



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

Wednesday, 26 November 2014

Meeting of the Council – Revised Agenda

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Forum, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 4 December 2014** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Steve Parrock'.

Steve Parrock
Executive Director of Finance and Operations

(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.)

Working for a healthy, prosperous and happy 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: governance.support@torbay.gov.uk
www.torbay.gov.uk

Meeting of the Council

Revised 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 30 October 2014.

(Pages 1 - 30)

4. **Declarations of interests**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

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

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

5. **Communications**

To receive any communications or announcements from the Chairman, the Mayor, the Overview and Scrutiny Co-ordinator or the Executive Director of Operations and Finance.

6. **Petition**

To receive petitions and any oral representations from the public in accordance with Standing Order A12 as set out below:-

- (a) Petition to allow year long dog walking on Hollicombe Beach

Approximately 810 written signatures from residents and people who work or study in Torbay. At the request of the petition organiser this petition will be presented to the meeting.

- (b) Petition requesting more trees to be planted on Mincent Hill and in Watcombe, Torquay

Approximately 8 e-signatures and 38 written signatures from residents and people who work or study in Torbay. At the request of the petition organiser this petition will be presented to the meeting.

7. Public question time

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.

- (a) Public Question - Oldway Mansion (Page 31)

8. Members' questions

To respond to the submitted questions asked under Standing Order A13:

(Page 32)

9. Notice of motions

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

- (a) Notice of Motion - Review of Safer Communities Policies (Mayoral Decision) (Page 33)

- (b) Notice of Motion - Governance Review (Mayoral Decision) (Page 34)

- (c) Notice of Motion - Future of Torbay (Mayoral Decision) (Pages 35 - 36)

10. Proposed Covenant protecting Churston Golf Course from development - Notice of Call-In (Pages 37 - 74)

To consider the submitted report of the Overview and Scrutiny Board on the above and the report of the Senior Service Manager, Spatial Planning on the petition regarding Churston Golf Course – further advice following Local Plan Hearing.

11. Amalgamation of Torbay Pupil Referral Unit and Torbay School (Mayoral Decision) (Pages 75 - 106)

To consider the submitted report on the above.

(Please note that call-in has been waived for this decision.)

12. Proposed Council Tax Support Scheme 2015/16 (Pages 107 - 113)

To consider the submitted report on the Localised Council Tax Support Scheme for 2015/16.

13. Council Tax Base (To Follow)

To consider a report on the above.

- 14. Torbay Council Annual Pay Policy Statement and Review of Pensions Discretions** (Pages 114 - 128)
To consider the submitted report setting out the draft Annual Pay Policy Statement and review of Pensions Discretions.
- 15. Revenue Budget Monitoring 2014/15 - Quarter 2 (Mayoral Decision)** (Pages 129 - 149)
To note the report setting out the projected outturn for the Council's Revenue Budget for 2014/15 as at the end of Quarter 2 and consider any recommendations from the Overview and Scrutiny Board.
- 16. Capital Investment Plan Update 2014/15 Quarter 2** (Pages 150 - 163)
To note the Capital Investment Plan update report for 2014/15 under the Authority's agreed budget monitoring procedures and consider any recommendations from the Overview and Scrutiny Board.
- 17. Standing Order D11 (in relation to Overview and Scrutiny) - Call-in and Urgency** (Page 164)
To note the schedule of Executive decisions to which the call-in procedure does not apply as set out in the submitted Report.
- 18. Appointment of Director of Public Health**
To consider a report on the appointment of a permanent Director of Public Health.

Note

An audio recording of this meeting will normally be available at www.torbay.gov.uk within 48 hours.



Minutes of the Council

30 October 2014

-: Present :-

Chairwoman of the Council (Councillor Barnby) (In the Chair)
Vice-Chairman of the Council (Councillor Hill)

The Mayor of Torbay (Mayor Oliver)

Councillors Addis, Amil, Baldrey, Bent, Brooksbank, Cowell, Davies, Darling, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hytche, James, Kingscote, Lewis, McPhail, Mills, Parrott, Pentney, Pountney, Pritchard, Scouler, Stockman, Stocks, Stringer, Thomas (D) and Tyerman

80 Opening of meeting

The meeting was opened with a prayer.

81 Apologies for absence

Apologies for absence were received from Councillors Butt, Morey, Richards and Thomas (J). The Monitoring Officer advised that Councillors McPhail, James, Pentney and Tyerman would be joining the meeting after the adjournment and Councillor Faulkner (A) had given his apologies for the adjourned meeting.

82 Minutes

The Minutes of the meeting of the Council held on 25 September 2014 were confirmed as a correct record and signed by the Chairwoman.

83 Declarations of interests

The following non-pecuniary interests were declared:

Councillor	Minute Number	Nature of interest
Councillor Doggett	87	Member of the Torbay Rail Line Users Group
Councillor Hill	90	Trustee and member of Torbay Coast and Countryside Trust
Councillor Parrott	95	Chairman of Torbay Children's Centres Strategic Advisory Board

84 Communications

No communications or announcements were reported at the meeting.

85 Notice of Motion - Fairer Tax System (Mayoral Decision)

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

It was proposed by Councillor Baldrey and seconded by Councillor Davies:

this Council recognises that while many ordinary people face falling household income and rising costs of living, some multinational companies are avoiding billions of pounds of tax from a tax system that fails to make them pay their fair share. Local governments in developing countries and the UK alike would benefit from a fairer tax system where multinationals pay their fair share, enabling authorities around the world to provide quality public services. The UK Government must listen to the strength of public feeling and act now to end the injustice of tax dodging by large multinational companies in developing countries and the UK.

This Council therefore resolves to write to the Chancellor of the Exchequer urging that immediate action is taken to address this anomaly.

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor.

The Mayor advised that whilst he welcomed the motion, he considered that as this was a national issue it was more appropriate for him to write to Torbay's two Members' of Parliament requesting them to lobby the Government and requesting them to advise the Council of the actions taken.

86 Proposed Disposal of Surplus Assets (Mayoral Decision)

The Council made the following recommendation to the Mayor:

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

- (i) that the Mayor considers any feedback received before the 30 September 2014 from Ward Members, the Local Access Forum (where appropriate) and the relevant Community Partnerships to the disposal of the 13 Assets listed in Appendix 1 to the submitted report;
- (ii) that the 13 Assets listed in Appendix 1 to the submitted report be declared no longer required for service delivery and that the Head of Commercial Services be requested to advertise their intended individual disposal in accordance with both the Council's Community Asset Transfer Policy 2008 and where appropriate Section 123(2A) of the Local Government Act 1972;

- (iii) that, subject to any expressions of interest received from the Community and any objections received to any disposal advertised pursuant to S123 of the Local Government Act 1972 and subject to (i) above, the assets listed in Appendix 1 to the submitted report be individually disposed on such terms as are acceptable to the Executive Head of Commercial Services in consultation with the Chief Executive of Torbay Development Agency; and
- (iv) that the Executive Head of Commercial Services in consultation with the Chief Executive of the Torbay Development Agency be given delegated authority to consider any objections received on the advertisement of any of the proposed disposals pursuant to s123 of the Local Government Act 1972.

An amendment was proposed by Councillor Amil and seconded by Councillor Pountney:

That, in light of the consultation response from the Cockington, Chelston and Livermead Community Partnership, the disposal of open land at the rear of Sanford Road, Torquay (asset reference EM2457) be withdrawn.

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

The substantive motion was then before Members for consideration.

On being put to the vote, the substantive motion (the original motion with the withdrawal of asset reference EM2457) was declared carried.

The Mayor considered the recommendation of the Council as set out above at the meeting and the record of his decision, together with further information, is attached to these Minutes.

87 Extreme Weather Resilience Report: Torbay 2013/14 (Mayoral Decision)

The Council made the following recommendation to the Mayor:

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

to approve the submitted report and adopt the following recommendations in the Extreme Weather Resilience Report: Torbay 2013/14:

- (i) that Torbay Council continue to enhance partnership working through the Peninsular Rail Task Force and Network Rail to further develop resilience in the Far South West and ensure that information from the events of 2013/14 are shared to reduce the impacts of future extreme weather events;
- (ii) that Network Rail be recommended to prioritise future funding to improve resilience and connectivity to the far South West ensuring future strategic plans include the need to improve resilience to this

- area. This should include plans to raise track heights and raise line-side equipment cabinets above track level on sections of track to reduce the vulnerability of the rail network, and additional passing places on the Waterloo Line to act as an alternative route should the need arise;
- (iii) in the event of major disruption to rail services, coordination arrangements over adjacent geographical areas are enhanced by Network Rail and Train Operating Companies;
 - (iv) that Torbay Council continues to enhance partnership working with the Local Enterprise Partnership, South West Transport Authorities and the Highways Agency to develop a resilient strategic highway network funded with support from central government;
 - (v) that Torbay Council acting as Lead Local Flood Authority facilitate new studies and undertake small scale flood risk management measures to tackle new recovery and resilience requirements, on top of the existing and planned programmes of work;
 - (vi) that Government should consult Local Highway Authorities on a single set of criteria to be applied to emergency highway repair funding, to minimise the administrative burden when applying for funds at times of crisis;
 - (vii) that Torbay Council develops a prioritised harbour repair programme with funding assistance from outside bodies;
 - (viii) that Torbay Council further develop the resilience of Torbay's coastline using the Flood Steering Group to enhance partnership working with the Environment Agency (EA) and South West Water;
 - (ix) that Torbay Council supports tourism businesses through increased publicity and media campaigns during extreme weather events. That Torbay Council also surveys the impact of future events on this sector;
 - (x) that Torbay Council and the Torbay Coast and Countryside Trust work in partnership to identify ways in which Torbay's green infrastructure can reduce and slow flooding during extreme weather events;
 - (xi) that Torbay Council supports the development of the Environment Agency Flood Warden initiative; and
 - (xii) that Torbay Council explores ways of sharing information in real time between emergency response teams during emergency events, for example using 'Resilience Direct'.

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

The Mayor considered the recommendation of the Council as set out above at the meeting and the record of his decision, together with further information, is attached to these Minutes.

(Note: During consideration of Minute 87, Councillor Doggett declared his non-pecuniary interest.)

88 Members' questions

Members received a paper detailing the questions, attached to the agenda, notice of which had been given in accordance with Standing Order A13.

Verbal responses were provided to Questions 1, 4, 5, 6, 7, 8 and 9 with the remaining questions being answered at the adjourned meeting. Supplementary questions were then asked and answered in respect of the questions.

(Note: Please also refer Minute 102 below.)

89 Adjournment

At this juncture, the meeting was adjourned until 5.30 pm on Thursday 30 October 2014.

90 Petition to Save Torbay's Countryside and Restore Funding for Torbay Coast and Countryside Trust

In accordance with Standing Order A12, the Council received a petition requesting the Council to save Torbay's countryside by restoring funding for the Torbay Coast and Countryside Trust in 2014/15 to £193,000 and in 2015/16 to £183,000 (approximately 331 e-signatures and 2,632 written signatures from residents and people who work or study in Torbay).

At the invitation of the Chairwoman, Jill Ward addressed the Council.

The Chairwoman advised that, under the Council's Petition Scheme, as the petition had reached the 1,000 signature threshold it was subject to debate by the Council.

The Monitoring Officer outlined the options open to the Council.

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

- (i) that the petitioners be thanked for presenting their petition to the Council;
- (ii) that an increase in the payment to Torbay Coast and Countryside Trust of £32,000 for 2014/15 be identified from the Comprehensive Spending Reserve; and
- (iii) that, following the decision of the Council in February 2014 to reduce the Torbay Coast and Countryside Trust budget by £50,000 for

2015/16 and in response to the petition, this decision be reversed and an additional £21,400 be allocated so that the budget for Torbay Coast and Countryside Trust in 2015/16 is set at £183,000.

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

(Note: During consideration of Minute 90, Councillor Tyerman declared a non-pecuniary interest as he was a Trustee of Torbay Coast and Countryside Trust and a Director of Torbay Coast and Countryside Enterprises Ltd.)

91 Petition to Reduce and Stop the Development of more Services for Substance Abuse near Torquay Town Centre

In accordance with Standing Order A12, the Council received a petition requesting the Council to not allow services to set up near Torquay town centre that would encourage people with drug addiction issues needing to be in the town (approximately 48 e-signatures from residents and people who work or study in Torbay).

At the invitation of the Chairwoman, Mr Hayward, addressed the Council in relation to the petition.

The Chairwoman advised that the petition would be referred to the Director of Public Health for consideration in consultation with the Executive Lead for Health and Wellbeing.

92 Public Question - Fly-Tipping at the Coach Station

In accordance with Standing Order A24, the Council heard from Mr Long who had submitted a question in relation to fly-tipping at the Coach Station, Lymington Road, Torquay. The Executive Lead for Safer Communities, Highways, Environment and Sport responded to the question that had been put forward. The Executive Lead for Strategic Planning, Housing, Energy and Environmental Policy then responded to a supplementary question asked by Mr Long as it fell within his portfolio.

93 Public Question - Flooding at Torre Marine

In accordance with Standing Order A24, the Council heard from Mr Long who had submitted a question in relation to flooding at Torre Marine, Torquay. The Executive Lead for Safer Communities, Highways, Environment and Sport responded to the question that had been put forward, plus a supplementary question asked by Mr Long.

94 Saving Proposals 2015/2016

Members considered the recommendations of the Mayor in relation to the savings proposals for 2015/2016 as out in the submitted report. The proposals included a number of changes which had been made following the Mayor's publication of his original proposals on 12 September 2014. It was noted that, if approved, the

savings proposals would form the basis of the budget proposals which would be presented to the Council in February 2015.

In accordance with legislation, the Chairwoman advised recorded votes would be taken on the motion and amendments.

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

that the savings proposals for 2015/2016, as set out in the submitted report, (which build upon the decisions made by the Council in February 2014) be approved and form the basis of the budget which the Council will be asked to approve in February 2015.

In accordance with Standing Order A14.4, an amendment was proposed by Councillor Darling and seconded by Councillor Ellery:

- (i) that the Mayor be requested to delay these Savings Proposals to the Council meeting on 5 February 2015 to allow consideration of the following:
 - (a) the announcement of the Local Government Finance Settlement for 2015/16, to enable officers to incorporate any risk arising from any significant change in the settlement; and
 - (b) the reserves applied to transitional funding for Connections, ERTC, museums, No. 25 Bus route and CCTV (amounting to approximately £264,500) to enable officers to work up more substantive proposals for the longer term solutions for these service areas. This will give the Council more confidence in the service that it will be able to provide local communities.
- (ii) that, following the joint letter from the Liberal Democrat Group, Non-Coalition Group and Labour member to the Mayor setting out objections to the Mayor's initial Savings Proposals in September 2014, that to date the concerns and objections listed below remain unaddressed and therefore remain:
 - (a) **Removal of Street Lights**

The Council objects to the removal of street lighting in Torbay for the following reasons:

 - A full risk assessment needs to be undertaken
 - The Police have stated that more lighting is needed to deal with crime and anti-social behaviour.
 - The Council is likely to suffer from accident claims if residents fall in darkened streets, where there are poorly maintained pavements and roads;
 - (b) **Cuts to Adult Social Care**

The Council objects to the additional budget cuts to Adult Social Care for the following reasons:

- There is insufficient evidence to demonstrate that the cuts contained within the report are achievable and no evidence at all as to the level of service which will remain for the elderly or vulnerable.
- The decision to cut many areas within this service is premature without in many cases seeing the results of Consultations or Equality Impact Assessments;

- (c) Riviera International Conference Centre (RICC)
Despite the further reduction of £25,000, the Council objects to the Mayor's budget for a continued high subsidy for the RICC. The Council further objects that there has been no full review of the RICC's future business opportunities and that there has been no in depth investigation of alternative options for the centre; and
- (d) Quids for Kids
On 5 September 2014 the Overview and Scrutiny Board recommended that the Mayor defer the proposal to end the Citizens Advice Bureau service Quids for Kids. The Council wishes to endorse this and the impact of ending the CAB service be investigated including the suggestion that 'universal services' bridge the gap for this service.

A recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: Councillors Cowell, Darling, Davies, Doggett, Ellery, Faulkner (J), James, Parrott, Pentney, Pountney, Stocks, Stockman and Stringer (13); Against: the Mayor, Councillors Addis, Amil, Barnby, Bent, Brooksbank, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Mills, Pritchard, Scouler, Thomas (D) and Tyerman (18); Abstain: Councillor Baldrey (1); and Absent: Councillors Butt, Faulkner (A), Morey, Richards and Thomas (J) (5). Therefore, the amendment was declared lost.

The original motion was then put to the vote. The voting was taken by roll call as follows: For: the Mayor, Councillors Addis, Amil, Barnby, Bent, Brooksbank, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Mills, Pritchard, Scouler, Thomas (D) and Tyerman (18); Against: Councillors Darling, Doggett, Faulkner (J), James, Parrott, Pentney, Pountney, Stocks, Stockman and Stringer (10); Abstain: Councillor Baldrey, Cowell, Davies and Ellery (4); and Absent: Councillors Butt, Faulkner (A), Morey, Richards and Thomas (J) (5). Therefore, the motion was declared carried.

95 Children's Services 5 Year Cost Reduction Plan

The Council considered the submitted report setting out a five year cost reduction plan for Children's Services through investment in a number of work packages to reduce the costs within the Safeguarding and Wellbeing Service, including reducing

the numbers and costs of children looked after. Members noted that the proposed investments required earmarked reserves of up to £5.1 million.

It was proposed by Councillor Pritchard and seconded by Councillor Lewis:

That Council agree to:

- (i) approve the 5 year financial strategy for Children's Services – Safeguarding and Wellbeing;
- (ii) fund the projected overspend: in 2015/16 (£2.3m) and 2016/17 (£1.1m) from reserves as set out within the submitted report;
- (iii) note the forecast overspend of £1.4m in 2014/15 which will be managed by in-year savings;
- (iv) move the £2 million social care contingency into the Children's Services base budget (Safeguarding & Wellbeing) in 2014/15 and future years;
- (v) the improvement actions as recommended by Social Finance as set out within the submitted report;
- (vi) the Director of Children's Services and the Children's Services Finance Manager reporting back to the Mayor and the Executive Lead for Children's on a quarterly basis and present updated reports to the Overview and Scrutiny Board on performance both operational and financial;
- (v) the repayment of reserves as set out within the submitted report;
- (vi) the strict performance management mechanism for the changes as set out in the submitted report;
- (vii) the new Head of Safeguarding Children is a joint appointment with Health and Torbay Council. This post will be funded from within existing resources but will link together the two key providers of safeguarding services and extend the scope to shape new alternative options for children in the statutory system in the future; and
- (viii) the implementation of Family Functional Therapy (FFT) using a special purpose vehicle (SPV) and the associated setup costs of approximately £0.2m funded from corporate reserves (as set out at Appendix 4 of the submitted report).

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

96 Review of Reserves 2015/16

The Council considered the submitted report on a review of the Council's financial reserves. Members noted that the requirement for reserves linked to legislation which obliged councils to have regard to the level of reserves needed to meet future expenditure when calculating the budget for service delivery and improvements, as well as in year budgetary pressures including pressures from the Government's ongoing reductions in funding.

The Chairwoman reported that the views of the Overview and Scrutiny Board were circulated on 28 October 2014.

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

- (i) that Council approve the transfer of £3.4m identified on a number of individual reserves (see paragraph A2.9 of the submitted report) to the Children's Services 5 year Strategy Reserve;
- (ii) that Council note the repayment of the £3.4m by Children's Services from future year budget allocations for Children's Services based on the repayment schedule identified in paragraph A2.6 of the submitted report;
- (iii) that Council note the, previously approved, use of £1.5m of PFI Reserve during 2014/15 by Children's Services which is also due to be repaid by Children's services; and
- (iv) that Council note the significant financial pressures facing the Council in 2014/15, 2015/16 and in future years, and consider during the 2015/16 budget process the allocation of additional funds to the Comprehensive Spending Review Reserve and/or the General Fund Reserve.

