.

The ability of the Care Trust to absorb financial risk from ASC spending has been reduced owing to the loss of NHS Commissioning responsibilities from the Care Trust with effect from April 2011. The Care Trust and the Council will work to secure the engagement and support of NHS Commissioners (in practice the support of Baywide GP Consortium) to any financial risk share arrangement applying in 2011/12.

### **1.3 NHS Reforms**

The NHS White Paper and the NHS policy of Transforming Community Services have implications for the arrangements between the Care Trust and Torbay Council. The requirement for PCTs to separate out NHS Commissioning and Provider functions represents a significant change.

Formal agreements between the Council and the Care Trust about exactly how the arrangements will develop are yet to be made and will need to be reflected in the finalisation of this agreement. The working hypothesis at time of writing is that the range of functions delegated under the present Partnership Agreement will continue to be delegated. The Council has supported in principle the development of a South Devon provider unit as an interim position for up to 2 years while the Council, the Torbay Care Trust and other partners continue to work on a longer term solution.

### **1.4 Health and Wellbeing Board**

The Care Trust will play a full and active role in supporting Torbay Council with the design and development of this Board. No detailed implications for delegated ASC functions have yet been seen.

### **1.5 Public Health**

The Care Trust will play a full and active role in preparing for the changes heralded in the Public Health White Paper. The Trust and the Council will support the five

outcomes for public health specified in “healthy lives/healthy people” and work to support the new statutory duties including the JSNA which accrue to local government over the next 24 months. This includes exploring the role of the South Devon provider in locality working in the Bay.

## **1.6 CQC Assessment Regime**

This agreement remains structured on the seven outcome areas of the former CSCI/CQC performance assessment regime. No detail is available on the performance/assessment regime that will be applied by CQC in 2011/12. This agreement will need to flex to accommodate the requirements of any new performance regime as it becomes known.

## **2. Development priorities and performance outcomes**

To work in partnership to set and achieve a realistic trajectory for the delivery of the Transformation in Social Care, focussing on improving safeguarding, personalisation and preventive services.

To maintain a standard of performing well overall: focussing improvement on increasing choice and control; freedom from discrimination and harassment; and economic well-being.

### **2.1 Outcome 1: Improving Health and Emotional Wellbeing**

To ensure that adult social care issues are included in the development of wider integrated care opportunities

To work in partnership to close the gap in health inequalities through the development of a neighbourhood management pathfinder and assist with its development in other deprived areas subject to successful evaluation of improved outcomes in the pathfinder area.

To play a full role in developing and implementing the ASC contribution to an Active Ageing Strategy.

Develop an integrated prevention strategy to safeguard vulnerable adults in partnership with the Crime Reduction Partnership.

Maintain current performing excellently CQC rating.



Performance Framework	Definition	2010/2011 Targets	2011/2012 Targets	Top 25% CIPFA Group 2009/10	Top 25% All England 2009/10	Comparator group average
NI 125	Achieving independence for older people through rehabilitation/ intermediate care	75%	78%	86.7%	86.1%	83%
NI 131	Delayed transfers of care	17.5	9	10% Reduction Proposed (Based on December 2010 Position)		
*New Indicator	Emergency readmission rate for over 65s within 28 days	Not reported in 2010/11	10% Reduction Proposed	New Indicator <b>Construct 10% reduction when 10/11 outturn known</b>		
*New Indicator	Emergency bed days for over 75s with 2+ admissions to acute hospital	Not reported in 2010/11	5% Reduction Proposed	New Indicator <b>Construct 5% reduction when 10/11 outturn known</b>		
*New Indicator	Falls for over 65 patients living in a care home which result in a hospital admission	Not reported in 10/11	5% Reduction Proposed	Proposed Quality Measure Establish 10/11 baseline by <b>end</b> April and produce trajectory.		

## 2.2 Outcome 2: Improved quality of life

In line with CQC's recommendations the Trust should improve performance on the provision of telecare, telehealth and community equipment within agreed budgets.

Implement the Dementia Strategy for Torbay.

Review and re-commission the range of services that facilitate the delivery of home care, including Home Improvement Service, Joint Equipment Store, Handypersons schemes and the allocation of Disabled Facility Grant by October 2011.

Maintain current performing well rating.