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

97 Parking Charges and Enforcement Activity

Members received a review of parking charges and enforcement activity and options to recover the potential budget deficit for 2014/15, as set out in the submitted report.

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

- (i) that the Council approve Option 3 as set out within the officer report at paragraph 5.3 with the addition of £2 charge to apply after 10 am to be introduced from 1 December 2014 until 1 May 2015; and
- (ii) that the winter charges for on street parking, previously approved by Council, be confirmed to apply from 1 November 2014 to 1 May 2015.

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: the Mayor, Councillors Addis, Amil, Barnby, Brooksbank, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Mills, Pritchard, Scouler, Thomas (D) and Tyerman (17); Against: Councillors Baldrey and Stockman (2); Abstain: Councillor Bent, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (J), James, Parrott, Pentney, Pountney, Stocks and Stringer (13); and Absent: Councillors Butt, Faulkner (A), Morey, Richards and Thomas (J) (5). Therefore, the motion was declared carried.

98 Review of Enforcement and Prosecution Policy for Environmental Health, Trading Standards, Licensing and Housing Standards

The Council considered the submitted report on a review of the Community Safety Business Unit's Enforcement and Prosecution Policy. It was noted that the policy had been reviewed in light of recent statutory guidance and ensured fair and effective enforcement to protect economic interests and the health, safety and welfare of the public, businesses and the environment.

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

that the Enforcement and Prosecution Policy set out at Appendix 1 to the submitted report be approved.

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

99 Review of Polling Districts, Polling Places and Polling Stations 2014

The Council received the submitted report on the review of polling districts, polling places and polling stations 2014 which ensured all polling stations were suitable for all types of elections and to comply with the requirements of the Electoral Registration and Administration Act 2013.

It was proposed by Councillor McPhail and seconded by Councillor Ellery:

that the recommendations of the Electoral Registration Officer and Polling Review Working Group as set out below be approved:

- (i) that the following polling stations be amended as stated:
 - (a) that a replacement polling place/polling station be created at St Matthews Church, top of Walnut Road, Torquay, TQ2 6JA for polling district BB and the boundary of BB be moved to include St Matthews Road (49 properties), Vicarage Road (26 properties), Brooklands Lane (3 properties) and Rawlyn Road (68 properties) (from BE);
 - (b) that a replacement polling place/polling station be created at Brunel Manor, Teignmouth Road, Torquay, TQ1 4SF for polling district HA;

- (c) that a replacement polling place/polling station be created at the rear of Dunboyne Court, 170 St Marychurch Road, Torquay, TQ1 3AB for polling district HC;
- (d) that Riviera Life Church becomes the permanent polling place/polling station for polling districts MC and MD;
- (e) that St Boniface Church Hall, Belfield Road, Paignton, TQ3 3UY becomes a new double polling place/polling station for polling districts AA and AB;
- (f) that the Old Monastery, Berry Drive, Paignton be reinstated as a polling place/polling station for polling district CB;
- (g) that Time Out Coffee Shop becomes the permanent polling place/polling station for polling district IA;
- (h) that the Paignton Club becomes the permanent polling place/polling station for polling districts RB and RC;
- (i) that Brixham Rugby Club becomes the permanent polling place/polling station for polling districts JA and JB and that the Returning Officer ensures that both sides of the bar are used for large elections;
- (j) that a replacement polling place/polling station be created in the Lecture Room, Brixham Hospital, Greenswood Road, Brixham, TQ5 9XW for polling district SC.
- (k) that a replacement polling place/polling station be created at St Mary's Park Bowling Club, St Marys Park, Upton Manor Road, Brixham, TQ5 9RD for polling district SD and the boundary of SD be moved to include Pensilva Park (11 properties), Stoneacre Close (21 properties) and Vicarage Road (11 properties) (from SC); and
- (l) that a replacement mobile polling place/polling station be created in the DFS car park at the Willows Retail Park, Nicholson Road, Torquay, TQ2 7TD for polling district TB;
- (ii) that the following polling districts be combined into a single polling district:
- AE and AE A – become AE;
 - CA and CA A – become CA; and
 - CC and CC A – become CC;
- (iii) that for Parliamentary Elections the Church Hall at St George's Hall, Barn Road, Paignton be used as a polling station for polling district IB

– Torbay Constituency and the side accessible entrance of St George’s Church be used as a polling station for polling district GA – Totnes Constituency to prevent ballot papers being placed in the wrong ballot boxes, for all other elections the Church Hall be used as a double polling station; and

- (iv) that the changes to polling districts, polling places and polling stations be implemented from 1 December 2014 when the new electoral register is published.

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

100 Review of Political Balance

The Council considered the submitted report on a change in political balance following notification that Councillor Baldrey wished to be a member of the Non-Coalition Group.

It was proposed by Councillor McPhail and seconded by Councillor Darling:

that the overall political balance of the committees, as set out in Appendix 1 to the submitted report, be approved.

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

101 Composition and Scheme of Delegation of Executive Functions

Members noted the submitted report which provided details of changes made by the Mayor to his Executive.

102 Members' Questions (Continued)

Members received the remaining questions, as attached to the agenda, notice of which had been given in accordance with Standing Order A13.

Verbal responses were provided to questions 2, 3, 10, 11, 12, 14, 15, 16 and 17. Supplementary questions were then asked and answered in respect of questions 3, 10, 11, 12, 15 and 16.

The Chairwoman requested the Executive Lead for Harbours, Culture and the Arts to provide a written response to Councillor Morey as he was not present at the meeting.

(Note: Please also refer to Minute 88 above.)

Chairwoman

This page is intentionally left blank

Record of Decisions

Disposal of Real Estate Assets

Decision Taker

Mayor and Executive Lead for Employment and Regeneration, Finance and Audit on Thursday, 30 October 2014

Decision

- (i) that, in light of the consultation response from the Cockington, Chelston and Livermead Community Partnership, the disposal of open land at the rear of Sanford Road, Torquay (asset reference EM2457) be withdrawn;
- (ii) that the remaining 12 Assets listed in Appendix 1 to the submitted report be declared no longer required for service delivery and that the Head of Commercial Services be requested to advertise their intended individual disposal in accordance with both the Council's Community Asset Transfer Policy 2008 and where appropriate Section 123(2A) of the Local Government Act 1972;
- (iii) that, subject to any expressions of interest received from the Community and any objections received to any disposal advertised pursuant to S123 of the Local Government Act 1972 and subject to (i) above, the assets listed in Appendix 1 to the submitted report be individually disposed on such terms as are acceptable to the Executive Head of Commercial Services in consultation with the Chief Executive of Torbay Development Agency; and
- (iv) that the Executive Head of Commercial Services in consultation with the Chief Executive of the Torbay Development Agency be given delegated authority to consider any objections received on the advertisement of any of the proposed disposals pursuant to s123 of the Local Government Act 1972.

Reason for the Decision

The disposal of assets not required for service delivery will generate capital receipts to be reinvested in the Council's existing capital programme which will contribute towards achieving the Council's objectives. The disposals will also reduce the expenditure and repair liability across the Council's assets.

Implementation

This decision will come into force and may be implemented on 12 November 2014 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report sets out details of 13 unused assets for disposal which will achieve capital receipts and cost savings. The following assets were considered for disposal which are no longer required by the Council:

1. Hillrise Playground, Brixham (Plan EM2445 B0361)
2. Land at Whitstone Road, Paignton (Plan EM2429 P0338 P1082)
3. Land at corner of Sands Rd, Paignton (Plan EM2429 P0338 P1082)
4. Land adjoining Davies Avenue (Plan EM2454 P0012)
5. Land at junction of Dart Avenue & Marldon Avenue, Torquay (Plan EM2426a T3121 T3119)
6. Land at junction of Dart Avenue & Tamar Avenue, Torquay (Plan EM2426 T3119)
7. Pendennis Playground 1, Pendennis Rd, Torquay (EM2448)
8. Land junction at Clennon Lane & Fore Street, Torquay (Plan EM2449 T3109)
9. Land adjacent no 7 Weaver Court, Torquay (Plan EM2455 T0956)
10. Land at Stentiford Hill – Part, Torquay (Plan EM2456 T0395ZZ)
11. Open land at Sanford Road, Torquay (Plan EM2457 T0240)
12. Land at Pym Close, Torquay (Plan EM2458 T3050)
13. Garth Road, Torquay (Plan EM2459)

The responses to the consultation on the disposals were circulated on 28 October 2014.

The Mayor considered the recommendations of the Council made on 30 October 2014 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options are set out in the submitted report. The Mayor also considered the Council's recommendation to withdraw asset reference EM2457.

Is this a Key Decision?

Yes – Reference Number: I017530

Does the call-in procedure apply?

Yes

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

None

Published

4 November 2014

Signed: _____
Mayor of Torbay

Date: 4 November 2014

Record of Decisions

Extreme Weather Resilience Report: Torbay 2013/14

Decision Taker

Mayor on Thursday, 30 October 2014

Decision

That the submitted report be approved and the following recommendations in the Extreme Weather Resilience Report: Torbay 2013/14 be adopted:

- (i) that Torbay Council continue to enhance partnership working through the Peninsular Rail Task Force and Network Rail to further develop resilience in the far South West and ensure that information from the events of 2013/14 are shared to reduce the impacts of future extreme weather events;
- (ii) that Network Rail be recommended to prioritise future funding to improve resilience and connectivity to the far South West ensuring future strategic plans include the need to improve resilience to this area. This should include plans to raise track heights and raise line-side equipment cabinets above track level on sections of track to reduce the vulnerability of the rail network, and additional passing places on the Waterloo Line to act as an alternative route should the need arise;
- (iii) in the event of major disruption to rail services, co-ordination arrangements over adjacent geographical areas are enhanced by Network Rail and Train Operating Companies;
- (iv) that Torbay Council continues to enhance partnership working with the Local Enterprise Partnership, South West Transport Authorities and the Highways Agency to develop a resilient strategic highway network funded with support from central government;
- (v) that Torbay Council acting as Lead Local Flood Authority facilitate new studies and undertake small scale flood risk management measures to tackle new recovery and resilience requirements, on top of the existing and planned programmes of work;
- (vi) that Government should consult Local Highway Authorities on a single set of criteria to be applied to emergency highway repair funding, to minimise the administrative burden when applying for funds at times of crisis;
- (vii) that Torbay Council develops a prioritised harbour repair programme with funding assistance from outside bodies;
- (viii) that Torbay Council further develop the resilience of Torbay's coastline using the Flood Steering Group to enhance partnership working with the Environment Agency (EA) and South West Water;
- (ix) that Torbay Council supports tourism businesses through increased publicity and media campaigns during extreme weather events. That Torbay Council also surveys the impact of future events on this sector;

- (x) that Torbay Council and the Torbay Coast and Countryside Trust work in partnership to identify ways in which Torbay's green infrastructure can reduce and slow flooding during extreme weather events;
- (xi) that Torbay Council supports the development of the Environment Agency Flood Warden initiative; and
- (xii) that Torbay Council explores ways of sharing information in real time between emergency response teams during emergency events, for example using 'Resilience Direct'.

Reason for the Decision

To improve the Council's response to extreme weather events acting as a community leader, service provider and estate manager. To provide a documented evidence base of the impacts of the severe weather events of 2013/14 which can support requests to Government for greater investment and resilience on strategic and local networks.

Implementation

This decision will come into force and may be implemented on 12 November 2014 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report provides an evidence base of the impacts of the 2013/14 winter storm period on Torbay and lays the foundations for greater resilience in the future. The report focuses on Torbay's highways, footpaths, rail network, coastal defences, harbours and green infrastructure.

The Council is working partnership with Devon County Council, Cornwall County Council, Somerset County Council, Plymouth City Council and the Isles of Scilly to gain a collective understanding of the extreme weather risks and develop projects that will help Torbay withstand the extremes of weather more robustly.

Alternative Options considered and rejected at the time of the decision

Alternative options are set out in the submitted report.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

Councillor Doggett declared a non-pecuniary interest as he was a member of the Torbay Rail Line Users Group.

Published

4 November 2014

Signed: _____
Mayor of Torbay

Date: 4 November 2014

This page is intentionally left blank

Minute Item 88

Meeting of the Council

Thursday, 30 October 2014

Questions Under Standing Order A13

The following are factual answers provided by an officer, a full response from the Mayor or Executive Lead can be found on the [audio recording](#).

Question (1) by Councillor Baldrey to the Executive Lead for Strategic Planning, Housing and Environmental Policy (Councillor Thomas (D))	Why is it that in the time since the road widening at Tweenaways has been completed has the Council not disposed of the houses adjacent to the junction whose gardens were taken for the work to be carried out?
	<p>Whilst the main works were completed in 2011 further improvements and remedial works were carried out in 2012 when the site was still being used as a compound. The scheme has reduced the journey time through the junction by 50% but there is a possibility that further improvements may be required in 15-20 years time, therefore to future proof the junction we are intending to hold onto some additional land on this corner. These options had to be considered before the remaining site could be offered for sale. We expect the properties to be sold shortly.</p> <p>Consent to dispose of the site has now been granted and in line with the community asset transfer policy the Council are currently considering expressions of interests from Community Groups. Following this process the site will either be disposed of to a successful group or if the proposals are rejected then the site will be disposed of on the open market.</p>
Question (2) by Councillor James to the Executive Lead for Business Planning and Governance (Councillor McPhail)	There were 46 senior council directors and managers on wages of £50,000 to £125,000 in 2013/14, but this compares to only 34 in 2012/13 - an increase of 12 (or 33%). How do you justify this in the face of such unprecedented budget reductions? Despite the brilliant and hard work that they do, do you agree that we need to significantly reduce the top heavy structure of the council in a time when we are contracting fast?
	Each year the Council approves the Pay Policy Statement, this statement details the salary levels of the posts exceeding £50,000. This is different than the information which is included within the statement of accounts, which details the number of employees whose total remuneration exceeds £50,000, as this will include any staff in the given financial year that

	<p>receive redundancy payments, when combined with their salary exceed the £50,000 threshold.</p> <p>For this reason the accurate data when considering salaries is to use the Pay Policy Statement. When this is looked at, this shows that the number of staff earning in excess of £50,000 in 2013/14 is 32.</p> <p>This number has changed from the 22 staff earning in excess of £50,000 in 2012/13 due to,</p> <ol style="list-style-type: none"> 1) The transfer into the Council of Public Health. This represents an increase of 4 senior management posts. 2) The 1% national pay award that was implemented means that some posts now fall to be reported, whereas previously they were not. This represents 3 posts over this period. 3) Restructures and job-redesign will have changed responsibilities for some existing posts, meaning a change to the salary scales. This equates to 3 posts over this period. <p>Save for the transfer in of the Public Health staff which is a new statutory responsibility for the Council, it can therefore be seen that there has not been an increase in the senior officer structure.</p>
<p>Question (3) by Councillor James to the Deputy Mayor and Executive Lead for Tourism (Councillor Mills)</p>	<p>Do you agree with me that spending almost £25,000 on a palm tree is an unacceptable misuse of public money and will you ask for a full investigation by the overview and scrutiny committee into how such misuse could have occurred?</p>
	<p>Each year the Council approves the Pay Policy Statement, this statement details the salary levels of the posts exceeding £50,000. This is different than the information which is included within the statement of accounts, which details the number of employees whose total remuneration exceeds £50,000, as this will include any staff in the given financial year that receive redundancy payments, when combined with their salary exceed the £50,000 threshold.</p> <p>For this reason the accurate data when considering salaries is to use the Pay Policy Statement. When this is looked at, this shows that the number of staff earning in excess of £50,000 in 2013/14 is 32.</p> <p>This number has changed from the 22 staff earning in excess of £50,000 in 2012/13 due to,</p>

	<ol style="list-style-type: none"> 1) The transfer into the Council of Public Health. This represents an increase of 4 senior management posts. 2) The 1% national pay award that was implemented means that some posts now fall to be reported, whereas previously they were not. This represents 3 posts over this period. 3) Restructures and job-redesign will have changed responsibilities for some existing posts, meaning a change to the salary scales. This equates to 3 posts over this period. <p>Save for the transfer in of the Public Health staff which is a new statutory responsibility for the Council, it can therefore be seen that there has not been an increase in the senior officer structure.</p>
	<p>The expenditure of £25,000 was for various items of works and not solely on a Palm Tree as suggested. The expenditure related to improving a roundabout which was a gateway feature and as well as purchasing the tree (£7,000). The cost also relates to making recent alterations allowing the delivery of beams for the South Devon Link Road. The funding was approved as part of the capital budget by SCOPE and the alterations presented in advance to the Ward Councillors and Community partnership.</p>
<p>Question (4) by Councillor Darling to the Executive Lead for Safer Communities, Highways, Environment and Sport (Councillor Excell)</p>	<p>Weed Treatment - Over the last two years the regime to tackle weed growth on pavements has changed to only two treatments a year. This has resulted in treatments occurring twice a year with works being conducted in the winter when there is little weed growth. Those wards where treatment occurs in the winter may only get a second visit in the late growing season. To me and many residents this has resulted in a significant failure in the treatment of weeds on pavements. How do you plan to remedy this problem?</p>
<p>Question (5) by Councillor Cowell to the Executive Lead for Business Planning and Governance (Councillor McPhail)</p>	<p>Is the Executive Lead for Business Planning and Governance aware that a petition by local residents highlighting their concerns about the Mayor's recent reshuffle, in particular that of the former Deputy Mayor Cllr David Thomas, was rejected by officers. Why?</p>
<p>Question (6) by Councillor Darling to the Mayor</p>	<p>Housing benefit delays - The advertised 10 maximum week time in processing Housing benefits is resulting in real hardship and worry for many local residents. Private landlords are less likely to let to Housing benefit claimants. Sanctuary housing are threatening eviction to tenants and families on the breadline are having to make choices between rent and food. What plans do you have to reduce this period to a more appropriate 5 week maximum to</p>

	process housing benefit claims?
	Housing Benefit processing times taken as an average over the past 4 weeks are currently 6 weeks and 1 day for New Claims and 2 weeks and 3 days for Change in Circumstances. This is also reflective of the year to date. The internet figure of 10 weeks refer to a worst case scenario where often we are unable to award a claim due to outstanding information. It is recognised that processing times are not at the low levels of 2012/13 but have taken steps to improve the position by recruiting 2 assessment officer posts and 2 administrative posts. We anticipate improvements over the coming months.
Question (7) by Councillor Cowell to the Executive Lead for Safer Communities, Highways, Environment and Sport (Councillor Excell)	<p>Can you confirm the additional costs incurred for Tor2 to collect fly-tipped waste from Lymington Road Coach Station since the matter was raised in an e-mail from me to officers on August 14th 2014?</p> <p>Can you also detail any other costs as a result of the fly-tipping?</p> <p>Will you confirm that the garden waste collection service at Lymington Road will continue despite the recent tipping issues?</p>
	<p>There have been 6 clearances of fly tipped waste from the coach station since Darren Cowell's email of the 14/8/14 at £350 each. The fencing and the new sign cost £527.22 and this is for a period of 8 weeks.</p> <p>In total the cost comes to £2627.22, but during the summer months the authority has to put on additional collections for higher demand of the normal green waste collections at Lymington Road, which do vary in frequency from year to year. Therefore there is a built in contingency for any variance in this budget.</p> <p>There is no plan to stop the twice monthly garden waste service at this site and we can now monitor the area with the CCTV and prosecute any fly tipping offenders.</p>
Question (8) by Councillor Darling to the Executive Lead for Business Planning and Governance (Councillor McPhail)	<p>Child Poverty - Additional amendment to the Child Poverty report which was approved at Council on 27 Feb 2014.</p> <p>"A further amendment was proposed by Councillor Darling and seconded by Councillor Faulkner (J):</p> <p>(iv) that in light of the aspirations contained in the Torbay Child Poverty Commission "Torbay Gains" report, the Corporate Plan be revised to ensure that it aligns with the corporate elements of the report and a revised Corporate Plan be presented to the Council in September 2014.</p>