<b>Performance Framework</b>	<b>Definition</b>	<b>2010/2011 Targets</b>	<b>2011/2012 Targets</b>	<b>Top 25% CIPFA Group 2009/10</b>	<b>Top 25% All England 2009/10</b>	<b>Comparator group average</b>
NI 136	People Supported to live independently through social services (all adults)	2701	<b>2911</b>	<b>3254</b>	<b>3749</b>	<b>2967</b>
*New Indicator	Number of people supported through telecare & telehealth	Not reported in 10/11	1100	New Indicator No comparison data available (913 clients based on December 2010)		

### **2.3 Outcome 3: Making a positive contribution**

To ensure a systematic approach to knowing and understanding service users & carers experiences and levels of satisfaction and to develop a collaborative approach with the Council and other partners to engaging them in the commissioning and monitoring of services.

Develop self assessment mechanisms to ensure the delivery of more personalised services.

To foster the broad agenda symbolised by the Government's "Big Society" intentions. Specifically to direct activity towards self care and towards fostering voluntary and community activity.

Introduce an outcomes-based accountability approach to transforming social care to ensure the intended positive effects are realised. To do this via the mechanism of goal setting and review in personal care plans.

To adopt a client led approach to commissioning, reviewing and delivering services, building on the positive lead from Supporting People.

Maintain current performing well rating.

Performance Framework	Definition	2010/2011 Targets	2011/2012 Targets	Top 25% CIPFA Group 2008/9	Top 25% All England 2008/9	Comparator group average
*New Indicator	Develop indicator demonstrating effectiveness of carer support mechanisms	Not reported in 10/11	To be determined	New Indicator No comparison data available ( Determine upon completion of evaluation of the Carer Demonstration Site Pilot In June 2011)		
* New Indicator Carer Numbers	Number of people on Carers' Register	Not reported in 10/11	10% increase	New Indicator <b>Local indicator – no national comparison</b> (Set at 10/11 Outturn)		
Young Adult Carers	Number of young adult carers in contact with Care Trust	Not reported in 10/11	25	New Indicator <b>Local indicator – no national comparison</b>		

#### 2.4 Outcome 4: Increased choice and control

Review and recommission appropriate models of Information, Advice and Advocacy to support the preventative and independence agenda including further website development and the further development of information and advice consortia.

To successfully complete the review of Learning Disabilities Services and begin implementation of subsequently approved recommendations

To take forward, in partnership, the development of extra-care housing in Torbay with an associated wide range of enablement services. To extend the scope of care to a Virtual Extra Care model supported by community hubs offering care and support by piloting this approach in Shiphay.

Continue to improve partnership working with Children's Services to improve transitions from children's to adult services.  
To ensure the development of a thriving third sector through better joint commissioning that adopts the principles outlined by the Office of the Third Sector.

Improve current rating of performing adequately to performing well through the effective mainstreaming of personalisation across Paignton, supported by more widespread use of assistive technology (including Telecare) and the development of social capital, incorporating the paragraph above.

<b>Performance Framework</b>	<b>Definition</b>	<b>2010/2011 Targets</b>	<b>2011/2012 Targets</b>	<b>Top 25% CIPFA Group 2009/10</b>	<b>Top 25% All England 2009/10</b>	<b>Comparator group average</b>
NI 130 – <b>Note</b> calculation methodology has changed, from numeric to percentage	Social Care clients receiving Self directed support per 100,000 population	30%	40%	<b>12.7%</b>	<b>16.3%</b>	<b>10.2%</b>
NI 132	Timelines of social care assessment (all adults)	79%	<b>75%</b>	<b>81.1%</b>	<b>86.8%</b>	79%
NI 133	Timelines of social care packages following assessment	90%	<b>85%</b>	<b>93.7%</b>	<b>94%</b>	<b>91.3%</b>
NI 135	Carers receiving needs assessment or review and a specific carer's service, or advice and information	38%	<b>35%</b>	<b>30.7%</b>	<b>31.9%</b>	<b>27.1%</b>
NI 145	Adults with learning disabilities in settled accommodation	39%	<b>45%</b>	<b>72.4%</b>	<b>70.8%</b>	<b>60.7%</b>
NI 149 <b>DPT Provision</b>	Adults receiving secondary mental health services in settled accommodation	29%	<b>35%</b>	<b>72.5%</b>	<b>74.7%</b>	<b>57.1%</b>
*New Indicator – replaces PAF C72	No. of people aged 65 or over living in residential or nursing homes	602 (Dec 10 position)	570	New Indicator No comparison data available		
*New Indicator – replaces PAF C73	No. of LD and MH <65 people living in residential or nursing homes	188 (Dec 10 position)	180	New Indicator No comparison data available		

Performance Framework	Definition	2010/2011 Targets	2011/2012 Targets	Top 25% CIPFA Group 2009/10	Top 25% All England 2009/10	Comparator group average
*New Indicator	Proportion of total over 65 spend on care home placements	61%	58%	New Indicator Use of Resources suggests this should be approx. 40%		
PAF D39	People receiving a Statement of Needs (TCT +DPT)	DPT – 90% TCT – 93%	95%	No longer part of National Indicator Set Only outdated comparison information available		
PAF D40	Clients receiving a Review	DPT – 85% TCT - 85%	85%	No longer part of National Indicator Set Only outdated comparison information available		

## 2.5 Outcome 5: Freedom from discrimination or harassment

People independently funding their own residential care will receive discretionary care management support services only if they are in need of protection or other exceptional circumstances exist. This is to balance the need for independence and autonomy whilst offering protection to those who may require it. This is to be reviewed as part of the Transformation in Social Care.

Ensure that people from black and minority ethnic groups and other equality groups have appropriate access to assessment.

To develop and then apply a more direct source of customer feedback to provide meaningful data and assurance. This will, in all likelihood, lead to the development of more meaningful metrics in this area, e.g., with reference to fulfilment of personal care plans.

To increase the CQC judgement from performing adequately to performing well.

Performance Framework	Definition	2010/2011 Targets	2011/2012 Targets
PAF E47	Ethnicity of older people receiving assessments	1.25%	1.25%
PAF E48	Ethnicity of older people with services	1%	1%

## 2.6 Outcome 6: Economic Wellbeing

Torbay Council and Torbay Care Trust work together to ensure that people in Torbay have timely access to welfare and benefits advice and assistance, as part of a whole system review, options appraisal and re commissioning of information, advice and advocacy by September 2011.

Torbay Care Trust will work to maximise benefits income of its customers and to use this to support the costs of care required.

To work with the Council and other employers to improve access to employment for the disabled and other vulnerable groups by reviewing recruitment policies and procedures and agreeing mutual targets for supported work placements.

To work with the Council and other partners to foster the development of community and social enterprises and the use of apprentices. In particular to support opportunities for older people to remain active, retain economic independence, in care and support and for the intrinsic health benefits of this.

To increase the CQC judgement from performing adequately to performing well.

<b>Performance framework</b>	<b>Definition</b>	<b>2010/2011 Targets</b>	<b>2011/2012 Targets</b>	<b>Top 25% CIPFA Group 2009/10</b>	<b>Top 25% All England 2009/10</b>	<b>Comparator Group Average</b>
NI 146 ** Note shared target across all public agencies to improve	Adults with learning disabilities in employment PSA 16	3.40%	5%	7.6%	8%	6.7%
NI 150 <b>DPT Provision</b>	Adults receiving secondary mental health services in employment	5%	5%	12.3%	10.6%	9.1%

## **2.7 Outcome 7: Maintaining personal dignity and respect**

Seek ways to continue to raise the standards to meet the Dignity in Care agenda.

To ensure that the findings of the independent safeguarding review are incorporated into commissioning and operational practice and improve joint working with children's safeguarding.

The Care Trust will pursue its policy of not commissioning care services from poorly rated providers. NB: CRILL data collection is no longer required.

Performance data from Adult Safeguarding activity will appear in TCT Board reports and Council reports. The annual SAB report will be reported to both TCT Board and the Council. A dashboard of Safeguarding Performance Measures is to be approved by the SAB in January 2011 and will be attached to this agreement.

To restore the CQC judgement of performing well (improving from adequate in 09/10).