	<p>On being put to the vote, the amendment was declared carried.”</p> <p>In light of the above extract from the Full Council meeting in February can you please explain why this has not appeared on a Full Council Agenda to date at either September or October? I have raised this matter with both the Executive Head of Business Services and the Deputy Mayor.</p>
<p>Question (9) by Councillor Doggett for the Executive Lead for Safer Communities, Highways, Environment and Sport (Councillor Excell)</p>	<p>On September 30th, I was invited to a meeting of the Transport Sub-Group of the Torbay Business Forum. This has the remit to establish priorities for the Sub-Group to work on. One of the most important points to be raised was how to get the best out of the South Devon Link Road once completed. The feelings of the Group were that we need a Park and Ride Service for Torbay. Overall Strategic thoughts were that there was finite road space, whatever is done. Therefore what assurances can you give me to revisit the possibility of a Park and Ride Service? This will, for example, provide access to the new proposed Edginswell Railway Station, and also Torbay Hospital, and Torquay Town Centre.</p>
	<p>I am pleased to advise that through the Local Transport Board the Council have provisionally been awarded funding of over £10million over the next 4 years to carry out a number of improvements to complement the South Devon Link Road. This includes improvements to the Western Corridor in Paignton and improved access to Torquay Town centre. I can also advise that the Hospital is looking to provide on-site parking and Edginswell station will also have some on-site parking. However, potential park and ride facilities are identified as future schemes within our current Local transport Plan and if funding opportunities arise I can assure you the Council will progress them.</p>
<p>Question (10) by Councillor Darling to the Executive Lead Adult Social Care and Older People (Councillor Scouler)</p>	<p>Podiatry Service - It has been drawn to my attention that a number of people have started to be discharged from the podiatry service in Torbay. What change in criteria has been enacted? How many people have been affected by such a change and what risks were identified before such a change in service was implemented?</p>
	<p>The department of podiatry and foot health are commissioned to provide NHS podiatry treatment to patients with medical conditions which may put their feet at risk of developing a foot ulcer, or short courses of treatment for painful foot problems.</p> <p>Podiatry have access criteria that were agreed by the Older People CPG on 27 November 2012 with written notification of approval in early 2013. This criteria brings us in line with other podiatry providers such as Plymouth .Discussions were held to help with the lack of capacity within podiatry to support the increasing caseload of diabetics and high risk patients ulcerated patients.</p>

	<p>If a diabetic or non diabetic patient is at low risk of developing ulcers, then skin and nail care is not provided by the NHS. If the patient is unable or chooses not to self-manage their foot care, they should be signposted to a range of private providers for on-going nail and skin care.</p>
<p>Question (11) by Councillor Davies to the Executive Lead for Harbours, Culture and the Arts (Councillor Amil)</p>	<p>Do you support the redevelopment of Paignton Harbour and how much will the redevelopment cost?</p>
	<p>As the Chair of the Harbour Committee I clearly support the Council's policy in respect of Tor Bay Harbour which is set out within the Port Masterplan. This Council adopted the Port Masterplan for Tor Bay Harbour as part of our Policy Framework in December of last year. The Masterplan supports the idea of redevelopment at Paignton harbour and a number of proposed schemes are identified within the Action Plan for the short, medium and long term, along with their implementation constraints. We have already started to explore one particular project and I am aware of some ideas that have emerged from the Paignton Town Centre Community Partnership which are already aligned with the Port Masterplan and existing Council policy. The Harbour Asset Review Working Party has agreed to lead on the discussion regarding the development of harbour based assets. A number of ideas are currently being considered in consultation with local stakeholders, including the harbour users. It is too early to say how much any individual project will cost but any redevelopment at Paignton harbour will come as a recommendation from the Harbour Committee for decision by the Mayor and the Council.</p>
<p>Question (12) by Councillor Pountney to the Mayor</p>	<p>Can the Mayor update the Council on any developments in the terms of the proposed lease of Cary Green and the Pavilion and will he make the full details of any lease available to the public before it is sign?</p>
	<p>I am pleased to confirm that we are close to agreeing the Lease Heads of Terms with Nicholas James Group for the development and yes, I will ask the Chief Executive of the TDA to make the full details available to elected members and the public before signing. In the interim, I will also ask Mr Parrock to brief the Group Leaders as to the current position.</p>
<p>Question (13) by Councillor Morey to the Executive Lead for Harbours,</p>	<p>Will the Executive Lead for Harbours, Culture and the Arts confirm that it is her intention to urge the Mayor to accept that the control and management of Churston Library must remain in local authority control?</p>

Culture and the Arts (Councillor Amil)	
	<p>The Mayor has acknowledged the importance of Churston Library to local people and has supported a review of the original proposal for one off transitional funding. As a result the Mayor has put back the funding in the base budgets so the service can continue. The budget pressures in future year does mean we do have to explore alternative options to help support and sustain the library service in the long term, and we will be working with local residents and other partners to ensure the library service remains an appropriately managed and supported service.</p>
Question (14) by Councillor Cowell to the Deputy Mayor and Executive Lead for Tourism (Councillor Mills)	<p>Would the Deputy Mayor agree with me that the value of the English Riviera Tourism Company is more than illustrated by the three years of growth evidenced in the research undertaken by the South West Research Company on behalf of the sector in the South West?</p> <p>Can he also confirm that he is fully committed to the Torbay Tourism and Retail BID and that he will work constructively with the TRTBID task group to achieve the successful delivery of this essential BID?</p>
	<p>I agree that the evidence provided by the SW Research Company shows that the performance of Torbay within the SW and nationally is showing ongoing improvements and agree that the ERTC have played a significant of the role in achieving this continuing upward trend.</p> <p>The Olympic factor has also has seen significant growth in the international visitors nationally and Torbay has benefited from this. This can only be enhanced further by the developments that are planned for new hotels and particularly welcome the confirmation of the International Geopark Conference coming to the English Riviera in 2016. All partners need to continue to work to improve our tourism offer and we accept all these elements make for a very bright future for tourism.</p> <p>BACKGROUND DATA: Despite these factors however, I am delighted to report that there are many positive 2012 tourism statistics for Torbay, which I summarise as follows:</p> <ul style="list-style-type: none"> • 2012 saw a 1% uplift in total visitors (trips) to the English Riviera compared to 0% for the whole of Devon • 2012 saw a 16% uplift in total staying visitor spend to the English Riviera compared to 15% for the whole of Devon • 2012 saw a 18% uplift in total overseas visitors to the English Riviera compared to 10% for the whole of Devon

	<ul style="list-style-type: none"> • 2012 saw a 28% uplift in total day visits to the English Riviera compared to 9% for the whole of Devon <p>Once again these statistics confirm the huge economic value of the Visitor Economy to Torbay with 2012 top line facts confirming the following:</p> <ul style="list-style-type: none"> • Total direct value of tourism to Torbay in 2012 was: £427,870,000 • Total indirect value of tourism to Torbay in 2012 was: £563,217,000 • Total number of jobs provided by tourism in 2012 was: 12,020 • 21% of the total population in 2012 were dependent on tourism for employment <p>I am fully in support to the Torbay Retail and Tourism BID and look forward in being part of the partnership that takes this forward to a successful vote. I have this week been advised that a contract has been issue to the Mosaic Partnership to ensure this work get underway as quickly as possible.</p>
<p>Question (15) by Councillor Parrott to the Executive Lead for Safer Communities, Highways, Environment and Sport (Councillor Excell)</p>	<p>In light of evidence around child sexual exploitation, violent sexual abuse, domestic abuse, rapes and assaults, please could the Executive Lead advise whether women are safe in the Bay?</p>
	<p>Sexual exploitation, sexual abuse <i>of any kind</i>, domestic abuse, and rape are abhorrent and devastating crimes, the victims of which can be children, women and men. Torbay is predominately a safe place to live, work and visit and whilst crime will unfortunately always take place, our focus will continue to remain on working in partnership to prevent these types of crimes, dealing with perpetrators efficiently and robustly when such crimes do take place, and working with victims to support them through the criminal justice process and beyond. Torbay's Community Safety Partnership and the Local Children's Safeguarding Board continue to identify domestic abuse, child abuse and sexual offences as a priority area for Torbay and as such targets its resources at working to tackle these crimes. This includes our esafety project Virtually S@fe which works to safeguard children and young people from online exploitation, and the recent appointment of a Child Sexual Exploitation Co-ordinator to specifically ensure we can respond proactively and in a coordinated way to these issues. In terms of women specifically, there are a variety of services to support female victims of crime, such as the newly commissioned Integrated Domestic Abuse Service through Sanctuary Housing</p>

	and Devon Rape Crisis who are a charity working within the Bay.
Question (16) by Councillor Doggett to the Mayor	Through Torbay Council's policies and working with partners, why are the Council and partners promoting additional jobs only and not ensuring that employment development in Torbay is focused on better paid jobs for our Communities?
Question (17) by Councillor James to the Mayor	It has recently been revealed that the government gives out £85 billion a year in subsidies, grants and tax breaks for big businesses in this country. One year's worth of these subsidies would wipe out the structural deficit and remove the need for any more cuts in public spending, including to this council. Do you agree with me that it is absolutely outrageous that hard working local residents on low incomes, along with the poorest and most vulnerable people in Torbay, are having to suffer while subsidies to big businesses continue untouched?

This page is intentionally left blank

Public Question Oldway Mansion – Council 4 December 2014

At a Torbay Council Cabinet meeting on the 28 July 2009 the developer for Oldway Mansion was selected. This agreement ends in late August 2015. To date there has been no evident works to protect the long term future of Oldway Mansion. Can you explain why?

Submitted by Maggi Douglas-Dunbar

Agenda Item 8

Meeting of the Council

Thursday, 4 December 2014

Questions Under Standing Order A13

<p>Question (1) by Councillor Darling to the Executive Lead for Adult Social Care and Older People (Councillor Scouler)</p>	<p>I understand that the Community Equipment Store contract is with a new provider. Can you please advise members of the budget spend now that we have passed the second quarter and what are the results of the key performance indicators for this service?</p>
<p>Question (2) by Councillor Darling to the Executive Lead for Strategic Planning, Housing, Energy and Environmental Policy (Councillor Thomas (D))</p>	<p>How many people have Torbay Council accommodated in temporary housing? Please provide a monthly breakdown for the last two years to include a breakdown of the number of families, couples and individuals.</p>

**Notice of Motion - Non-Coalition Group/Labour – Council 4 December 2014
(Mayoral)**

**Urgent Review of Safer Communities policies and priorities for the protection
and care of women in Torbay**

That this Council requests that the Mayor, in collaboration with the Executive Lead for Safer Communities, lead an urgent review of the priorities and policies of Safer Communities for the protection and care of women in the Bay. That this review be carried out in public, include invitations to the Police and Crime Commissioner and Bay MPs, and involve the participation of all councillors, as the elected representatives of their respective wards, throughout the review.

Council calls for this review in light of the level of crimes against women, including the increase in the number of assaults (both physical and psychological), sexual assaults, rapes and child sex abuse in our Bay.

Proposed: Councillor Julien Parrott
Seconded: Councillor Darren Cowell

Agenda Item 9b

Notice of Motion - Non-Coalition Group/Labour – Council 4 December 2014 (Mayoral)

Governance Review Preparations for new administration post May 2015

In order to avoid any delay, this Council requests officers to prepare a report in readiness for the new administration following the local elections in May 2015 which sets out;

- a) options for determining the way in which Torbay Council operates its' governance model;
- b) the requirements to hold a referendum to consider changing from an elected mayor system to a cabinet style model;
- c) possible dates for a referendum to be held alongside other elections such as the Neighbourhood Plan referenda expected in late 2015; and
- d) to the associated options for reducing the number of elected councillors from 36.

Proposed by Councillor Cowell
Seconded by Councillor Ellery

Notice of Motion - The Future for Torbay Council – Council 4 December 2014 (Mayoral)

Council notes:

- a) The ongoing reduction by the Government to the funding provided to support local services. Over the past four years the Council has made budget reductions of over £30 million with £14m planned for 2015/16. Although no figures have yet been announced for 2016/17, it is expected that the rate of annual reductions in local government funding will continue until 2020;
- b) That the Mayor has previously held discussions with other south west authorities about local government reorganisation in the south west;
- c) The strong and enthusiastic participation shown by the people of Scotland in a remarkable democratic process leading to the Referendum on 18 September 2014; and
- d) The resulting increased discussion on the devolution of powers from central government in Westminster and Whitehall.

Council believes:

1. That the long term viability of the current structure and funding arrangements for Torbay Council is unstable due to the continuing financial constraints placed on it by central government;
2. That debates on the future of local government should be conducted in an open and transparent manner and led by our local communities;
3. That power should be devolved to the people in all parts of the United Kingdom;
4. That England is currently ruled by an over-centralised state that fails to reflect localities and regions; and
5. That concentrating more power to English MPs in Westminster is not the answer for English devolution and that passing power down to local areas of England is essential.

Council therefore calls for:

- i) engagement in a continuing dialogue with our communities for what form of local government reorganisation will best ensure the long term sustainability for local services, which includes accountability and openness in local government; and
- (ii) Torbay's MPs, the Mayor and Group Leaders to lobby for urgent major devolution of power, including tax raising and spending, from central government to the regions, counties, boroughs and districts and cities of England.

And that such lobbying should emphasise:

- That the devolution of powers and finance to English Councils be carried out in ways that enhance and strengthen local democratic bodies. This must include agreement that it shall be for local people and communities to decide their form of democratic leadership without having a specific model imposed (for example directly elected Mayors) in return for more powers; and
- A recognition that English devolution must include both large cities and county areas, as the many Councils not within city regions must also gain greater powers and finance in order to build successful and prosperous futures.

Proposed by Councillor Darling

Seconded by Councillor Pountney

Proposed covenant protecting Churston Golf Course from development

Report of the Overview and Scrutiny Board

1. Background

- 1.1 The Overview and Scrutiny Board met on 16 and 22 October 2014 to consider a call-in by nine Members of the Council of the decision by the Mayor to enter into a deed covenanting with the residents of Churston and Galmpton Ward that the Council would not allow any development of Churston Golf Club without any such proposal first obtaining the majority of votes in a referendum of the registered electors of that Ward.
- 1.2 In considering the call-in, the Board sought answers to the questions posed in the call-in notice. Arising from its consideration of those answers, the Board raised a further set of questions to which it also received answers from Council officers.
- 1.3 Having heard from the Call-in Promoter and Supporters, officers and the Mayor, the Board agreed that the issue be referred to the Council for consideration for the following reasons:

A range of additional information has been made available since the original decision was made and therefore due consideration should be given to the:

- legal implications of the decision
- financial implications of the decision
- implications for the Local Plan
- fairness of the decision on other wards in Torbay
- potential damage to the economy

The original recommendation of the Council was that the decision be deferred to allow further investigation by the Place Policy Development Group. Given the additional information now available, councillors should be given the opportunity to consider that information and make their recommendation.

- 1.4 This report sets out the information that was considered by the Board over the course of its meeting.

2. The legal implications of the decision

The petition

- 2.1 The petition deadline is 10 clear working days before the meeting of the Council. When petitions are received they are validated by Officers within Governance Support against the requirements of the petition scheme which is set out in the Council's Constitution.

2.2 A petition is classed as valid if the following has been provided:

- at least 25 signatures, or at least 1000 signatures if triggering Council debate. To establish the number of signatories there is a visual check carried out to ensure that they are sufficient signatories to be accepted and there is no duplication of entries.
- a clear and concise statement covering the subject of the petition and what action the petitioners wish the Council to take,
- the subject matter of the petition on each page,
- the name, address (or place of work or study if the person does not live in Torbay) and signature of any person supporting the petition,
- contact details, including a phone number and address, for the petition organiser.

2.3 The number of signatures received by the petition deadline is the number which is officially reported and recorded. However some petitioners leave their petitions open and continue collecting signatures, and they may reference different numbers of signatories. From the Council perspective the official number is the number received by the petition deadline, which in this case was reported to be 'approximately 2000'. Following a request by a member of the Board a count based on postcodes was undertaken and resulted in the figure of 2053.

2.4 The wording of the petition was:

"In 2012, Torbay Council made a covenant with the residents of Paignton promising not to allow any development of Paignton Green without the agreement of the majority of residents. In July 2014, the Council then covenanted with the residents of St Marychurch promising not to allow any development of Babbacombe Downs without the agreement of the majority of residents.

The residents of Churston and Galmpton ask to be treated equally.

The Golf Course is highly valued by the community and as it provides the Green Wedge between Paignton and Brixham, contributes materially to the character of the area, and acts as an important wildlife corridor.

As freehold land owner, Torbay Council is asked to covenant with the residents of Churston and Galmpton not to allow development of Churston Golf Course without first obtaining the agreement of the majority of the residents of the ward at a referendum"

The proposed covenant

2.5 After receipt of the petition, the organisers of the same submitted the following proposed form of wording for the covenant;

"Torbay Council covenants with the people of the current electoral ward of Churston and Galmpton (identified edged blue on the plan attached) that for a period of 100 years beginning on the date of this deed on the land variously known as Churston Golf Course (identified edged red on the plan attached) it will not:

(a.) Allow any development of Churston Golf Course

For this purpose "development" shall be defined as any deviation from the Permitted User clause at para 1.12 of a lease between The Council of the Borough of Torbay

and Churston Golf Club Limited dated 3 April 2003 or any matter within that lease or otherwise for which the consent of the Freeholder owner is required for any reason. In broad terms this permitted user clause provides for the use of the land as either a golf course complying with minimum standards on the land or as agriculture. Hence for example only use of the land for housing, industry or for a road would constitute development.

(b.) Sell or otherwise dispose of Churston Golf Course or sell or otherwise dispose of its rights as Freeholder owner

(c.) Allow any land owned freehold by The Council of the Borough of Torbay to be used to facilitate any development of any permanent structures on Churston Golf Course.

without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of councillors for Churston and Galmpton Ward and are registered as local government electors at an address within this Ward.”

2.6 As was set out within the report to Council, it was considered that paragraphs (b) and (c) of this wording extended beyond the subject matter of the petition. As such it was recommended that these additional matters were not considered for inclusion within the proposed covenant.

2.7 In considering the proposed wording, it was the legal opinion that paragraph (a) was too widely drafted, with some elements potentially interfering with the terms of the Golf Club lease, which it is not possible to do without the Tenant’s (Golf Club’s) consent. The Council as Landlord of the golf club lease cannot unilaterally change any term of that lease without agreement from the Tenant. Therefore the effect of any proposed covenant cannot restrict the Permitted User clause or the Tenant’s rights to make alterations in accordance with the lease.

2.8 Accordingly a revised covenant wording was provided within the Council report to ensure that its terms (if adopted) did not interfere with the terms of the Golf Club lease, and excluded paragraphs (b) and (c), but achieved the aim of the petition. The proposed covenant wording was as follows:

“Torbay Council covenants with all inhabitants of the ward of Churston and Galmpton that for a period of 100 years beginning on the date of this deed it will not on the land shown edged in red on the plan attached, known to be Churston Golf Course, allow any development of Churston Golf Course without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of Councillors for the Churston and Galmpton Ward and are registered as local government electors at an address within this Ward. For the purposes of this covenant ‘development’ shall not include any development permitted under the terms of the lease between The Council of the Borough of Torbay and Churston Golf Club Limited dated 3 April 2003. Nothing contained or implied in this Deed shall prejudice or affect the exercise by the Council of its regulatory functions under the Town and Country Planning Act 1990 or any other statute or statutory instrument.”

2.9 The covenant is not a ‘no development’ covenant. Firstly the proposed covenant does not apply to any development that is within the permitted user clause of the lease (i.e. Golf Club or agriculture). Secondly the proposed covenant only prevents development on the land

without first obtaining the agreement of the majority of the residents of the ward at a referendum.