<b>Performance framework</b>	<b>Definition</b>	<b>2010/2011 Targets</b>	<b>2011/2012 Targets</b>
*New Indicator	Proportion of safeguarding calls triaged in less than 48 hours	Oct to Dec 10 Performance is 57%	80%
*New Indicator	Proportion of safeguarding strategy meetings held with 5 working days	Oct to Dec 10 Performance is 71%	75%
*New Indicator	Proportion of safeguarding case conferences held with 20 working days of strategy meeting	Oct to Dec 10 Performance is 2%	70% <b>(To be achieved from end July '11)</b>
*New Indicator	Number of repeat safeguarding referrals in last 12 months	10/11 Baseline to be determined by April 11	10% reduction on 10/11 outturn

*Please Note: safeguarding measures have not been previously collected across the region so no comparison data available.*

## **2.8 Outcome 8: Leadership**

The parties work to raise the profile of Adult social care, its importance and contribution to the fabric of Torbay and work to ensure sustainability for plans and personalisation that will provide high quality services and choice for people. This should include the engagement of all elected members to promote understanding in the work of adult social care services and joint working initiatives as a result of the Care Trust arrangements.

To work with Torbay Council to explore further integrated working to improve outcomes and efficiency. To engage with the TSP and the development of the pathfinder Health and Wellbeing Board in the context of the emerging South Devon provider model.

The DASS will contribute to the corporate work of the Council and contribute to the changes mentioned in the introduction above.

## **2.9 Outcome 9: Commissioning and use of resources**

To ensure a maximisation of benefits of joint commissioning and investigate ways in which this can be further consolidated.

The Care Trust will undertake robust monitoring of its contracts to ensure safe and effective service delivery, as appropriate. Links with Commissioning Strategy, and links with the regional commissioning consortia, Provider Development in Devon will be developed.

Deliver a balanced budget, whilst seeking to deliver the outcomes articulated in Putting People First – a shared vision and commitment to the transformation of Adult Social Care, pertaining to safeguarding, personalisation and preventative services and managing the current performance of the organisation in this challenging environment.

To use the Care Trust's commissioning leverage to manage and develop the local provider market to ensure a supply of high quality local services, which provide value for money. In particular to further develop alternatives to long term residential care, focussing on the development a commissioning strategy for housing, support and care, with practical support to providers to reconfigure the current market.

To seek further integration opportunities between the partners to the agreement to obtain seamless service delivery and maximise efficient use of combined resources

Work in partnership with Torbay Council to make the most effective use of capital assets to enable improved outcomes for service users.

To complete the changes following decisions on in-house residential and intermediate care services at St Edmunds and in-house day care services at St Edmunds and Fernham.

To finalise plans for the redevelopment of St Kilda's on the Brixham Hospital site which takes account of the mayoral pledge to the long-stay residents.

To accelerate the implementation of the Learning Disability strategy and to restore learning disability spending to budgeted levels.

To work in partnership to develop reablement schemes which optimise the health and well-being of Torbay's residents.

## **2.10 Financial Risk Share and efficiency**

For 2011/12 the pooled budget arrangement contains three sections. The Care Trust will accept the financial risk on the NHS component and the joint operational component (i.e. directly managed) will fall to the NHS. On the more volatile and demand led commissioning of social care, the normal monthly financial monitoring will be supplemented by a quarterly review and re-profiling of commissioned spend to retain both financial control, performance and statutory responsibility.

Torbay Care Trust demonstrate the delivery of required efficiencies in a timely and robust manner in line with former indicator NI 179 equating to £1.9m efficiency savings.



<b>Performance framework</b>	<b>Definition</b>	<b>2010/2011 Targets</b>	<b>2011/2012 Targets</b>
NI 179	Value for money – total net value of gains that have impacted since the start of the financial year	4%	4% (£1.9m)

### **3 Decision making**

3.1 This agreement reiterates section 22.3 of the Partnership Agreement, i.e. the Care Trust may not make decisions unilaterally if they meet the criteria of a 'key decision'.

3.2 Key decisions are made by Torbay Council in accordance with its constitution. In Schedule 8 of the Partnership Agreement, a key decision is defined as a decision in relation to the exercise of Council Functions which is likely to:

- result in incurring additional expenditure or making of savings which are more than £250,000
- result in an existing service being reduced by more than 10% or may cease altogether
- affect a service which is currently provided in-house which may be outsourced or vice versa
- and other criteria stated within schedule 8 of Partnership Agreement.