Imposition of covenants on Council land

- 2.10 The Council can legally impose a covenant to prevent development on its land. There are however a number of provisions and procedures which must be taken into account.
- 2.11 Council Officers are of the firm belief that the proposed covenant is classed as disposal under the Local Government Act 1972. 'Land' is defined in s.270(1) of the 1972 Act as including 'any interest in land and any easement or right in, to or over land'.
- 2.12 The benefit of a restrictive covenant is an equitable interest in land and the grant of this restrictive covenant therefore involves a disposal of land within s.123 of the Act.
- 2.13 It is therefore incumbent on the Council in pursuance of s.123 of the Act to achieve the best consideration reasonably obtainable for the covenant unless the Council is able to rely on the 2003 General Disposal Consent Order or unless the specific consent of the Secretary of State is obtained.
- 2.14 Since the Council is proposing to grant the covenant for no consideration, the Council could try to rely on a General Consent Order whereby deemed consent is given to an undervalue disposal of land if;
- 'the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2 million'.
- 2.15 Determining the value of the covenant is not easy. It will be enjoyed by and confined to those with an interest in land capable of being benefited by the covenant. That value (the enhanced value of their land with the covenant in place) needs to be assessed by a valuer. It is those properties that surround the golf course that would be considered to have the benefit of the covenant. The calculation would be the enhanced value of their land with the covenant in place.
- 2.16 Additionally before the covenant could be legally made, a notice of the Council's intention to grant the covenant will need to be advertised in the Herald Express for two consecutive weeks and any objections to the proposed covenant will need to be duly considered.

Future removal of any covenant

- 2.17 It should be noted that the reality is that there is no legal mechanism by which land held by the Council can be given absolute and irrevocable protection, as covenants can be wholly or partially modified or discharged by the Lands Tribunal under s.84 Law of Property Act 1925.
- 2.18 Whilst the Council could in theory apply to the Land Tribunal to discharge the covenant (although at significant cost) it is highly unlikely that the covenant would be discharged. An application to the Land's Tribunal to remove a covenant is often a lengthy process. The Tribunal applies stringent rules. The Tribunal has power to order the applicant to pay compensation to all people entitled to the benefit of the covenant for any loss or disadvantage suffered as a result of the discharge of the covenant. Whilst there are identifiable beneficiaries (i.e. people benefiting from the covenant) it is probable that the Tribunal would uphold the covenant.
- 2.19 Obtaining a beneficiary's consent to a discharge of a covenant can be a route to discharge the same. However, in this case, there are a large number of beneficiaries meaning that

obtaining all of the beneficiaries' agreement to discharge the covenant would be practically difficult, if not virtually impossible.

- 2.20 . In the case of *Graham v Easington District Council*, the council was the beneficiary of a restrictive covenant not to use the land for anything other than a coach depot, however they subsequently granted planning permission to the owner of the land for residential development. The court held that there was a 'close coincidence' between the council's role as landowner and its role as planning authority. The grant of planning permission demonstrated that the practical benefits secured by the covenant were not of substantial advantage to the council (the balance of industrial land versus housing land in the district had changed) and so the covenant could be discharged.
- 2.21 Applying this case to the proposed covenant at Churston, the council would not be the beneficiary of the covenant. The owners of properties around the golf course would be the beneficiaries of the covenant. This is a significant difference to the *Graham* case. Torbay Council's permission as landowner to discharge the covenant is irrelevant; the permission or establishment of one of the Tribunal's grounds against all the beneficiaries would be necessary to discharge the covenant.
- 2.22 It is very possible that in the future Churston may be a very different place. Development may surround the area in question and it may be possible to argue for example, one of the Tribunal's grounds, i.e. that the covenant does not secure to the beneficiaries 'any practical benefits of substantial value or advantage'.
- 2.23 The point is that any removal of a covenant is centred around the beneficiaries of the covenant. The Land's Tribunal would focus on whether the covenant still secures any benefit to the beneficiaries.

The current lease and any future compensation

- 2.24 The golf club lease is subject to covenants that are detailed in a conveyance dated 20 December 1972. This conveyance is referred to in the 2003 golf club lease. The relevant covenant states that the purchaser (Torbay Council in 1972) will not use the golf club land except in such a way that there will always be an 18 hole golf course as long as there is public demand for such a course. This is consistent with the permitted user clause of the lease.
- 2.25 The user clause in the lease specifies that the land must be used as a Golf Club or as agricultural land. Any amendment to this lease would require the consent of the Mayor and the Golf Club.
- 2.26 There are no other parties who have a charge registered against Churston Golf Club other than Barclays Bank. No liability can fall on to the Council if the Golf Club defaulted on its borrowings.
- 2.27 Any proposed covenant over land cannot be in conflict with the terms of a lease over the land unless both parties agree to vary the terms of the lease to reflect the covenant. If the Council imposes a covenant in its capacity as Landlord and it subsequently frustrates a Tenant from carrying out its terms under the lease, the Tenant could seek damages.
- 2.28 However the wording of the proposed covenant has been carefully drafted so as to ensure that it does not interfere with the terms of the lease. Specifically the covenant does not include within its definition of development any use that is allowed in accordance with the Permitted User Clause of the lease i.e. use as a golf course or agriculture. An example to demonstrate this would be a proposal to build a new club house. This would be classed as a

development in accordance with the permitted user clause, and therefore the Golf Club would not need to seek the consent of the Council (other than in its capacity of Local Planning Authority), and there would not be a requirement to hold a referendum of the ward. A contrasting example would be a proposal to build a hotel anywhere on the existing course. The covenant would require that the Council undertook a referendum and obtained the agreement of the majority of the ward prior to entering into an agreement to amend the existing lease.

- 2.29 These examples demonstrate how the proposed covenant does not impact upon the terms of the existing lease. On the basis that there is no such conflict then there is no basis for a leaseholder to claim compensation.

Precedent

- 2.30 The granting of the covenant in response to the petition does not create a legal precedent, as a legal precedent can only be created by a judicial ruling.
- 2.31 The decision to grant the covenant would bind future administrations in that, as a public authority, the Council should act consistently and fairly in all of its dealings. If the Council were to receive further requests to grant covenants, then unless it is possible to differentiate decisions on their own facts, then the Council could face a Judicial Review Challenge if it acted inconsistently, on the ground of irrationality.
- 2.32 A reasoning or decision is deemed to be irrational (or 'Wednesbury' unreasonable) if it is so unreasonable that no reasonable person, acting reasonably, could have made it.
- 2.33 When considering the previous covenants at Babbacombe and Paignton Green, the characteristics of the same are inter alia:
- Freely open to all members of the public without charge,
 - Events are hosted which the public can attend,
 - The areas are important for local tourism,
 - They had received requests to register the same as Town or Village Greens.
- 2.34 These characteristics could form the basis of criteria by which future requests for covenants could be judged and could form the basis of a Covenants Policy. If such characteristics were met, then absent other differentiating factors, the Council could face legal challenge if it did not act consistently.
- 2.35 The granting of a covenant at Churston would mean that the characteristics by which future requests would be judged against would be much wider, therefore making it more difficult to refuse future requests, if acting consistently.

Future Legal Challenge

- 2.36 In defending any legal challenge the Council has a modest budget for external legal fees, however any sums in excess of that would need to be met from the Comprehensive Spending Review Reserve. The CSR Reserve is a finite reserve, and therefore any use of it limits its ability to be used in the future.
- 2.37 As with all Council departments, staffing resources within the legal team have reduced in the last few years. The legal team constantly have to prioritise its workload so as to meet the many demands that are placed upon it. If there were to be legal challenge of the Mayor's

decision, then this work would have to take priority over some of the other work of the team.

- 2.38 A letter from the solicitors acting on behalf of Bloor Homes had been circulated to all members of the Board. The Board asked for a response to the points raised in the letter from the Executive Head – Commercial Services. The detailed response is included as an appendix which had been circulated separately as it is exempt from publication by virtue of paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972.

3. The financial implications of the decision

- 3.1 The Overview and Scrutiny Board received advice from the Head Valuer at Torbay Development Agency as there was insufficient time to instruct external agents. It was however confirmed to the Board that the District Valuer had reviewed the advice of TDA and agreed that the adopted figures were reasonable based upon the assumptions made.

Change in value of the Golf Club

- 3.2 In determining the change in value of the land if a covenant was imposed the following assumptions have been made:
1. It is assumed that the value of the whole golf course is £1.65 million (i.e. the premium paid in 2003 for the 999-year lease) with the assumption that there has not been a significant change in value in the last 11 years.
 2. The Existing Use Value of the 1st & 18th holes is calculated on a pro-rata basis ignoring any possible uplift in value due to the presence of clubhouse on this land.
 3. The adopted current land value for the 1st & 18th holes will be as per the development value as assessed by the District Valuer contained in the report dated 5 April 2010. It is assumed that there has not been a significant change in value since April 2010. This figure was in the region of £7-8 million.
 4. That a future Administration would be willing to allow development on the 1st & 18th holes with such development being the same for which planning permission was granted to Bloor Homes. It is also assumed that the cost of re-providing the golf course facilities and any payment to the Club by Bloor Homes are the same as per the proposed scheme in 2010.
 5. The change in value will be the difference.
 6. An assessment of the financial loss to the Council in terms of the capital receipt for not giving consent to vary the lease will not be carried out as the question only relates to the value of the land.

3.3 The calculation undertaken is as follows:

Existing Use Value of the 1st & 18th holes:

Total area of golf course from plan EM2469 = 132.12 Acres

Area of 1st & 18th holes = 10.58 Acres.

(£1,650,000 / 132.12 acres) x 10.58 acres = £132,130 Say £132,000

Uplift in Value:

Development Value of the Land = £7,000,000

Less Existing Use Value = £ 132,000

£6,868,000

3.4 Having made the comments in Assumption 6 above, the financial loss in terms of any capital receipt would be £2 million, based upon the above assumptions.

3.5 Other potential loss of benefits could cover loss of Council Tax for the new houses, any section 106 contribution and New Homes Bonus. The following is based upon the assumption that any future proposals/development are the same as per the planning permission granted to Bloor Homes.

S106 contribution

3.6 For the development on the 1st & 18th holes on Churston Golf Club, the Section 106 Agreement secured a total of £578,000 as community benefits, including:

£260,510 on sustainable transport, to be spent on upgrading America Lane to a bridleway along its entirety, completing the shared use path on the A3022 from Churston Road to Manor Vale Road, completing missing cycle link between Manor Vale Road and Churston Road with a 3 metre shared use path, and upgrading lighting in the underpass between Bridge Road and Greenway Road.

£34,990 lifelong learning contributions would be spent on capital investment at Churston Library

£100,650 education contribution would be spent on increasing provision (classroom space) at White Rock and Roselands schools

£145,924 greenspace contribution would be spent on the public rights of way improvement plan and the SW Coast Path.

New Homes Bonus

3.7 This could be approximately £1.1 million, based on 132 units at Band D for 6 years (£8,400 per unit).

Possible Loss of Council Tax

3.8 The proposed development was for 90 homes and 42 extra care flats. Based upon a payment of £1,504.22 for Band D properties for the financial year 2014/15 and a total of 132 houses / flats (assume all on Band D) the potential loss would be in the region of £198,500.

Loss of Jobs

- 3.9 It is understood that the extra care flats was the affordable housing element. As such there are 90 open market houses and 42 affordable extra care apartments. The following is based upon the ratio that every 100 owners occupied family homes creates 52 jobs when occupied and 324 jobs during construction.
- 3.10 It is further assumed that the occupiers of the extra care apartments would not be employed. However, it is assumed that the extra care apartments would create 15 FTE jobs, in the form of gardeners, maintenance, cleaning, catering and nursing. Adopting the average salary for Torbay of £21,000, this results in an annual value of £315,000.
- 3.11 The 90 open market houses would create 47 jobs at £21,000 pa this has a value of £987,000 pa.
- 3.12 The 132 units would create 428 construction jobs.
- 3.13 Annual value of jobs created (exc construction): £315,000 + £987,000 = £1,302,000
- 3.14 In summary:

S106 Contributions	£578,000
New Homes Bonus	£1,100,000
Loss of Council Tax	£198,500
Loss of Jobs	£1,302,000
	£3,178,500

N.B. The figure used by Bloors has routinely been £5 million in total, including capital receipt of £2 million to the Council.

Change in value of other sites

- 3.15 The Board sought to determine the potential change in financial value of other assets if similar petitions to that put forward by Churston, Galmpton and Broadsands Community Partnership were received in relation to other Council assets, and covenants subsequently granted
- 3.16 The advice from the Head Valuer was based upon the information currently to hand (including advice from colleagues about specific projects – Oldway Mansion, Great Parks, Hatchcombe Lane and Cary Green) and the following assumptions:
1. That the only Council owned sites affected are those detailed in section 3.17.
 2. That each site is capable of being developed for residential use and that planning permission would be forthcoming.
 3. No account has been taken for any resultant benefits from any development if appropriate e.g. additional Council Tax, s106 contributions, New Homes Bonus etc.
 4. That there are no leases / legal agreements in place so no account has been taken for any compensation /relocation costs associated with obtaining vacant possession.
- 3.17 Considering the following Council owned sites:
- Oldway Mansion, Paignton
 - Great Parks, Paignton
 - Hatchcombe Lane, Torquay
 - Little Blagdon Farm, Paignton

- Preston Down Road, Paignton
- Cary Green / Pavilion, Torquay
- Victoria Park & Queens Park, Paignton
- Pitch & Putt Course, Goodrington, Paignton

the potential change in value of the assets is considered to be in the region of £47,375,000

4. Implications for the Local Plan

- 4.1 In simple terms, agreeing to the Churston Covenant threatens progress with, and delivery of, the new Local Plan. This is principally because it sets a precedent for other petitions to be submitted regarding Council owned land that is identified for development in the new Local Plan. If other petitions come forward after the Hearing, it may be difficult to deliver the Local Plan, in the way the Council sets out in the Local Plan, and as a consequence more sensitive sites will be promoted (by land owners) to secure delivery.
- 4.2 Whether the Local Plan continues or not, there will be a greater opportunity (if the Covenant is agreed) for other landowners / developers to successfully promote, at the Local Plan Hearing, their own sites. These are highly likely to be in more sensitive locations – such as the Area of Outstanding Natural Beauty (AONB) – than the 1st & 18th, which is why the Council has not allocated them in the Plan. If that leads to such sites being allocated, by the Inspector following promotion of those sites by landowners / developers at the Hearing, the huge amount of work undertaken by the Council and Torbay’s communities – to identify the most sustainable sites for development - will have, in part, been wasted.
- 4.3 The appointed Local Plan Inspector is probably the most senior and respected Inspector at the Planning Inspectorate. The Council is not allowed, under the terms of the regulations governing Local Plan production, direct dialogue with the appointed Local Plan Inspector. However, via the Local Plan Programme Officer, officers have obtained an opinion from the Inspector. His opinion is summarised below. It is the presiding Inspector’s opinion that is important; far more important than any legal opinion.
- 4.4 The summary of the Inspector’s advice is as follows:
- Potentially a problem, given impact on 5 year land supply and deliverability of the Plan;
 - Extent of problem increased if other sites are affected;
 - Council may need to find substitute sites, which will then need to be advertised and Sustainability Appraisal work done;
 - If this extra work is required, then Examination may have to be delayed;
 - Little point in Council proceeding without a clear five year housing land supply.
- 4.5 There are two key points in the Inspector’s advice.
- 4.6 First, five year land supply. The Council believes it has a five year housing land supply, based on the last DCLG Household Projections. So, officers believe we can proceed to the Local Plan Hearing on this basis. However the Inspector may believe that the Council needs to provide more homes than the 9,239 currently shown in the Local Plan. If that is the case, then the Council may not have a five year housing land supply and the Council’s position will have been weakened if Churston Golf Course (1st & 18th) is not included.
- 4.7 Secondly, the need to identify sites not yet identified in the Local Plan – predominantly because of their environmental sensitivity. Officers know it is the intention of a number of land owners and developers to promote other sites to the Inspector at the Local Plan Examination. Comments made by those land owners / developers during the last consultation on the Local Plan made their intentions clear. Those land owners / developers

have been invited, by the Planning Inspector, to the Local Plan Hearing. Officers did not consider it necessary for the Council to promote additional sites at this point, before the Hearing.. If the Council did promote additional sites, at this stage, the Hearing – and therefore the Local Plan - would be delayed, as the Inspector advises (see his comments above).

4.8 The sites that are being promoted by land owners / developers at the Hearing are:

- Land at Collaton, opposite Parkers Arms Public House (promoted by Bloor Homes)
- Car Boot Sale site (promoted by Taylor Wimpey)
- Land south of White Rock (promoted by Abacus / Deeley Freed)
- St Mary's, Brixham (promoted by Smiths Gore)
- Sladnor Park, Maidencombe (promoted by PCL Planning)
- Corbyn Apartments (promoted by the land owner)
- Land around Yalberton (promoted by the land owner)

4.9 It is useful, in this context, that the Council's Development Management Committee decided (in September 2014) to grant planning permission for development at Wall Park, Brixham. The development includes 165 new homes. Once the S106 Agreement has been signed and the decision issued, the site will be added to the five year supply of housing land. However, the site is already identified in the new Local Plan and contributes towards the total capacity for new homes (totalling 9,300) in the Bay. Consequently it will be necessary to find a substitute site for Churston Golf Course (1st & 18th), if the Covenant is agreed.

4.10 The loss of Churston Golf Course (1st & 18th) makes it more likely that the more sensitive sites referred to above, and potentially others, will be considered as acceptable by the Inspector and allocated in the Local Plan. These are sites that communities across Torbay have been clear about: they do not wish to see those sites developed; they are environmentally sensitive sites; it is these areas of land that make Torbay special. That position is made clear in emerging Neighbourhood Plans. So the proposal by Churston & Galmpton Community Partnership flies in the face of the work that the Council has carried out with its partners in the wider community across Torbay and, indeed, that communities have undertaken in their preparation of Neighbourhood Plans.

Five Year Housing Land Supply

4.11 It is never a good idea to lose sites, especially those with planning permission, from the Council's five year housing land supply. Loss of those sites has planning and economic consequences. Loss of those sites also has an impact on Torbay's communities. The loss of Churston Golf Course (1st & 18th) from Torbay's five year land supply, even though it only represents 5% of the number of homes in the Council's housing land supply, will threaten the Bay's ability to maintain a five year supply, especially if the Local Plan Inspector considers that Torbay needs to provide more than 9239 homes over the next 20 years, and will put pressure for development of other more sensitive sites than Churston Golf Course (1st & 18th). These are the very sites that Torbay's communities have worked hard, through the Local and Neighbourhood Plan process, to protect from development.

4.12 In **planning terms** it is extremely important to maintain a five year housing land supply, to avoid more sensitive land being developed. It is a fact that the lack of a five year land supply trumps land identified as 'countryside zone' in the Local Plan – so, in the absence of a five year housing land supply, the Council could not defend refusal of planning permission on the grounds that development is in the countryside.