When agreeing what constitutes a key decision, consideration should be given to the level of public interest in the decision. The higher the level of interest the more appropriate it is that the decision should be considered to be key.

### **4 Social Care Revenue Budget 2011/12**

	2010/11	2011/2012
	£	£
Base budget	42,103	39,089
Transforming Social care Grant	877	0
<b>Sub-Total</b>	<b>42,980</b>	<b>39,089</b>
Central Govt Funding		2,322
<b>TOTAL</b>	<b>42,980</b>	<b>41,411</b>

- 4.1. For 11/12 there is an additional non-recurrent sum of money (recurrent for the CSR period but years 3 and 4 have yet to be confirmed) made available by Central Government for Adult Social Care of £2.3m which is built into the above baseline.

## **5 Charges for Services 2011/12**

### **a) Non-residential Services:**

	<b>Rates 2009/10</b>	<b>Rates 2010/11</b>	<b>2011/2012</b>
	£	£	£
<b>Domiciliary care P/H</b>	14.50	<b>15.00</b>	15.50
<b>Day Care charge</b>	24.00	<b>26.00</b>	<b>28.00</b>
<b>Night Care rate (per night)</b>	(Charged at hourly dom care rate)	<b>50.00</b>	<b>50.00</b>
<b>Maximum Rate (Day &amp; Dom Care)</b>	300.00	<b>No Maximum</b>	No Maximum
<b>Transport</b>	Nil	<b>Nil</b>	Nil
<b>Community Meals</b>	3.50	<b>4.00</b>	4.25

As part of the personalisation agenda the Care Trust like all other Local Authorities has to formulate and implement a policy on calculating an individual's contribution to their personal budget. This matter is currently under consideration by the Personalisation Board and a policy is in the process of being developed and will be implemented in 2011/12.

### **b) Residential Services:**

The Residential and Nursing increases will not be known until the CRAG (Charging for Residential Accommodation Guide) Regulations are published in 2011.

Residential charges to be implemented each April as directed by the Department of Health CRAG (Charging for Residential Accommodation Guide).

Client contributions for both long and short stay placements are based on an individual financial assessment of capital and income.

There is no charge for services provided under Intermediate Care or Continuing Care.

The Care Trust will ensure that all clients in receipt of a chargeable service receive a full welfare benefit check from the FAB team and an individual financial assessment in accordance with Department of Health circular LAC(2001) 32.

## **6 Roles and Responsibilities**

### **Torbay Council**

- **Role of Torbay Council Chief Executive** – has delegated her authority to the Care Trust for the provision of Adult Social Services and will monitor performance of the DASS in line with the honorary contract. To hold the DASS to account.
- **Role of Adult Social Care Cabinet Member** - to provide political steer to the Trust and the Council in adult social care. To challenge/monitor and drive performance.
- **Role of Adults and Operations Commissioner** - Provide client function
- **Executive Head Finance** – to take a lead responsibility on behalf of the Council in relation to the delegated budget.

### **Torbay Care Trust**

- **Role of the Torbay Care Trust Board** – to set the strategic direction of the organisation and to ensure appropriate governance and delivery of the targets set out in the Annual Strategic Agreement.
- **Role of Torbay Care Trust Chief Executive** – to fulfil the statutory role of the designated Director of Adult Social Services (DASS). When performing this role, the Chief Executive will be directly accountable to the Chief Executive of Torbay Council and contribute to the Commissioning Officers Group (COG) and report to Cabinet.
- **Role of Torbay Care Trust Chief Operating Officer** – to fulfil the role as the Trust's Nominated Director and to take lead responsibility for the provision of adult social services and to lead responsibility for the relationship with the Council and for managing performance.
- **Role of Deputy Director of Finance** – to take a lead responsibility on behalf of the Trust for managing the pooled budget.
- **Role of Company Secretary** – to lead on the self assessment process and performance management of adult social care with the Care Quality Commission.

- **Role of Head of Information** – to be responsible for the quality of all the performance data contained in this Annual Strategic Agreement and to be the lead for target setting within the Trust.

#### **Joint Governance Arrangements**

- **Partnership Development Board** – to be responsible for maintaining and building upon the good standing and relationship of the partnership agreement and recommending areas for change and development for the benefit of the people of Torbay.

Overview  
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*Confidence in your Council*



Annual Report 2010/2011





## Overview and Scrutiny Report 2010/2011

### Overview and Scrutiny Co-ordinator

Councillor John Thomas

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### Scrutiny Lead Member for Pride in the Bay

Councillor Jeanette Richards  
(until 2 February 2011)

Councillor Terry Manning  
(from 3 February 2011)

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### Scrutiny Lead Member for Learning and Skills

Councillor Ruth Pentney

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### Scrutiny Lead Member for New Economy

Councillor Christine Scouler  
(until 2 February 2011)

Councillor Beryl McPhail  
(from 3 February 2011)

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### Scrutiny Lead Member for Stronger Communities

Councillor Robert Excell

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### Scrutiny Lead Member for Health

Councillor Roger Kerlake  
(until 8 January 2011)

Councillor Jeanette Richards  
(from 3 February 2011)

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## FOREWORD

The 2010/11 Annual Report of the Torbay Overview & Scrutiny Board is the final annual report to be issued prior to the Local Elections to be held on 5 May 2011. It is therefore my final report in my capacity as Overview and Scrutiny Coordinator and Chair of the Board. After the elections a new Board will be appointed to continue with the good work that has been achieved in the past four years.



I look back over those past four years and conclude that much has been achieved by the Board on your behalf during this time. I wish to pay tribute to all members of the Board for the excellent contribution that they have made to the reviews that have been undertaken by them on your behalf. In particular, I wish to thank Cllr Julien Parrott for the excellent manner in which he chaired the Board prior to my assuming the mantle of Chairman as his successor in 2008.

It is beneficial to remind ourselves what the purpose of the Overview & Scrutiny Board really is in order that we can measure how effective (or otherwise) we are performing on your behalf.

### **The four Principles of Good Scrutiny are:**

- i) To act as a critical friend in holding the Executive to account.
- ii) To be managed by independent minded governors.
- iii) To drive improvements in public services.
- iv) To enable the voice and concerns of the public.

These principles have been at the forefront of all of the work that your Overview and Scrutiny Board and its sub groups have undertaken.



On behalf of the Board, I wish to thank the Scrutiny Officers within Torbay Council - all of whom have freely and willingly given their full time efforts, professional advice and invaluable guidance to members of the Board.

To the Commissioners and Officers within Torbay Council I particularly say thank you for the experience, support and help that they gave to the Board - both in terms of providing information during the reviews that we undertook during the year, and in their capacity as experts in their individual fields of activity.

I also wish to thank all of the members of the Board for the time and dedication that they gave to their duties as members of this crucially important Board within Torbay Council – all for the benefit of the community we all serve in the Bay.

The Overview and Scrutiny function within Torbay Council will be in new hands after May 2011 but the common theme that will carry across from this Board to the newly constituted Board will be to continue to represent your interests as a citizen of the Bay.

**Councillor John Thomas**  
**Overview and Scrutiny Co-ordinator**



## OVERVIEW AND SCRUTINY...

- is one of the ways the Council improves services and the quality of people's lives in Torbay
- acts as the Council's 'watchdog' and challenges decisions taken by the Mayor and looks at decisions in more detail
- reviews existing policies and issues of concern
- is a constructive and independent way of looking at an issue, highlighting areas that work well and suggesting where improvements can be made

## ACHIEVEMENTS THIS YEAR

Following on from the Fitness Check of Overview and Scrutiny at the end of last year, the Overview and Scrutiny Board agreed to reduce the number of in-depth reviews it carried out.

### **Affordable Housing**

This review took place against an ever-changing political backdrop which has altered the landscape against which affordable housing is delivered in terms of funding and capacity.



What has not changed is that Torbay faces unique challenges in its demographic makeup and a continuing trend of demand for affordable housing outweighing supply.

In order to assess the effectiveness of the strategic and operational delivery of the themes of the current Housing Strategy, councillors held 'Delivery Chain Workshops' which helped to identify current and future partners, gaps in the delivery chain and ways to shape the new Housing Strategy.

The report from the review contained a number of recommendations which were adopted by the Mayor, including an action plan.

The full report is available at [www.torbay.gov.uk/scrutiny](http://www.torbay.gov.uk/scrutiny) under 'Completed Reviews'.