4.13 In **economic terms**, sites with planning permission that are developed bring substantial economic and social benefits. For the development at Churston (1st & 18th), the Section

106 Agreement secured a total of £578,000 as community benefits (detailed in paragraph 3.6).

4.14 In more detail and in addition to above:

- **The Council's current position** – The Council considers it has a 5.9 year supply of housing land, which includes land at the 1st and 18th. The 1st and 18th is the 4th largest site with planning permission in the Bay – so it's important in terms of size – and is, in planning terms, a relatively constraint free, very developable site. The loss of 132 new homes, with planning permission, represents just under 5% of the total number of homes on five year supply sites and is not, as such, pivotal to the maintenance of a five year housing land supply. However, that assessment by the Council is based on providing 475 homes per annum (440 Department of Communities and Local Government (DCLG) Household projections; + 11 for second homes; x 5% for National Planning Policy Framework (NPPF) buffer) and is about to get tested in the following ways.
- **Churston Clubhouse Inquiry** – The Inspector for the Churston Golf Clubhouse Inquiry is being asked to decide whether the Council's assessment is correct or whether a higher number should be applied. He is being asked, by the appellants, to consider up to 940 new homes per annum. If the Inspector agrees with this, or any figure above about 550, then the Council will not have a five year land supply. The loss of Churston (1st & 18th) will contribute to that under-supply. It is worth noting that two previous Inspectors, re Wall Park and Scotts Meadow, concluded the Council did not have a five year land supply, based on formal updates (2008) of the DCLG Household Projections.
- **DCLG Household Projections** – A formal update of the DCLG's Household Projections will be published very shortly. They could show that Torbay needs to provide more than the 440 homes per annum that the last update suggested. That will put pressure on the five year housing land supply, underlining the importance of maintaining a very healthy amount of housing land with planning permission.
- **Local Plan Examination** – The Inspector for the Local Plan will, as a key issue, be making a decision on the Council's objectively assessed housing need. The Council's own evidence, just on housing need, suggests 615 (from the Peter Brett Associates evidence on housing need) or 820 (2011 Strategic Housing Market Assessment (SHLAA) update) homes per annum would meet objectively assessed housing need. The Council's case is that the Bay doesn't have the environmental capacity for that number of homes, but the Inspector may not accept the Council's case. He may decide, for example, that up to 10,000 new homes does not meet the Bay's objectively assessed housing need and that 11,000 or 12,000 are required over the next 20 years to meet objectively assessed need. This will require additional sites to come forward, many of which will be in extremely sensitive locations. The requirement to do this is made all the more necessary if the 1st & 18th falls out of the five year land supply. In other words, if 132 new homes don't come forward on the 1st & 18th, then they (or more) need to be found elsewhere, which is likely to be on more sensitive land than the 1st & 18th.

4.15 If the Council cannot show a five year housing land supply, at any point, then there will be increased pressure for development on environmentally sensitive sites (certainly more environmentally sensitive than the 1st and 18th). Those sites include those listed in paragraph 4.8 and the following:

- Car Parks across Torbay;
- Copythorne Road, Briaxham
- Mathill Road, Brixham

- Manor Farm, Galmpton
- Sandringham Gardens, Paignton
- Land rear of Brokenbury Sewage Treatment Works, Paignton
- Nutbush Lane, Torquay
- Torquay Golf Club
- Enlarged Wall Park, Brixham
- Yalberton Holiday Park, Paignton

4.16 Even if the Council chose to refuse any subsequent planning applications for the development of such sites, there is clear evidence across the country that the absence of a five year land supply would mean that the Council is unlikely to be successful in defending such decisions at appeal. That pressure increased because, in accordance with case law, local designations – such as countryside zone – are ‘trumped’ by housing need.

Deliverability of planning permission at 1st and 18th hole

4.17 The Council’s position, as Local Planning Authority, on this site is quite clear – the 1st & 18th is a deliverable site, featuring in the Council’s five year land supply and in the Local Plan. The Council’s position as landowner is also clear – there is no contract that allows development of the 1st & 18th, but this or a future Administration could agree a new contract, relatively quickly.

4.18 Outline planning permission, for delivery of 132 new homes on the 1st & 18th, was granted on 20 December 2012. Consequently, all Reserved Matters need to be submitted by 20 December 2015 in order to keep the outline planning permission ‘alive’. There is then two years, from the date of approval of the final reserved matters, within which development must be commenced. A reserved matters application (covering design and appearance) has already been submitted and approved for the 42 sheltered units. As the principle of development has been accepted by the Council, reserved matters applications will deal with issues such as design and landscaping. Reserved matters applications could be submitted, and the outline permission kept alive, even if the Clubhouse appeal was dismissed (i.e. planning permission not granted by the Inspector).

4.19 The one planning ‘barrier’ to delivery of the development at 1st & 18th is planning permission for a relocated clubhouse. The Appellants, in relation to the Clubhouse appeal, argue that the 1st & 18th is an important site for housing as the Council does not have (they contend) a five year housing land supply. They argue this is a good reason for the Inspector to allow the appeal for the Clubhouse. As such it seems odd for the community to suggest, at this time, the 1st & 18th is not deliverable, as this might be considered as providing support for the proposed clubhouse. If the Inspector allows the appeal (and hence gives permission for the proposed clubhouse), there is nothing in planning terms to prevent delivery of the 1st & 18th.

4.20 Until the outcomes of the Churston Golf Club planning appeal and the Local Plan Examination are known, the Council should continue to consider the site as deliverable. It should be noted that the site is considered as deliverable in the Council’s refreshed Strategic Housing Land Availability Assessment (July 2013), which forms a key piece of evidence to support the new Local Plan. That work was undertaken with the Council, landowners, the community and housebuilders / developers.

4.21 The National Planning Policy Framework (NPPF) defines ‘deliverable’ as follows:

“To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with

planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.”

4.22 That raises a number of ‘tests’:

1. **Availability** – in planning terms the site is considered as available, especially as it has planning permission. In land ownership terms, a new contract with Bloors (or another developer) and the Golf Club could be in place relatively quickly.
2. **Location** – the Council’s Development Management Committee has agreed the location of the site to be suitable for development, by granting outline planning permission; Council has agreed to inclusion of the site within the new Local Plan.
3. **Achievable** – in the current market conditions the development is considered as achievable, viable and capable of being delivered in the next five years (note: even if the site is not considered as deliverable – in whole or in part – in the next five years, the site is still categorized as developable in NPPF terms: “To be considered developable, sites should be in a suitable location for housing development and there should be a reasonable prospect that the site is available and could be viably developed at the point envisaged.”)

Consequently, officers consider the site to be deliverable in accordance with the NPPF.

Additional sites to “offset” the loss of houses on the 1st and 18th holes

4.23 A suggestion was made to ‘offer up’ the sites identified by the community, as part of the Brixham Neighbourhood Planning process, as a substitute for the loss of new homes on the 1st & 18th.

4.24 In summary, the suggestion – if implemented – would leap-frog essential, legally required components of the plan making process. It would, if those sites were put forward now by the Council for the Local Plan, result in postponement of the Local Plan Hearing and a significant delay to the Local Plan – for the reasons given earlier in this report. For reasons given below, the sites could not at present be included in the Council’s five year land supply. There is simply no certainty, yet, that the sites will remain within the Neighbourhood Plan; the sites need to be fully tested; they don’t have planning permission; there is a lack of clarity and consistency on the numbers of new homes for some sites. For all these reasons the substituting of the 1st & 18th by other, smaller sites identified by the community could not be supported by officers. This is supported by advice from consultants appointed by the Brixham Peninsula Neighbourhood Forum (BPNF).

4.25 The Council’s professional planning officers, and the Neighbourhood Forum’s own consultants, have provided advice to the BPNF about the status of those sites, in strategic planning terms. The BPNF’s own consultant has provided lots of comment on the emerging draft Neighbourhood Plan and expressed real concern about the deliverability of some sites and the sorts of housing numbers that the community has suggested for some sites.

4.26 There has long been an agreement between the Council, producing a Local Plan, and Forums producing Neighbourhood Plan namely:

- That the Council would allocate the sites to come forward in the first five years, at least, of the Local Plan and those strategic sites / areas, such as Torquay Gateway, that might come forward over the much longer term.

- That Neighbourhood Forums, in their Neighbourhood Plans, would allocate sites for the medium term – roughly 2018 – 2027 – although it is acknowledged that some sites may come forward sooner, some later. This is explicitly recognised in the emerging draft BPNP. The Local Plan provides a ‘pool’ of sites for each Forum to choose from.

This approach recognises the importance of Localism and neighbourhood planning, but also gives comfort to the Local Plan Inspector that the Council has identified, in its Local Plan, sufficient land to deliver the 9,300 (approx) new homes set out in the Local Plan.

Status of the Neighbourhood Plan

- 4.27 The BPNP has not been through a pre-submission consultation process, is nowhere near a referendum and has not been through a sustainability appraisal. Under this test the BPNP has no weight in planning terms. New National Planning Practice Guidance makes it clear that: *“Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals.”* From this Guidance it is clear, to the Council, that the evidence of local support can only be assessed at the time of production of a draft neighbourhood plan, with a supporting consultation statement, and that ‘local’ in this case should be defined as Brixham Peninsula, not just a community partnership area.

Status of the sites put forward by Churston, Galmpton and Broadsands Community Partnership

- 4.28 There has been no formal assessment of whether the sites are acceptable or deliverable. The Council has suggested a mini SHLAA process, to assess the sites in terms of constraints and deliverability. This has not yet been undertaken, but is particularly important as, for example, the community has identified sites for development that the Local Plan SHLAA work rejected. In addition, the community has added sites, and increased housing numbers on those sites. For example:
- Broadhaven, Broadsands – current planning application is for 8 residential units (P/2014/0899). The Community Partnership has objected to it on the grounds of impact on the residential area. The SHLAA suggests up to 8 units.
 - Waterside Quarry – Local Plan SHLAA says the site as a whole is unlikely to achieve 6 new homes, but the community has identified the site as capable of accommodating 10 homes. (Development Management Committee has resolved to approved outline permission for 3 detached dwellings on the northern part of the site)
 - Notwithstanding the professional advice contained in the Local Plan SHLAA, and the community’s objection to 8 homes on the Broadhaven site, the community has suggested that the emerging Neighbourhood Plan (BPNP35) identifies 15 – 25 units in total for the two above sites. A figure of 14 in total is more likely. So the mini SHLAA suggested by the Council will also need to check that numbers proposed in the Neighbourhood Plan are actually deliverable.
 - The Council is also aware of another substantial site, promoted by a land owner to the community, which has not been considered at all by the community. It’s important, to the robustness of the plan making process, that all suggested sites are

given consideration. The mini SHLAA process needs to ensure that happens or the Neighbourhood Plan could be challenged.

- 4.29 The sites have not been through any sustainability appraisal, which is an essential part of the planning process. This is even more important for Churston, Galmpton and Broadsands as the strategy of 'spread the jam thin, using a high number of small sites' is different to the strategy set out in the new Local Plan, for which a sustainability assessment has been undertaken. For example:
- The community has included Greenway Park for development. The Local Plan SHLAA suggested no more than 6 units; the community suggests 10 units. This site is partly within the AONB, so any development will have an impact on the AONB. It is these sorts of impacts that need to be assessed in a formal Sustainability Appraisal.
- 4.30 If the sites promoted by Churston, Galmpton and Broadsands Community Partnership were now added to the Council's five year land supply, and therefore to the Local Plan, extra work would need to be undertaken to cover the lack of sustainability appraisal. This is exactly what the Local Plan Inspector has warned against. It would require the Local Plan Hearing to be postponed and the Local Plan to be delayed.

Windfall sites

- 4.31 Based on Torbay's past record, and NPPF advice, the Council's five year housing land supply allows for 130 new homes per annum on windfall sites. These are defined, in Torbay, as sites of less than 6 homes and are not identified in the Local Plan.
- 4.32 The community has identified quite a large number of small sites in Churston, Galmpton and Broadsands, many of which will deliver less than 6 homes. Some of these will be delivered as windfall sites in the next 5 years (e.g. Waterside Quarry; Weary Ploughman site), following the appropriate assessment of each site as part of the planning process and granting of planning permission. As such, sites in Churston, Galmpton and Broadsands are already contributing to the Council's 5 year land supply.
- 4.33 Other sites, which will be allocated in the Neighbourhood Plan following proper assessment and consultation / referendum, will usefully form part of Torbay's housing land supply over the medium to long term. However, these sites are not yet included in a Neighbourhood Plan that has reached an advanced stage, so cannot be guaranteed to remain within the Plan. By definition these sites don't have planning permission. There is absolutely no guarantee that they can be delivered in 5 years, so they cannot realistically be included in the Council's 5 year land supply and, for the reasons given above, they cannot be included in the Local Plan.

5. Potential damage to the economy

- 5.1 In considering whether a decision to place a covenant on Churston Golf Club would deter future investment into the Bay as proposals concerning council owned land (housing or otherwise) would carry the added risk of a covenant being granted after considerable development costs have been incurred for those sites, it has not been possible to go out to market to test views. Accordingly it is difficult to properly assess the impact of the decision on future investment so the following paragraphs represent a perspective rather than a definitive opinion.

- 5.2 Last autumn the TDA's Business Barometer asked a number of questions around planning focusing on what supports business growth and what businesses are looking for when making investment decisions. Answers included:
- Rapid processing of applications.
 - Single and consistent point of contact for each applicant/case
- 5.3 This demonstrates some of the views that businesses, large and small, will have and we know that, as a general rule, developers who are bringing forward proposals (housing or otherwise) dislike unpredictable decisions around planning. Indeed the development industry lobbied to ensure that the National Planning Policy Framework set out a broadly more permissive approach to development than there had been under previous legislation.
- 5.4 Given that there has not been widespread use of covenants previously by the Council investors would likely take that into account. There is a risk that the decision creates a precedent and that future proposals are also impacted upon in this way which might make generating interest more difficult. There is also an impact if proposals move forward in that, while we know that higher levels of confidence are likely to ensure that the value for the site is achieved, higher levels of uncertainty and risk will likely see that risk being in some way factored into the appraisal for sites and schemes.
- 5.5 The Board received representations from a Representative for the Business Forum who expressed unequivocally that the imposition of a covenant would damage Torbay's reputation and deter inward investment.



Meeting: Council

Date: 4 December 2014

Wards Affected: All wards

Report Title: Petition regarding Churston Golf Course – further advice following Local Plan Hearing

Executive Lead Contact Details: David Thomas, Executive Lead for Spatial Planning, Housing, Waste and Energy.

Supporting Officer Contact Details: Pat Steward, Senior Service Manager, Spatial Planning 01803 208811; pat.steward@torbay.gov.uk

1. Purpose and Introduction

- 1.1 The purpose of this brief report is to provide Members with further advice on the impact of the petition regarding Churston Golf Course on the Council's 5 year supply of housing land and on the new Local Plan. This report has been informed by the Hearing, conducted by the Local Plan Inspector, on the new Local Plan between 18th – 20th November.
- 1.2 This report updates Members on the advice provided to Council on 25 September 2014. It suggests a number of actions required to ensure the Plan remains sound, robust and deliverable, should the proposed Covenant be agreed by the Mayor.
- 1.3 Officers do not now believe the loss of the 1st & 18th site, Churston Golf Course will, in itself, render the Local Plan unsound. However, in order to maintain this position the Council will need to identify additional land to add to the Local Plan to help meet Torbay's housing needs and further advice must be provided to show that the Churston covenant will not set a precedent for other covenants on Council owned land included in the Local Plan. This opinion is based on further significant work and information, including advice from the Inspector, since the Council meeting on 25 September.

2. Proposed Decision

- 2.1 That the report is noted and, if the Churston Covenant is agreed, the Council agree the actions detailed in paragraphs 4.2.1 – 4.2.4 of this report.
-

Supporting Information

4. Position

- 4.1 The Local Plan Inspector received advice, on the opening day of the Hearing, from Bloors' legal representative, that agreement by the Mayor to the Covenant will not allow the Inspector to consider the Local Plan as a sound Plan. If the Inspector accepts that advice, and the Plan is not found sound, there will, in officers' opinion, be considerable delays (probably 9 - 12 months) and costs whilst the Plan is redrafted, resubmitted and re-examined. The Inspector was also advised by Bloors' barrister that, should he find the Plan sound, there is likely to be a legal challenge from Bloors to that decision. Even if that challenge is unsuccessful, the process itself will result in considerable delays to the production of a new Local Plan. In the meantime the Bay would be without an up to date Local Plan, with significant consequences for investment, quality and location of new development.
- 4.2 With that (and other issues) in mind, the Inspector has set out further work for the Council to undertake on the Local Plan. The first of these additional pieces of work relates to the Churston Covenant. The Inspector's advice to the Council is that, if the Mayor confirms his support for the Covenant, the Council will need to modify the Local Plan. The Inspector was evidently also concerned about the issue of precedent (i.e. on other Council owned land included within the Local Plan) and market confidence. Whilst the Inspector was not explicit about the actions the Council needs to take, it is officers' view that a number of actions must be undertaken to maintain the robustness and soundness of the Local Plan, namely:
- 4.2.1 An additional site(s) needs to be added to the Council's 5 year housing land supply, as the 1st & 18th at Churston Golf Course (132 homes) will need to be removed from the list of 5 year supply sites. The additional site may be Wall Park (165 homes), subject to the completion of a S106 Agreement. However, as Wall Park is a site already identified in the Local Plan, a further action is needed.
- 4.2.2 Another site(s), not yet identified in the Local Plan, will need to be added to the Local Plan to help demonstrate that the Council is trying to meet its objectively assessed housing need over the Plan period, as required by the National Planning Policy Framework. This is very much as predicted in the previous report to Council (Sept 2014) and subsequent advice to Overview & Scrutiny Board meetings. A list of possible sites was provided to the Sept 2014 Council meeting. That list was refined and presented to the Local Plan Hearing, in response to a clear request from the Inspector for the Council to show what land could come forward, should the Inspector ask for an increase in the number of new homes currently promoted in the Local Plan. That refined list is included as Appendix 1 to this report, which carefully explains why these sites represent development beyond the Bay's environmental capacity.
- 4.2.3 The need to identify an additional / new site to the Local Plan would trigger the need for a refreshed Sustainability Appraisal and Habitats Regulation Assessment. This will require quite significant work before Xmas 2014.
- 4.2.4 Finally, the Council also needs to provide robust advice to the Inspector that the Churston Covenant does not set a precedent for similar covenants on other Council owned land /sites which support delivery of the Local Plan.

- 4.3 These actions would need to be completed well before Christmas 2014, in order to provide comfort to the Inspector and allow him to issue a letter to the Council before Christmas on the next steps for the Local Plan. In that letter, the Inspector will also confirm Torbay's objectively assessed housing need (i.e. the number of homes he believes the Local Plan should be providing).
- 4.4 In the report to Council on 25 September 2014 officers advised that, if the covenant was put in place (and Churston Golf Course (1st & 18th) removed from the Council's 5 year housing land supply) the Local Plan would be unsound. Since then a significant amount of additional work has been done on this issue, the Local Plan Hearing has been completed and, as reported above, the Local Plan Inspector has provided comment. In the light of this additional work and information, officers no longer believe that loss of the 1st & 18th site would, in itself, render the Local Plan unsound. However, the actions outlined above would need to be completed - if the Covenant is agreed - in order to ensure that remains the case. In particular the Council will need to identify additional land to add to the Local Plan to help meet Torbay's housing needs and further advice must be provided to show that the covenant will not set a precedent for other covenants on Council owned land included in the Local Plan.

5. Possibilities and Options

- 5.1 Appendix 1 of this report includes headline analysis of the options for further sites to be added to the Local Plan. There is a considerable amount of sustainability appraisal work to support the headline analysis. These sites were excluded from the Local Plan, because of their sensitivity in environmental terms or for other delivery reasons. Officers will, in particular, explore the potential of the first 8 sites shown in the diagram on page 3 of the appendix. It should be noted that the information in Appendix 1 has already been provided to the Inspector (see para 4.1.2 above).
- 5.2 If the Mayor does not agree the Churston Covenant officers may not need to explore the potential of these 'excluded' sites, depending also on the Inspector's decision on Torbay's objectively assessed housing need.

6. Equal Opportunities

- 6.1 An Equalities Impact Assessment has been undertaken for the new Local Plan. This will be refreshed should the Churston Covenant be agreed and if the actions identified in this report need to be taken forward.

7. Public Services (Social Value) Act 2012

- 7.1 The proposals do not require the procurement of services or the provision of services.

8. Consultation

- 8.1 The Local Plan has been the subject of substantial public consultation. This is set out in the Council's schedule of submission documents (<http://www.torbay.gov.uk/index/yourservices/planning/strategicplanning/localplanexamination.htm>)

9. Risks

- 9.1 The risks associated with approval of the Churston Covenant were set out in the report to Council (25 September 2014), which have been updated in this report, and in response to the questions asked by the Overview and Scrutiny Board (16th and 22nd October 2014).
- 9.2 There are a number of risks associated with the actions identified in the report, notably that the Council could, if the actions are not undertaken, have an unsound new Local Plan and a lack of land in its 5 year housing land supply. This would undermine efforts to secure sustainable development in the Bay.