### **Priorities and Resources 2010/2011**

Building on the experience of last year, in setting its Work Programme for the current year, the Overview and Scrutiny Board established the Priorities and Resources Review Panel to give timely consideration to the emerging priorities of the Council for 2011/2012 having regard to the Community Plan.

The Interim Report of the Overview and Scrutiny Board on the priorities and resources of the Council for 2011/2012 provided the Board's comments, recommendations and conclusions about the emerging strategy documents upon which the revenue and capital budgets for 2011/2012 would be based.

The second part of the Board's work concentrated on the Zero Based Budgeting (ZBB) exercise which each Business Unit of the Council undertook during the autumn of 2010 together with detailed consideration of the target budgets which had been set by the Mayor.

The Board gave detailed consideration to the reports that had been prepared by each Business Unit setting out the implications of the provisional spending targets which had been set by the Mayor in December 2010.

Each Cabinet Member was invited to attend the appropriate Review Panel meeting to share their views with the Panel and the Panel heard a number of representations from members of the community.

The Overview and Scrutiny Board asked for a number of specific items to be added back into the budget and also provided a commentary on other issues. A number of the recommendations were accepted by the Mayor when he presented his budget to the Council.



### **South West Devon Waste Partnership – Joint Scrutiny Panel**

The Overview and Scrutiny Board published its report on the South West Devon Waste Partnership. The report provided details of the Joint Scrutiny Review (by Devon County, Plymouth City and

Torbay Councils) of the ongoing procurement of a long term solution to treat and dispose of residual waste from Plymouth, Torbay, South Hams, West Devon and parts of Teignbridge.

The Joint Review Panel focussed on four areas of questioning:

- Funding and affordability
- Population and waste stream projections
- Lessons learnt elsewhere
- Contingency plans

The Panel was clear that the main focus of each partner authority (and the associated district councils) was that waste reduction should be prioritised including re-use and recycling and the use of landfill minimised.

Local authorities have a role to play in ensuring that legislators are lobbied to make waste prevention a priority. Raising public awareness of the need to reduce waste and the reasons behind it also needs to take place.

The Panel's main recommendations were around flexibility in the 25 year contract, waste reduction and the continued improvement in recycling across the Partnership area.

The report of the Panel is available on our website.

### **Health Scrutiny**

The Health Scrutiny Board has had a full programme of both meetings and site visits.

One example of the Board's work was to review proposed changes to St Edmunds and Fernham Care Services. As a part of the Board's consideration of whether the proposals were a major change or 'substantial variation' to services for local people, members visited both centres and met staff and service users. In response to a request from the Mayor, the Board reviewed proposed alternative services at Tweenaway Court and St Michaels Court prior to the service move from Fernham. The Board also considered proposals to close St Edmunds Intermediate Care Service permanently and re-invest in community intermediate care provision.

The Board continued to monitor work on developing proposals for Commissioning Short Breaks for Children and Young People with Physical and Learning Disabilities and on the Bay's progress implementing the Personalisation of Care.

Members of the Board have visited three of the four NHS Trusts that they are involved in scrutinising. These visits were an opportunity to find out on the ground about the challenges, responsibilities, and strategic intent of the NHS locally.

At South Devon Healthcare NHS Foundation Trust, councillors focused on how the acute trust met patients' nutritional needs and the mealtime service.



At the South Western Ambulance Service NHS Foundation Trust councillors toured the control room and discussed the key challenges and strategic plans of the Trust. For Devon Partnership NHS Trust, Board members visited Langdon Hospital and talked with frontline staff and service users to gain valuable insights into the roles of the service and the Trust's plans.

During the year Board members also visited the facilities at Ocombe House for adults with

severe learning disabilities and the adjoining Fairwinds Special Development Centre, and met key stakeholders, including relatives of the residential service users. The Board subsequently determined that Ocombe House re-provision proposals were a substantial variation and the NHS would be required to consult Overview and Scrutiny. This proposed service change is expected to form a future investigation for Overview and Scrutiny in 2011/12.

### **Centre for Public Scrutiny – Good Scrutiny Awards 2010**

Torbay Council's Overview and Scrutiny Board was commended in the Centre for Public Scrutiny's Good Scrutiny Awards in June 2010 in the category of Innovation. The Board was been recognised for its innovative work with other organisations in Torbay in holding the Children's Trust to account, for its work in securing additional funding for the concessionary bus fares scheme and for hearing the views of young people at a number of events in Local Democracy Week and during the course of its reviews.