Appendices

Appendix 1: Torbay Local Plan: 'Excluded' Sites

Additional Information

<http://www.torbay.gov.uk/index/yourservices/planning/strategicplanning/localplanexamination.htm>

Torbay Local Plan: 'Excluded' Sites

Introduction

'Excluded' sites do not feature in the new Local Plan for a reason. All of them have significant environmental constraints and/or have proven themselves to be difficult to deliver. This might be because of a national policy presumption against development (e.g. sites in AONB), impact mitigation is difficult to achieve (e.g. because the level of acceptable development isn't viable), because the land owner is not willing to develop or, quite simply, because the site - in its existing state - forms such a valuable contribution to the Bay and the sustainability of its communities that it should not be developed.

Consequently these sites should only be included in the new Local Plan if the Inspector considers that more land is required to enable Torbay to meet objectively assessed housing needs.

However, that should not be read as implying the sites should only be used for housing. Their environmental sensitivity, or other delivery related issues, makes it all the more important for sites to deliver against a range of national and local policy objectives – environmental improvements, economic benefits, green infrastructure delivery for example.

On balance, the Council's officers consider that it is better to allocate a large, deliverable (albeit sensitive) site – such as land south of White Rock – than it is to allocate a series of small sites (e.g. Sandringham Gardens and Nutbush Lane) where the sensitivity of the site makes it very difficult to deliver relatively small numbers of new homes. In addition, whilst some Council owned car parks (which in total could provide 553 spaces) score relatively well because they are urban brownfield sites, the impact of their development upon the vitality and viability of town centres etc must be taken into account.

The summary provided in the following pages is based on the Council's sustainability appraisal of each of the 34 sites and officers professional assessment of key delivery issues.

A list of the 34 sites is included on page 2 of this document. The list is geographically split. This is complemented by the maps included at the end of the document, with the 'excluded' sites shown in yellow.

Page 3 of this document includes a diagram showing the Council's opinion of the priority / deliverability of each site in relation to its environmental sensitivity.

'Excluded' sites:

Torquay

1. Sladnor Park
2. King George V Playing Field
3. Nut Bush Lane

Car parks

4. Chilcote Close
5. Hampton Avenue
6. Princes Street
7. Sheddon Hill
8. The Terrace
9. Brunswick Square
10. Meadfoot Road
11. Lower Union Lane
12. Walls Hill

Paignton

13. Bloors Site, Collaton St Mary
14. Sandringham Gardens
15. Land South of White Rock
16. Car Boot Sale site, Collaton St Mary
17. Jackson land, south of St Mary's Park, Collaton St Mary
18. Land west of Yalberton
19. Yalberton Holiday Park
20. Manor Farm, Galmpton

Car parks

21. Station Lane
22. Clennon Valley*
23. Preston Gardens
24. Paignton Harbour
25. Churchward Road
26. Victoria car park**

Brixham

27. Brokenbury
28. St Mary's
29. Copythorne Road
30. Mathill Road
31. Wall Park extensions

Car parks

32. Oxen Cove
33. Freshwater
34. Shoalstone

Priority / deliverability	Torbay Local Plan 'excluded' sites	Potential Yield	Cumulative
Land south of White Rock			355
Sladnor Park, Torquay			25
Victoria Car Park, Paignton			60
Station Lane / Great Western Car Park			35
Terrace Car park, Torquay			20
Lower Union Lane Car Park, Torquay			20
Paignton Harbour Car Park			50
Churchward Car Park			15
sub total			580
	Sandringham Gardens	20	
	Preston Gardens Car Park	20	
	Sheddon Hill Car Park	50	
	Princes Street Car Park	10	
	Brunswick Square Car Park	13	
	Chilcote Close Car Park	10	
	Meadfoot Road Car Park	20	
	Bloors site, Collaton St Mary	50	
	King George V Playing Field	100	
	St Mary's Brixham	50	
	Nut Bush Lane	30	
	Shoalstone Car Park	6	
	sub total	379	959
	Brokenbury	75	
	Clennon Valley Car Park	100	
	Hampton Avenue Car Park	12	
	Walls Hill Car Park	6	
	Oxencove & Freshwater Car Parks	100	
	Jackson Land south of St Mary's Park	200	
	Land west of Yalberton	500	
	Car Boot Sale site, Collaton St Mary	75	
	Manor Farm, Galmpton	100	
	Yalberton Holiday Park	125	
	Copythorne Road, Brixham	80	
	Mathill	20	
	Wall Park Extensions	100	
	sub total	1493	2452

Note: Where the document refers to a spread of numbers on site (e.g. 100 - 200) a mid point figure is used (e.g. 150)

Sensitivity / Environmental impact

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
Torquay			
Sladnor Park	20 - 30	13037	<p>The site is located some distance from a significant settlement and, although served by the A379, there are no proposals to upgrade the wider highway infrastructure in the vicinity (i.e. T23 Northern Distributor Road in the Adopted Local Plan is no longer proposed). It scores positive for reducing the need to travel, affordable housing and infrastructure objectives. There are significant negative impacts concerning biodiversity and landscape, as it is located within a largely undeveloped coastal landscape. The site has previous planning permissions, including for a substantial retirement village which has not been delivered, and is shown in Appendix D of the Local Plan as a site with planning permission. The Council, and to a degree the community (see emerging Neighbourhood Plan), considers that there could be scope for a small hotel and some discrete 'enabling' housing development, which would fit with and support the character of the area. The ecological impacts of the development would need to be mitigated on site.</p> <p>The site is being promoted by the landowners and is therefore deliverable, albeit for a relatively low level of development that respects the above constraints.</p>
King George V Playing Field	Up to 100	T921	<p>The site is fairly accessible and within close proximity to key services. However, the site has significant constraints. Development of the site would reduce the land available for recreational use (and the tests in NPPF paragraph 74 apply), but some of the recreational space is of poor quality and needs improvement (to which development could contribute). The wider area, which includes the site, is considered to be of less sensitive landscape than many parts of Torbay, although the eastern part is more sensitive due to relationship to Coastal Plateau. There is a CWS along the eastern and southern edge of the site. The site is located within a largely undeveloped coastal landscape. It is important that any development of this site is considered in the context of the Council's Playing Pitches and Sports Facilities Strategies, which is likely to recommend investment in King George V playing fields, and Sport England requirements. If the site is promoted for development, such development should help deliver better facilities for Torquay Golf Club, which has the potential to provide a national and international venue for women's golf.</p>

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
Nut Bush Lane	30	T728 & T731	The site is fairly accessible and within close proximity to key services (including a local centre and surgeries within moderate walking distance). It is however surrounded by Cockington estate and includes part of the Cockington Country Park at the northern, southern and western sides. The site is very visible and in an area of highly sensitive landscape. Development of the site would result in loss of Grade 3b agricultural land and would be considered as urbanisation of a highly visited and highly valued country park.
Chilcote Close & Hampton Avenue car parks	10 +12	HC062 & HC064	These two sites are brownfield land within a close proximity to key services and therefore could reduce the need to travel by car. The sites are unlikely, because of their size, to meet the requirements for affordable housing provision. Development would not cause adverse impact on biodiversity. However, both car parks provide essential parking for the St Marychurch District Centre. There may be scope for limited development of part of Chilcote Close, although this raises additional access difficulties.
Princes Street & Walls Hill car parks	10 + 6	HC070 & T788	Prince's Street site is in close proximity to Babbacombe Downs and Babbacombe Local Centre. It is well used serving Babbacombe Downs and nearby shops, eateries etc, although there is ample on-road parking in the area. There would be amenity issues from overlooking, although careful design may overcome these somewhat. The car park is close to the Babbacombe Cliffs SSSI, but development would not affect this or the coastal landscape. Consequently, there is greater potential for development at Princes St, subject to retention of the majority of car parking spaces within any new development, but overall the numbers of new homes achieved are likely to be low.
Sheddon Hill car park	Up to 50	HC076	The Walls Hill site is slightly further away from the Local Centre, although still within walking distance. The site is in close proximity to Babbacombe Cliffs SSSI and Hope's Nose and Walls Hill SSSI as well as Asheldon Copes OSWI. Development would not relate particularly well to the built up area, and may appear obtrusive. However, if sensitively managed development could avoid adverse impact on biodiversity.
			The site is fairly accessible and within close proximity to key services. Development of the site would not negatively affect biodiversity. However it is in close proximity to Torre Abbey Sands, conservation area and Princess Gardens and Rock Walk registered Historic Park and Garden. It is an important car park for day visitors to the Bay, who come to visit the beaches, theatre and nearby restaurants or walk along the promenade

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
The Terrace car park	Up to 20	HC090	<p>and into town for a range of activities. So, if the site does come forward for development, such development should secure retention of the majority of numbers of car parking spaces. As it is located within a tourism investment area, it may be better suited to tourism related business than to residential development.</p> <p>The site is accessible and within close proximity to key services. It is located on the edge of Torquay Town Centre and close to the harbour. Development of the site would not negatively affect biodiversity. However there is a flood risk area at the southern edge of the site. The final draft Torquay Town Centre masterplan shows that it is possible to clad the front (Torwood Street) elevation of the car park with residential units, whilst also retaining this important business, visitor and shopper car park. Development should not result in the significant reduction in the number of existing parking spaces.</p>
Brunswick Square car park	10-15	HC105	<p>The site is fairly accessible and within close proximity to key services in the Torre Local Centre. Development of the site would not negatively affect biodiversity. The eastern part of the site is adjacent to flood risk zone. The car park is important in meeting the needs of local businesses, visitors and shoppers to/in Torre. Consequently, development should not result in the significant reduction in the number of existing parking spaces.</p>
Meadfoot Road car park	20	HC156	<p>The site is fairly accessible and within close proximity to key services and within the town centre. Development of the site would not negatively affect biodiversity. There is a flood risk area close to the north of the site. The site provides valuable car parking facilities, especially for the night time economy and business needs. Consequently, development should not result in the significant reduction in the number of existing parking spaces and the availability of parking should be considered in conjunction with other car parks in the vicinity of the Torquay Harbour. In addition, trees around the site, which are add quality to the townscape, should be retained.</p>
Lower Union Lane car park	20+	T782	<p>A town centre site with good service and local amenities, suitable for high density development – as illustrated in the final draft Torquay Town Centre masterplan. The site will provide homes with a mix of other uses. It could provide mixed use development including commercial/retail and affordable housing, which will assist town centre regeneration and create job opportunities. Ideally the site should be developed in conjunction with other regeneration sites, in accordance with the Town Centre</p>

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
Paignton			
Bloors Site, Collaton St Mary	50 (in addition to the 30 shown in the emerging m'plan)	13219	<p>The whole site is within GHB sustenance zone and most of it is within GHB flyway. Ramshill CWS lies at the north east of the site. The valley is highly sensitive to development and the least sensitive parts of the area are already indicated in the draft Masterplan. Clennon Valley watercourse runs through the eastern and north east edge of the site and Yalberton watercourse runs in the south west of the site. Both watercourses are classified as main rivers. Development of the site would result in loss of agricultural land. Consequently, development potential is limited to the lower slopes adjacent to existing development and the village (see final draft masterplan). In addition the development will need to contribute to infrastructure improvements, flood alleviation, green infrastructure and ecology improvements (e.g. GHB flyway).</p>
Sandringham Gardens	20+	13198	<p>The site is fairly accessible, is likely to provide some affordable housing and reduce the need to travel by car. The site could accommodate limited change in areas adjoining the existing housing. It considered of moderately sensitive landscape. The site is located between two watercourses, Hollicombe Stream to the north and SW and Occombe Valley to the south and west of the site. Increased hard surface in the area could increase the risk of flooding. The site is greenfield land. The western edge is adjacent to Occombe Valley Woods LNR. The site is within the Occombe Woods East OSWI. Development of the site would result in loss of designated agricultural land. The site is a popular local greenspace, adding value to the local community, and its development may therefore conflict with paragraph 74 of the NPPF.</p>

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
Land South of White Rock	250-460	T756b	<p>The area lies within GHB sustenance zone. Manor Farm OSWI is adjacent to the south west edge of the site. The northern part of the site is designated as Long-term Environmental Monitoring Program (LEMP). Development of the site could result in loss of large areas of Grade 1, 2 and 3a agricultural land. Most of the site is open to views from the AONB to the west and south. The southern area slightly less sensitive due to visual containment.</p> <p>The site is fairly accessible and of a sufficient size to provide a critical mass of community benefits, particularly affordable housing, employment and green infrastructure. It could beneficially link into to the first phase of White Rock to the north. The site was considered as part of a call-in by the Secretary of State (in 1996-7 (P/1995/1304; SW/P/5183/220/4), but was rejected by the Inspector (and S of S) because of concerns about impact on views from the AONB, albeit in the context of employment (Class B1) buildings. However, it forms a natural extension to the approved development at White Rock. The 2013 SHLAA considered the area as being suitable for development for 250 dwellings. Initial feasibility and Masterplanning work by the landowners suggests it may be possible to overcome or mitigate some, if not all, of the landscape impacts, deliver employment space, environmental improvements, infrastructure improvements and access into the countryside. This suggests that 460 dwellings are achievable on the land, as part of a mixed use development. The site is being promoted and experience of sites elsewhere along the Western Corridor (within Policy SDP3) shows that it is likely to be highly deliverable.</p> <p>Impending (and funded) improvements to key parts of the Western Corridor will ensure this is an accessible site.</p> <p>The Council's reasons for not proposing the site are set out in the Schedule of changes to Proposed Submission Plan suggested by Torbay Council (Vol 1). However, if the reasons for the 1997 refusal can be overcome, and the significant sensitivities of the site can be overcome, it is considered to offer the best opportunity for delivery of sustainable development of sites not included in the Submission Local Plan.</p>

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
Car Boot Sale site, Collaton St Mary	75 (in addition to the 75 units in the emerging m'plan)	T720	<p>The site is close to a primary school, community hall and pub. There is a secondary school and employment facilities within moderate walking distance, and supermarkets within close (driving) distance. However the site is located at some distance from other facilities such as local shops, although delivery of the Collaton St Mary Masterplan is likely to benefit from the critical mass of community facilities.</p> <p>The whole site is within GHB sustenance zone and most of it is within GHB flyway. Development of the site could result in loss of agricultural land Grade 2. Yalberton Valley watercourse (classified as main rivers) runs close to the north and east of the site. The site is in an area of land visually contained from much of the wider surrounding area by higher land; however the west of the site is considered to be much more sensitive in landscape terms than the eastern part of the site.</p> <p>The final draft masterplan for Collaton St Mary shows how some development could be delivered on the eastern part of the site, providing benefits to Collaton St Mary as a place to live, without significant impact on a landscape that is very sensitive to change. So, further development above that promoted in the Collaton St Mary Masterplan, is likely to have a significant adverse impact on the environment. There is significant local concern about flooding and sewer capacity.</p> <p>The Council recently refused planning permission for around 175 new homes on the whole site. Any additional development will need to deliver ecological and environmental improvements, infrastructure improvements and better access to the countryside. In particular it would need to safeguard GHB corridors.</p>
Jackson land, south of St Mary's Park, Collaton St Mary	200+		<p>Development of this site is not supported by the SHLAA but has subsequently been promoted by the landowner to the Local Plan, although no yield is indicated.</p> <p>The site is distant from local services, and therefore new development could increase the need to travel by car. Development will involve loss of large areas Grade 2 and 3a agricultural land (very good and good). The whole site lies within GHB sustenance zone and the north west part of the site lies within 250m of bat flyway. Yalberton Quarry</p>

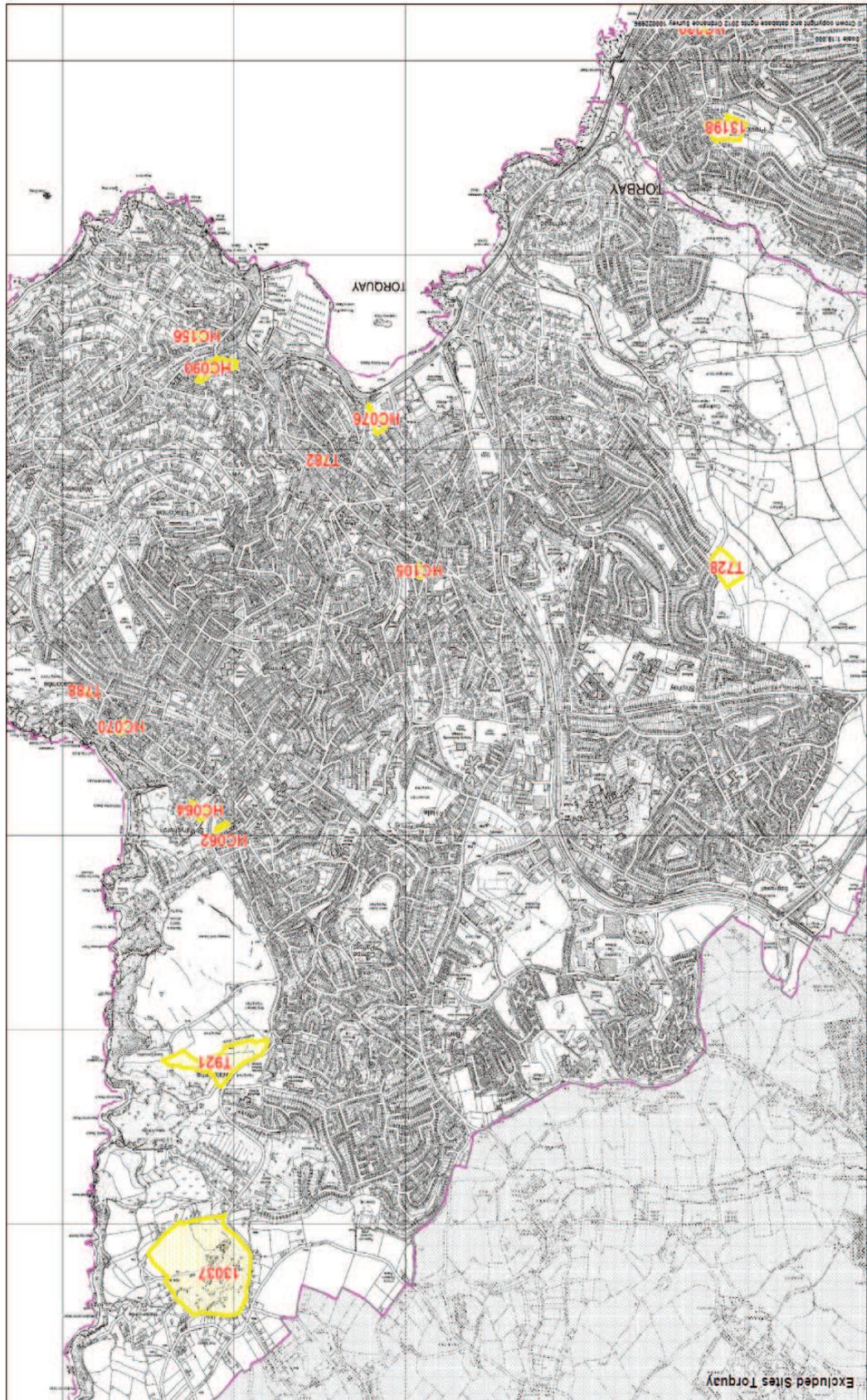
Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
Land West of Yalberton	500	T792a	<p>OSWI is adjacent to the southern edge of the site and Yalberton stream runs adjacent to the eastern edge of the site.</p> <p>The site lies in an area highly sensitive to change. There is limited visibility to the AONB, however the site would obtrude into the Yalberton Valley and South Hams. It would be difficult to accommodate any significant development without harm to the area's intrinsic character, and in particular the distinctive historic hedgerows patterns and small lanes. The Council considers the area is incapable of delivering residential development without causing harm that would significantly outweigh the benefits of development.</p> <p>This land to the west of Paington was promoted to the SHLAA (T792a). The site, as a whole, includes land within South Hams District Council's remit and would raise cross boundary issues. However approximately 25 ha is within Torbay. The site is rejected by the SHLAA due to remoteness and lack of infrastructure.</p> <p>The site would urbanise and dominate the Yalberton Valley and have a negative impact on the setting of Stoke Gabriel and the AONB. It would be difficult to accommodate any significant development without harm to its intrinsic character, and in particular the distinctive historic hedgerows patterns and small lanes. Yalberton Watercourse (main river) runs through the western edge off the site. The Council considers the area is incapable of delivering residential development without causing harm that would significantly outweigh the benefits of development.</p>
Yalberton Holiday Park	125	T768	<p>The site is isolated and distant from local services, and therefore new development could increase the need to travel by car. The whole site lies within GHB sustenance zone. The site is adjacent to Stoke Hill Road and Whitehill Lane potential CWS. There is limited visibility to Yalberton Valley from the AONB, however the area to the east of Yalberton Valley is open to views from the west. It would be difficult to accommodate any significant development without harm to its intrinsic character, and in particular the distinctive historic hedgerows patterns and small lanes. Yalberton Watercourse (main river) runs to the west of the site. Development of the site is likely to erode the character of the 'hidden gem' of Yalberton Valley, which the Council and community wants to see improved (in environmental terms) and made more accessible for sustainable tourism.</p>

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
Station Lane Great Western car park	20- 50	H1:014	The site is highly accessible by public transport. The site is brownfield land within the urban area and therefore would not negatively affect biodiversity or landscape. The site is within a flood risk area. The site is promoted in the final draft masterplan for Paignton Town Centre and in the adopted Local Plan, for mixed use development, but primarily employment space (which is otherwise in limited supply in Paignton town centre). As such the residential yield is likely to be relatively low and probably significantly below the maximum figure of 50 units.
Clennon Valley car park	100	HC219	The site is fairly accessible and is located within area of search proposed for sport facilities in the Local Plan. The site is brownfield land within the urban area and therefore would not negatively affect biodiversity. The southern part of the site is within flood risk area. The whole of the Clennon Valley area is being promoted and developed for tourism, sport and recreation. Loss of car parking spaces would have a negative impact on the existing and future use of this area.
Preston Gardens car park	20	HC239	The site is brownfield land within the urban area. It is within easy walking distance of the District Centre and is highly accessible. Development would not negatively affect biodiversity. However, it is located within flood risk area and is close to Occombe Valley watercourse. Increased hard surface in the area could increase the risk of flooding. The need for parking serving the District Centre would need to be reviewed, although there is on-street parking in the vicinity.
Paignton Harbour	50	T857	The site is fairly accessible, brownfield land within the urban area and therefore would not negatively affect biodiversity. The site is adjacent to Paignton Harbour and Roundham Head SSSI and also adjacent to flood risk area. However, redevelopment of buildings in the harbour is unlikely to directly affect the SSSI. The site could accommodate mixed use development, with retail / workshop units on the ground floor, as suggested in the final draft Paignton Town Centre Masterplan. However, the majority of car parking spaces would need to be retained, as the emerging Masterplan includes proposals to increase visitor numbers around the harbour. Such a development could help deliver public realm improvements around Paignton Harbour. Careful design would be essential to maintain the character of the Conservation Area and the charm of Paignton Harbour.

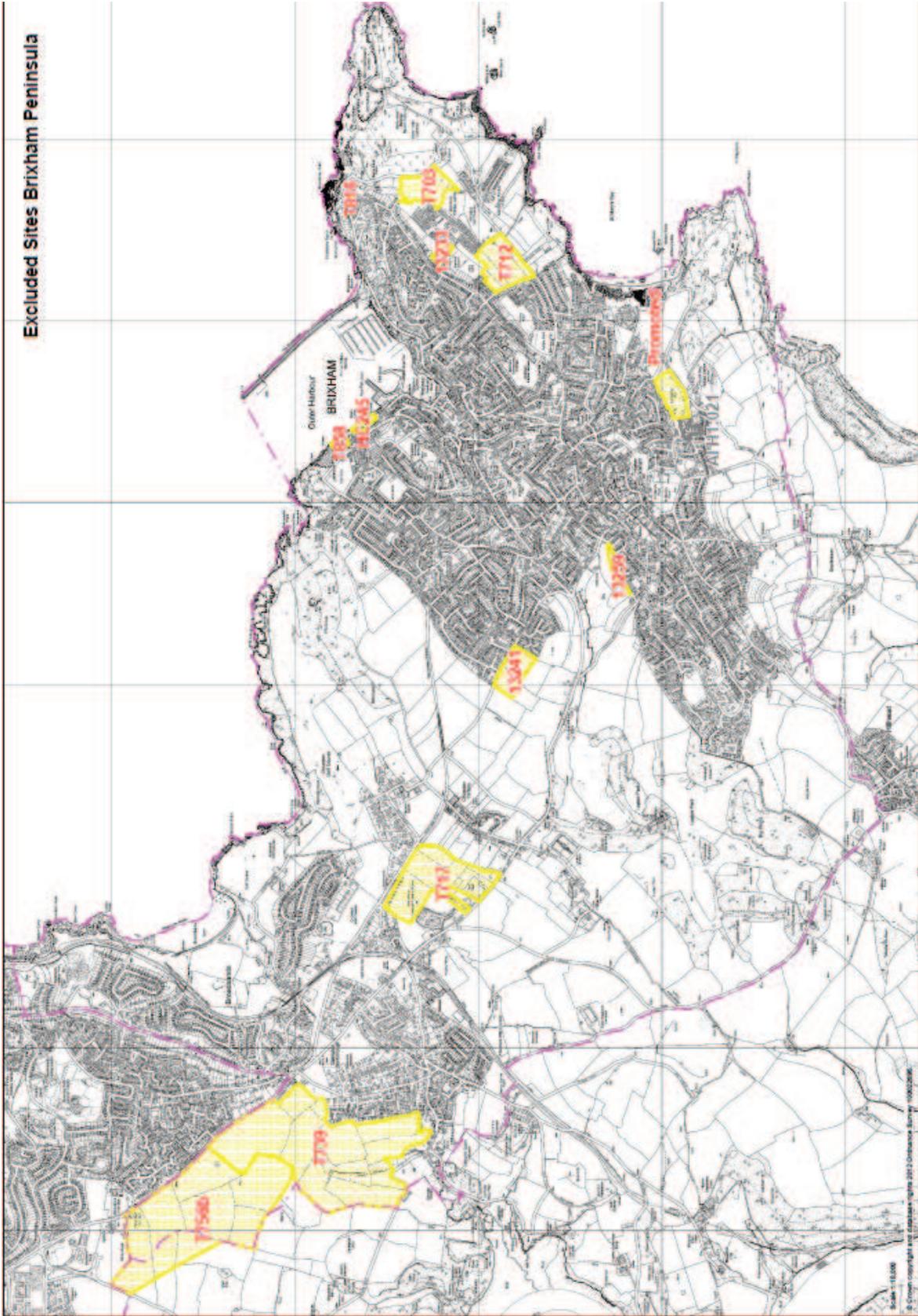
Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
Churchward Road car park	15	HC232	The site is brownfield land within the urban, within a walking distance from a local centre. Unlikely to cause adverse impact on biodiversity and landscape. The site is located within flood risk area.
Victoria Square Car Park	60	T787	The site is accessible being within the town centre and close to the Esplanade. The site, and other adjacent land, offers huge potential to support regeneration of the town centre. The site is located within a flood risk area but has no negative effects on biodiversity or landscape. The final draft Masterplan for Paignton Town Centre indicates this site, and other sites alongside, could provide a much needed regeneration project, including the relocation of the Vue Cinema from the seafront, new homes, office and commercial space. As such commercial use, possibly with residential above is likely to represent the best use of the site.
Manor Farm, Galmpton	100	T739	Development of the site, which is high visible open countryside, would result in loss of large areas of Grade 2 and 3a agricultural land (very good and good). The whole area is within a 2km buffer zone and the south west part is within a 250m buffer zone. It is also within GHB sustenance zone. Manor Farm OSWI is adjacent to the south west edge of the site and protected species has been recorded within the site. The site lies within an area that is highly sensitive to change, although parts of the southern area slightly less sensitive due to visual containment. Most of the site is open to views from the AONB to the west and south. The site is not within flood risk area; however Galmpton Watercourse (main river) is adjacent to the southern edge of the site. As such the site is not considered appropriate for development, especially if the site to the south of White Rock is considered acceptable for development as the adverse cumulative impacts of both developments would be significant.
Brixham			
Brokenbury	75	T717	The site is connected by public transport and within close proximity to other key services. Part of the site lies within a land classified as Grade 2 agricultural land. The site is also within GHB sustenance zone. Churston Railway CWS lies at the northern edge of the site. The site lies in an area highly sensitive to change, although parts of the southern site slightly less sensitive due to visual containment. Most of the site is open to views from the AONB to the west and south. The site is not within flood risk area, although Churston Watercourse (main river) runs to the east of the site. The site is also very important in terms of preventing coalescence between Churston and Broadlands and, as such, protecting the rural character of these villages. The site

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
St Mary's, Brixham	50	H1.21 and add'l site	<p>has been identified in the new Local Plan as providing much needed recreation facilities. As such, alternative space would need to be found for these facilities if this scale of residential development is to be delivered on the site. This has proven difficult to date and the most likely alternative location is within the AONB. In addition, access to the site (from the east) is poor and alternative access, potentially from the west (off Brixham Road) would need to be provided.</p> <p>Access to the site is restricted and is served by narrow roads with several sharp bends. The site lies in an area with multiple environmental constraints and is an environmentally sensitive site. It lies within South Devon AONB, GHB sustenance zone and flyways. However, whilst within the AONB, it could be considered as slightly separated from the main AONB rolling landscape. The site itself is not located in a surface water flood risk area.</p> <p>Development of the site would involve loss of camping pitches. Notwithstanding these significant sensitivities, some development of the site could be possible if it included refurbishment / replacement of some existing employment space with new employment space, a relocation of the camp site (potentially to the southern side of the site), highway improvements, ecological and environmental improvements. In particular the safeguarding of greater horseshoe bat flight paths, plus an improved tourism and employment space, will be essential ingredients of development.</p>
Copythorne Road	80	13241	<p>The site lies in an area with a number of environmental constraints. It is situated within South Devon AONB and the whole site classified as Grade 2 agricultural land. It is also a greenfield site within an area of Brixham Limestone that forms part of the New Local Plan Mineral Safeguarding Area and there are other biodiversity constraints. Consequently, whilst it appears to provide a natural extension to Brixham, the sensitivities and value of the site (e.g. for agriculture, AONB) are such that the site is considered unsuitable for development.</p>
Mathill Road	20	13259	<p>The site is on the edge of the built up area and not particularly close to local facilities. It lies in an area with multiple environmental constraints. It lies within South Devon AONB, GHB sustenance zone and flyways, classified as Grade 2 agricultural land, greenfield land. The site itself is not located in a surface water flood area. There is however a functional floodplain within 250m (Lupton watercourse and Higher Brixham watercourse to the north). As such the site is not considered appropriate for development. Part of</p>

Site	Potential yield	SHLAA Ref.	Summary comments (including SA and policy implications)
			the site is proposed for a "green" cemetery in the existing Local Plan 1995-2011, although this has not been implemented.
Wall Park extensions	100	T703 & T712 13233	<p>The site is adjacent to the main Wall Park site, where the Council has resolved to grant planning permission (subject to completion of a S106 Agreement) for 165 dwellings.</p> <p>The site is within South Devon AONB, it forms an important buffer between edge of Brixham and the NNR. Most of the site is within Berry Head Farm OSWI. It is also within GHB sustenance zone and most of the site is within the tracked bat flyway. Redevelopment of the site could increase recreational pressure on the South Hams SAC. The site is within South Devon AONB. The landscape of the site is highly sensitive to change. The site also lies on an area of Brixham Limestone that forms part of the New Local Plan Mineral Safeguarding Area. The Council has recently resolved to grant planning permission for development of the former holiday park at Wall Park, which followed extensive negotiation with the applicants and environment organisations to secure a proposal that carefully balances development with environmental sensitivities. Further development, of 'Wall Park extension' sites would represent development beyond the environmental capacity of the highly sensitive area.</p>
Oxen Cove & Freshwater car parks	50 +50	HC245 & T858	<p>The two sites are located on brownfield land within the urban area and are fairly accessible. Both sites are within the GHB sustenance zone and adjacent to the Battery Ground OSWI. They are also located within flood risk area. The sites are also the best sites in Torbay for marine related employment (see Policies TO3 and C2 and supporting text of the Submission Local Plan) and there is significant interest in use of the sites for that purpose. The sites also provide much used and important parking for visitors to Brixham. A funding bid, currently with the HoSW LEP (under Growth Deal 2), could unlock the site for employment use by allowing some relocation of car and coach parking.</p>
Shoalstone car park	6	T816	<p>The site is brownfield land within the urban area and is fairly accessible. However, it is within GHB sustenance zone and adjacent to Berry Head SAC and Berry Head Farm OSWI. The site is within flood risk area.</p>



Excluded Sites Brixham Peninsula





Meeting: Council

Date: 4 December 2014

Wards Affected: All

Report Title: Amalgamation of Torbay Pupil Referral Unit and Torbay School

Is the decision a key decision? No

When does the decision need to be implemented? 1 January 2015 – call-in has been waived for this decision

Executive Lead Contact Details: Councillor Ken Pritchard, Executive Lead for Children, Schools and Families, 01803 207313, ken.pritchard@torbay.gov.uk

Supporting Officer Contact Details: Samantha Poston, Schools Capital & Planning Officer, TDA, 01803 208260, samantha.poston@torbay.gov.uk

1. Purpose and Introduction

- 1.1 The Local Authority (LA) has a statutory duty to ensure that appropriate school provision is made available for all children within its area; including alternative provision for those with challenging behaviour who have been excluded from mainstream school.
- 1.2 As part of that duty the LA must regularly review the provision on offer and it is as a result of its recent review and its commitment to developing high quality alternative provision that the LA is putting forward the proposal to bring the provision offered by the existing Pupil Referral Unit (PRU) under the management and governance of Torbay School.

2. Proposed Decision

- 2.1 That the Torbay Pupil Referral Unit be closed from 1 January 2015.
- 2.2 That Torbay School be expanded to include 74 places for non-statemented children with challenging behaviour from 1 January 2015.

3. Reason for Decision

- 3.1. The proposals, being put forward by the LA, are to bring the PRU under the leadership and governance of Torbay School – a special school for secondary aged children with behavioural, emotional and social difficulties (BESD).
- 3.2. The alternative provision, formerly offered by the PRU, will continue to operate and deliver education from its existing sites (at Waterside, Polsham and Hillside) and admit

pupils in line with its current admission criteria including sixth day provision for excluded pupils, the only difference will be that from the implementation date it will be managed and governed by Torbay School; in line with the LA recommendations.

- 3.3. Torbay School will, therefore, become a split school site continuing to offer 60 places at its existing site on Torquay Road with the additional 74 places on offer at the alternative provision sites.
- 3.4. As these changes constitute a change in school organisation the LA has had to follow statutory guidance, this means that in order to bring these two provisions under one leadership team with one governing body and one Department for Education (DfE) number, one of the provisions had to be closed and then the other expanded to include the closed provision.
- 3.5. Therefore, technically the PRU has to close on the implementation date and Torbay School be expanded; however, by ensuring that both changes are implemented on the same day there is no break or risk to the provision/services on offer.

Supporting Information

4. Position

- 4.1 Overall demand for specialist places for primary and secondary aged children with behavioural, emotional and social difficulties (BESD) needs is rising so it was a priority for the LA to review its current arrangements and maximise opportunities for enhancing and improving that provision.
- 4.2 Historically, provision for this type of need has been developed on separate sites over a number of years and whilst these children would have specialist places available to them, these provisions were standalone without the benefit of management through a school.
- 4.3 In 2013 the LA established alternative provision for primary aged children with challenging and difficult behaviour at the Chestnut Centre, placing the leadership and governance for this provision under Mayfield Special School.
- 4.4 Then in its review of alternative provision for secondary aged children with similar needs the LA appointed the headteacher of Torbay School as the Executive headteacher of the PRU. This brought the PRU in closer alignment to Torbay School, a special school that caters for secondary aged children with BESD.
- 4.5 Since then the LA has been working closely with the headteacher to develop the alternative provision further and currently all provision for excluded secondary pupils and those with behavioural needs is now accessed via the PRU under the management of the Torbay School.

- 4.6 However, the PRU is governed by a management committee that is independent of Torbay School whilst the school is governed by a governing body. This means that the headteacher is accountable to two separate bodies that have individual budgets and not necessarily a clear understanding of the needs of the other provision.
- 4.7 The LA believes that, by bringing the PRU under the governance and leadership of Torbay School, both provisions would benefit financially and strategically.
- 4.8 Consolidating provision would enable:
- The sharing of teaching resources.
 - The sharing of BESD and specialist expertise.
 - The more effective planning of a continuum of provision secondary aged children with these needs.
 - The realisation of cost efficiencies through shared support services.
 - Opportunities for staff to work in both settings providing more job security and scope for progression.
 - Opportunities for whole staff development and training across all these provisions.
 - A more responsive approach to supporting mainstream schools to meet the needs of students with challenging behaviour.
- 4.9 The aim of this proposal is to facilitate that consolidation and the ongoing development of a high quality alternative provision for these vulnerable secondary aged children.

5 Possibilities and Options

- 5.1 The alternative option is to continue with the current situation with a standalone PRU which the LA is responsible for and which is managed by a management committee.
- 5.2 The disadvantages to this option are that the LA does not realise the opportunities identified in paragraph 4.8 above.

6. Fair Decision Making

- 6.1. The proposals were developed following long discussions between the current headteacher and LA officers.
- 6.2. Once formalised the proposals were subjected to a 4 week consultation. A copy of the consultation was sent to all interested parties including the families of those attending the provisions, all Torbay schools and the staff, governors and members of the management committee of each provision.
- 6.3. In addition the headteacher held informal meetings to discuss the proposals and their implications in more detail at each provision.

- 6.4. At the close of the consultation only 5 responses had been received, this equates to a 2.6% response rate. 100% of the responses received were in support of the proposal.
- 6.5. A copy of the consultation papers and a summary of the responses received are attached as Appendix 1 and Appendix 2 respectively.
- 6.6. Taking into account the outcome of the consultation and the fact that none of the responses were negative, the LA did not make any changes to the proposals and proceeded to the next step of the statutory process; the publication of statutory notices.
- 6.7. The notices were published on the 23rd October and in line with statutory guidance there then followed a 4 week representation period providing all parties a further opportunity to share their opinions on the proposals.
- 6.8. A full copy of the statutory notices and the full proposal are attached as Appendices 3, 4 and 5.
- 6.9. The Council did not receive any letters during the representation period. Therefore, no changes have been made to the proposals.
- 6.10. As this proposal will have an impact on provision for vulnerable young people an Equality Impact Assessment had been completed and is attached as Appendix 6.

7. Public Services (Social Value) Act 2012

- 7.1 The proposals do not directly require the procurement of services or the provision of services with the purchase or hire of goods or the carrying out of works.

8. Risks

- 8.1. If the proposal is not implemented there is a significant risk that the alternative provision would not be developed as a continuum of provision and the benefits identified in paragraph 4.8 would not be realised.
- 8.2. With any proposed change there are potentially risks to employees and service users. To minimise this and to effectively manage the transition process the Headteacher has prepared an Implementation Plan; a copy is attached as Appendix 7.
- 8.3. If the proposal is implemented then there is the risk that Torbay School could seek and attain academy status. In this incidence the buildings and land it uses, including any additional premises taken on through this proposal, would be transferred to the school. However, this would be done via a 125 year lease and the school would not be able to dispose or sell any of the land or buildings without the Council's consent. The PRU premises at the Hillside and Polsham sites are owned by the Council. The site at Waterside is leased by the Council, if the service was managed by Torbay

School and they then attained academy status, then the lease would have to transfer to them for which the Council would need landlords consent.