The Overview and Scrutiny Co-ordinator, Councillor John Thomas, said 'I am absolutely delighted that Torbay's Overview and Scrutiny Board was commended for this prestigious and highly sought after national award for excellence in scrutiny. I believe that being shortlisted is a national recognition of the improvements that have been made over the past twelve months.'

## PLANS FOR NEXT YEAR

The Work Programme for 2011/2012 will be developed alongside the induction programme for the new Overview and Scrutiny Board following the Local Government Elections in May 2011.

The principles of good scrutiny will remain the framework by which the Board operates.



## GOOD PUBLIC SCRUTINY

1. provides "critical friend" challenge to executive policy-makers and decision-makers
2. enables the voice and concerns of the public
3. is carried out by 'independent minded governors' who lead and own the scrutiny role
4. drives improvement in public services

## INVOLVEMENT

- Let us know your views – use the contact details below
- Keep up to date – check out our website at [www.torbay.gov.uk/scrutiny](http://www.torbay.gov.uk/scrutiny)
- Join our Community Pool – be sent regular news from scrutiny and have the opportunity to become involved with reviews – again, use the contact details below

**Telephone:** 01803 207063

**Email:** [scrutiny@torbay.gov.uk](mailto:scrutiny@torbay.gov.uk)

**Address:** Overview and Scrutiny  
Torbay Council  
Town Hall  
Torquay TQ1 3DR

**Web:** [www.torbay.gov.uk/scrutiny](http://www.torbay.gov.uk/scrutiny)

If you want to know more about overview and scrutiny at Torbay Council then please feel free to contact the Team.

This document can be made available in other languages and formats. For more information please telephone 01803 207063.

1182/0511



**Urgent Decision taken by the Chief Executive under the Officer Scheme of Delegation  
Paragraph 1.19 of Schedule 7 to Part 3 (Responsibility of Functions) of the Council's Constitution**

**Report to the Annual Meeting of the Council to be held on 24 May 2011**

The Officer Scheme of Delegation states that the Chief Executive may take an urgent decision in relation to a Council function (in consultation with the relevant member) if he/she considers it to be in the best interests of the Council or the inhabitants of the Borough and where he/she does not consider it reasonably practicable to convene a meeting of the Council.

A report detailing the action taken in accordance with the Officer Scheme of Delegation must be submitted to the Council. The table below sets out the details of the actions taken:

<b>Matter for decision</b>	<b>Decision taken by</b>	<b>Decision and Alternative Options Considered</b>	<b>Reasons for urgency</b>	<b>Date of decision</b>
Establishment of Licensing Sub-Committees on 19 and 26 May 2011	Chief Executive	<p><b>Decision:</b> That a Licensing Sub-Committee be established, comprising three Councillors and not politically balanced, to take place on Thursday, 19 May 2011 and Thursday 26 May 2011</p> <p><b>Alternative Options Considered:</b> None.</p>	<p>New applications, applications to vary Premises Licences and applications for Review of Premises Licences under the Licensing Act 2003 have to be heard within 20 working days after the completion of their 28 statutory consultation period. Two applications for Review of Premises Licences are legally due to be heard on the 19 May, with another one due to be heard on the 26 May.</p> <p>A hearing is therefore needed to comply with our statutory responsibilities, which will have already been exceeded in three cases. This will potentially affect the interests of those businesses.</p>	10 May 2011

Matter for decision	Decision taken by	Decision and Alternative Options Considered	Reasons for urgency	Date of decision
Appointment of Standards Referral Sub-Committee	Chief Executive	<p><b>Decision:</b> That a Standards Referral Sub-Committee be established, comprising one Councillor and two Independent Members and not politically balanced, to take place on Wednesday, 25 May 2011.</p> <p><b>Alternative Options Considered:</b> None.</p>	<p>New complaints should be heard within 20 working days of receipt and we have received one complaint which needs to be determined.</p> <p>A hearing is therefore needed to comply with our Local Protocol on Local Assessment and Investigation of Allegations of Misconduct by Members.</p>	10 May 2011

Elizabeth Raikes, Chief Executive

16 May 2011