- 8.4. As the staff, both at Torbay School and at the PRU are directly employed by Torbay Council there will be no formal transfer of staff required. Instead staffing issues will be dealt with through internal re-organisation processes.

Appendices

- Appendix 1 Consultation Documents
- Appendix 2 Consultation Summary
- Appendix 3 Full proposal
- Appendix 4 Statutory Notice Torbay Pupil Referral Unit
- Appendix 5 Statutory Notice Pupil Referral Unit
- Appendix 6 Equality Impact Assessment
- Appendix 7 Implementation Plan

Additional Information

None

Agenda Item 11

APPENDIX 1

Appendix 1

Dear parents, staff & governors of the Pupil Referral Unit, Torbay School and other interested parties

Torbay Council has been reviewing its provision for pupils with emotional, social and behavioural difficulties. One option that the Council is now considering is to formally amalgamate the Pupil Referral Unit with Torbay School.

Under a collaborative partnership arrangement these two organisations have been working closely together for the last 2 years. The Pupil Referral Unit has been led and managed by the Headteacher from Torbay School since September 2012. As a result we now believe that it is in the best interests of both organisations to formalise that arrangement and the reasons for the proposal are outlined in the consultation paper attached.

This consultation is the first step in the amalgamation process; as stated above it provides you with more information about why this proposal is being considered and it also provides you with an opportunity to comment on what is being proposed. Any responses received will then be used to inform the decision making.

This consultation will be sent to other interested parties including other Torbay schools, the local Diocese offices and neighbouring Local Authorities.

If you require this document in a different format or would like any further information then please contact 01803 208260,

It is important to remember we are holding this consultation to gather your views.

Yours sincerely



Richard Williams
Director of Children Services

The amalgamation of the Pupil Referral Unit and Torbay School

Consultation Paper Autumn 2014

WHAT IS THE PROPOSAL?

Torbay Council is proposing to amalgamate the Pupil Referral Unit (PRU) with Torbay School.

In order to do this the council proposes to close the existing PRU and then expand Torbay Behavioural, Emotional & Social Difficulties (BESD) School to include the provision that was on offer at the referral unit.

WHY DOES THE COUNCIL WANT TO AMALGAMATE THE TWO PROVISIONS?

The Council has been reviewing its existing provision for pupils with challenging behaviour including those that are not statemented.

In 2012 the PRU was aligned more closely with Torbay School to support the development of high quality alternative provision for children and young people aged between 11 and 16. The Headteacher of Torbay School was appointed as Executive Headteacher taking over the responsibility of the PRU. Since then the Local Authority has worked closely with the Headteacher and both school Governors and the PRU management committee to continue to develop provision for vulnerable young people with behavioural and emotional health difficulties. All provision for excluded pupils and those with behavioural needs that the Local Authority has responsibility is now accessed via the PRU under the management of the Torbay School.

However, currently the PRU remains the responsibility of the Local Authority and is governed by a management committee that is independent of the Torbay School. The Headteacher of Torbay School is therefore accountable not only to his governing body but also the management committee of the PRU. Both organisations have individual budgets and neither the school governors or the management committee have a clear understanding of the needs of the other provision. The Local Authority therefore believes that it is both financially and strategically more sensible to have these services delivered by a single provider under a single management structure. This would enable the school and the PRU to effectively share resources and provide opportunities for staff to work in both settings.

To achieve this local authority is therefore formally consulting on the proposal to close the PRU and to re-designate Torbay school to provide 56 places for non statemented children that have emotional and behavioural difficulties. This will include all the sixth day provision for excluded pupils. This is in addition to the existing 60 places at Torbay School.

WHY IS IT NECESSARY TO CLOSE THE PUPIL REFERRAL UNIT?

Any changes to school organisation are governed by the DfE and their latest guidance states that, in order to bring these two education providers under one leadership team with one governing body and one DfE number, one of the

APPENDIX 1

provisions must be closed and then the other expanded to include the closed provision.

So this means that technically the PRU will have to close on the date of implementation to be specified in the statutory notice. Then on that same day Torbay BESD School will be expanded to include the provision for 56 places at the Waterleat Road, Clennen Valley, Polsham and Hillside sites for children aged 11-16 who are currently attending the PRU.

WHEN WILL A DECISION BE MADE AND WHAT HAPPENS NEXT?

The purpose of this consultation is to gather the views of interested parties on the proposal to inform the decision making process; it will run from the 15th September 2014 until 13th October 2014. After that date all the responses received will be collated and submitted for a decision on whether the Council will proceed with implementing this proposal or not.

If the Council decides to approve the proposal then the Council will publish Statutory Notices outlining it in more detail. Copies of this notice will be placed in the local newspaper and in the local area surrounding the related provision and school. There will then be a period of 4 weeks for people to make “representations” either in support or against the proposals. Full details on how to make a representation and the deadline for doing so will be outlined in the Statutory Notice.

At the end of the 4 week representation period the Council then has up to two months to decide whether to go ahead with the closure and amalgamation.

Once that decision has been made the proposals will be implemented on the date specified in the statutory notice.

It is a long process but it ensures that there is ample opportunity for all those affected to have their say.

HOW TO MAKE YOUR VIEWS HEARD

Attached to this document is a response form which gives you an opportunity to give us your views on the proposals. We do have to ask for your name since everyone and anyone is entitled to return one form only.

In addition to completing a response form, or instead of, you can also send your views by letter or email to the following addresses.

Letter: Samantha Poston
Schools Capital & Planning Officer,
Schools Capital & Planning Team, TDA
3rd Floor Tor Hill House
Union Street
Torquay
TQ2 5QW

Email: schoolscapital@torbay.gov.uk

If you would like additional copies of this document and response form, or require it in a different format or language, please call on 01803 208260.

CONSULTATION ON AMALGAMATION OF PUPIL REFERRAL UNIT AND THE TORBAY SCHOOL Response Form

Autumn 2014

This response form sets out questions relating to the Consultation Paper. Please read each question and indicate your preferred response by ticking the relevant box. Your comments are also welcome and space has been provided after each question for this purpose.

Before completing the response form, please provide the following information (block capitals)

NAME:

Please indicate which of the following you represent:

a) SCHOOL OR SCHOOLS, please specify

Please tick one of the following boxes as appropriate:

Governor

Staff

Parent

Other, please specify

b) ANOTHER ORGANISATION, please specify

1. Do you agree with the benefits of amalgamating the two provisions?

- Yes**
- No**
- Not sure**

Comments:

.....

.....

.....

.....

2. Do you have any other options for consideration?

Please indicate below any other options that are not included in this consultation, giving reasons for these and any supporting information:

.....

.....

.....

.....

THANK YOU FOR COMPLETING THIS RESPONSE FORM

Please return your completed form by **13th October 2014** to:

Samantha Poston
Schools Capital & Planning Officer,
Schools Capital & Planning Team, TDA
3rd Floor Tor Hill House
Union Street
Torquay
TQ2 5QW

APPENDIX 2

**Torbay LA Consultation on proposal to amalgamate PRU & Torbay School Autumn 2014
Consultation period: 15th September to 13th October**

Respondent	School/Organisation	Response Form or Email	Question 1 Yes/No	Comment	Any other options	LA Response
Christine Mc Neil	Devon County Council (School Organisation Manager)	Email	Yes	From the information received we would agree with the benefits of amalgamating the provision as described in the consultation document	-	-
Michelle Jones-Stephens	Torbay School (Governor & Parent)	Form	Yes	I am very pleased with the proposal, it will increase options for children within Torbay with special needs and hopefully decrease the effects of transition or referrals.	-	-
Jason Keenan	Brixham C of E Primary School (Staff)	Form	Yes	-	-	-
Nikki Bond	St Marychurch Primary (Headteacher)	Form	Yes	-	-	-
Jane English	Paignton Community & Sports Academy (Principal)	Form	Yes	1. Makes total sense from leadership & governance aspect. 2. Concern about parents perceptions, marketing job to do on ensuring parents don't think pupils are going to the Torbay School fulltime & permanently. Currently parents perceptions of the PRU is it is a temporary solution & then likely back to mainstream. 3. Does the plan include better accommodation for the PRU pupils as this is crucial for our most vulnerable & challenging pupils.	-	LA will be working closely with Torbay School to ensure that there is a smooth handover of provision and that parents are fully aware of the implications. The LA is currently reviewing the accommodation of the Torbay School and the PRU, however, the outcome of that review is separate to these proposals and dependent on sufficient capital funding.

Results:

Consultation forms sent out:

Staff (PRU & Torbay School)	55
Parents (PRU & Torbay School)	73
Governors & Management Committee	12
Other interested parties	49
Total	189
Responses Received	5
Response Rate	2.6%
Responses in support	100%

SUPPORTING INFORMATION FOR THE LINKED PROPOSALS TO:

- CLOSE TORBAY PUPIL REFERRAL UNIT and
- EXPAND TORBAY (BEHAVIOURAL, EMOTIONAL & SOCIAL DIFFICULTIES) SCHOOL

School Name & Address:	PUPIL REFERRAL UNIT The Polsham Centre 25 Higher Polsham Road Paignton TQ3 2SZ
DFE Number:	880/1106
Local Authority area:	Torbay
Diocese (if applicable):	N/A
Proposals published by:	Torbay Local Authority
Date proposals published:	23 rd October 2014
Proposed implementation date:	1 st January 2015

School Name & Address:	TORBAY SCHOOL 170b Torquay Road Paignton TQ3 2AL
DFE Number:	880/7046
Local Authority area:	Torbay
Diocese (if applicable):	N/A
Proposals published by:	Torbay Local Authority
Date proposals published:	23 rd October 2014
Proposed implementation date:	1 st January 2015

1. Description of alteration and evidence of demand:

The Local Authority (LA) proposes to close the Pupil Referral Unit (PRU) from the 1st January 2015 and then on the same day expand Torbay Behavioural, Emotional and Social Difficulties (BESD) School to include, under the school's management and governance, the provision for 74 non-statemented children aged 11-16 with emotional and behavioural difficulties at the existing PRU sites.

Overall demand for specialist places for primary and secondary aged children with BESD needs is rising so it became a priority for the LA to review its current arrangements and maximise opportunities for enhancing and developing that provision.

Historically provision for this type of needs has been developed on separate sites over a number of years and whilst these children would have specialist places available to them, these provisions were standalone without the benefit of management through a school.

Following a review in 2012 the LA appointed the Headteacher of the Torbay School as the Executive Headteacher of the PRU. This brought the PRU in closer alignment to Torbay School – a special school that caters for secondary aged children with BESD.

Since then the LA has been working closely with the Headteacher and both the school governors and the PRU management committee in the development of alternative provision; the aim was for all provision for excluded pupils and those with behavioural difficulties to be accessed via the PRU under the management of the Torbay School.

However, the PRU remains the responsibility of the LA and is governed by a management committee that is independent of the Torbay school whilst the school is governed by a governing body. This means that the Headteacher is accountable to two separate bodies that have individual budgets and not necessary a clear understanding of the needs of the other provision.

The LA believes that it is both financially and strategically more sensible to have these services delivered by a single provider under a single management structure. This would also enable the school and the PRU to effectively share resources and provide opportunities for staff to work in both settings. The overall aim is to facilitate the ongoing development of a high quality alternative provision for these vulnerable secondary aged children.

To achieve this, the LA is proposing to amalgamate the two provisions from the implementation date of 1st January 2015.

All changes to school organisation are governed by the DfE and their latest guidance states that in order to bring these two educational providers together under one leadership team with one governing body and one DfE number, one of the provisions must be closed and then the other expanded to include the closed provision. This therefore means that technically the LA must close the PRU on the implementation date whilst simultaneously expand Torbay School to include the PRU's provision.

APPENDIX 3

During the development of these proposals a consultation was carried out by the LA with all interested parties including the management committee and governing bodies of the provision affected by the proposals, all Torbay Schools, the local Diocese offices and the neighbouring local authorities. The response rate was low at 2.6%; however, all the responses received were 100% in support of the proposal.

The lack of response is regretful, but past experience shows that this is usually a sign that parties are in favour of the proposal or at least have no strong opinions against it. There will be another opportunity for parties to register their opinion through the current representation period which is outlined in paragraph 6 below.

2. Objectives (including how the proposal would increase educational standards and parental choice):

The aims of this proposal are to secure the management and governance of alternative provision for pupils aged 11 to 16 with emotional and behavioural difficulties under one provider; Torbay School.

Consolidating the PRU with Torbay School under a single management system is in line with the LA's objective to provide a more coordinated continuum of provision for secondary children with emotional and behavioural difficulties. It provides both strategic and financial benefits with the school becoming the centre for curriculum leadership across the whole BESD provision for secondary phase pupils in Torbay.

Key outcomes would be:

- The sharing of teaching resources
- The sharing of BESD and specialist expertise
- The more effective planning of a continuum of provision secondary aged children with these needs
- The realisation of cost efficiencies through shared support services
- Opportunities for staff to work in both settings providing more job security and scope for progression

3. The effect on other schools, academies and educational institutions within the area:

There will be no change to the alternative provision currently provided in Torbay; Torbay School will continue to provide sixth day alternative provision for all excluded pupils.

4. Project costs and indication of how these will be met, including how long term value for money will be achieved:

There are no project costs to implementing this proposal.

5. Implementation and any proposed stages for implementation:

The proposals are being published and implemented by Torbay Council; the proposed implementation date for both proposals is 1st January 2015.

6. A statement explaining the procedure for responses: support; objections and comments

The statutory notice detailing this proposal was published on the 23rd October 2014 in line with statutory guidance.

There now follows a 4 week representation period during which time parties can write in either in support or opposing the proposals.

These representations will then be collated and shared with the decision maker as they make the final decision as to whether implement the proposals or not.

The representation period will begin from the date of publication 23rd October 2014 until 20th November 2014.

Representations need to be forwarded by the closing date to:

Samantha Poston
Schools Capital & Planning Officer, Schools Capital & Planning Team
TDA
Tor Hill House
3rd Floor South
Union Street
Torquay
TQ2 5QW

Statutory Proposal to close Torbay's Pupil Referral Unit

Notice is hereby given in accordance with Section 19(1) of the Education and Inspections Act that Torbay Council intends to discontinue Torbay's Pupils Referral Unit, a maintained pupil referral unit, 25 Higher Polsham Road, Paignton TQ3 2SZ from 1st January 2015.

The Council will be simultaneously reinstating provision for pupils with emotional and behavioural difficulties by increasing the capacity at Torbay Behavioural Emotional and Social Difficulties (BESD) School to include this provision. The expansion of Torbay BESD School is being published in a separate statutory notice and also has an implementation date of 1st January 2015.

This notice is an extract from the complete proposal. Copies of the complete proposal can be obtained from: Samantha Poston, Schools Capital & Planning Officer, Schools Capital & Planning Team, TDA, 3rd Floor South Tor Hill House, Union Street, Torquay TQ2 5QW or viewed online at www.torbay.gov.uk/statutorynotices.

Signed:  Richard Williams, Director of Children Services

Publication Date: 23rd October 2014

Explanatory note:

This proposal is directly linked to the statutory proposal to expand Torbay School also being published by Torbay Council today. Both of these proposals have an implementation date of 1st January 2015 to ensure that there is no break in provision.

In 2012 the PRU was aligned more closely with Torbay School to support the development of high quality alternative provision for children aged 11-16 with emotional and behavioural difficulties. This led to the appointment of the Headteacher of the Torbay School as the Executive Head of the PRU. By July all provision for excluded pupils, that the Council has responsibility for, will be accessed via the PRU under the management of the Torbay School. The Council believes, therefore, it would be beneficial both financially and strategically to have both these services delivered by a single provider with a single management structure. These two linked proposals will result in the amalgamation of the provision for children and young people aged 11-16 with emotional and behavioural difficulties under one provider.

The new provision will be delivered from the sites currently being used by the PRU so Torbay BESD School will become a split school site.

Statutory Proposal to Expand and alter the designation of Torbay School

Notice is hereby given in accordance with Section 19(1) of the Education and Inspections Act 2006 that Torbay Council intends to make a prescribed alteration to Torbay School, a community special school for children with Behavioural, Emotional and Social Difficulties (BESD), Torbay Road, Paignton TQ3 2AL from 1st January 2015.

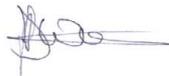
Torbay School currently, and will continue to, offer 60 places for pupils aged 11 -16 with Behavioural, Emotional and Social Difficulties at its site on Torbay Road.

Torbay Council is proposing to increase the capacity of the school by including, under the school's management and governance, the provision for 74 non-statemented children aged 11-16 with emotional and behavioural difficulties. This provision is currently provided and will remain at the Waterside, Hillside and Polsham Centre sites.

Torbay School will, therefore, become a split site school with the school's senior managers working on, and the governors taking responsibility for, all the sites.

This notice is an extract from the complete proposal. Copies of the complete proposal can be obtained from: Samantha Poston, Schools Capital & Planning Officer, Schools Capital & Planning Team, TDA, 3rd Floor South Tor Hill House, Union Street, Torquay TQ2 5QW or viewed online at www.torbay.gov.uk/statutorynotices.

Signed:



Richard Williams, Director of Children Services

Publication Date:

23rd October 2014

Explanatory note:

This proposal is directly linked to the statutory proposal to close Torbay's Pupil Referral Unit (PRU) also being published by Torbay Council today. Both of these proposals have an implementation date of 1st January 2015 to ensure that there is no break in provision.

In 2012 the PRU was aligned more closely with Torbay School to support the development of high quality alternative provision for children aged 11-16 with emotional and behavioural difficulties. This led to the appointment of the Headteacher of the Torbay School as the Executive Head of the PRU. By July all provision for excluded pupils, that the Council has responsibility for, will be accessed via the PRU under the management of the Torbay School. The Council believes, therefore, it would be beneficial both financially and strategically to have both these services delivered by a single provider with a single management structure. These two linked proposals will result in the amalgamation of the provision for children and young people aged 11-16 with emotional and behavioural difficulties under one provider.

The new provision will be delivered from the sites currently being used by the PRU so Torbay BESD School will become a split school site.

Equality Impact Assessment (EIA): Amalgamation of Torbay Pupil Referral Unit and Torbay School

Name (Key Officer/Author):	Samantha Poston	Business Unit:	Schools Capital & Planning, TDA
Position:	Schools Capital & Planning Officer	Tel:	01803 208260
Date:	7 th November 2014	Email:	Samantha.poston@torbay.gov.uk

Since the Equality Act 2010 came into force the council has continued to be committed to ensuring we provide services that meet the diverse needs of our community as well as ensure we are an organisation that is sensitive to the needs of individuals within our workforce. This Equality Impact Assessment (EIA) has been developed as a tool to enable business units to fully consider the impact of proposed decisions on the community.

This EIA will evidence that you have fully considered the impact of your proposal / strategy and carried out appropriate consultation with key stakeholders. The EIA will allow Councillors and Senior Officers to make informed decisions as part of the council's decision-making process.

Executive Lead / Head Sign off:

Executive Lead(s)	Ken Pritchard	Executive Head:	Richard Williams
Date:	7 th November 2014	Date:	7 th November 2014

Relevance Test – ‘A Proportionate Approach’

Not all of the proposals or strategies we put forward will be ‘relevant’ in terms of the actual or potential impact on the community in relation to equality and vulnerable groups. For instance, a report on changing a supplier of copier paper may not require an EIA to be completed whereas a report outlining a proposal for a new community swimming pool or a report proposing a closure of a service would. Therefore before completing the EIA please answer the following questions. If you answer ‘yes’ to any of the questions below you must complete a full EIA.

1)	Does this report relate to a key decision?		N
2)	Will the decision have an impact (i.e. a positive or negative effect/change) on any of the following: <ul style="list-style-type: none"> The Community (including specific impacts upon the vulnerable or equality groups) Our Partners The Council (including our structure, ‘knock-on’ effects for other business units, our reputation, finances, legal obligations or service provision) 	Y Y	N

APPENDIX 6

Section 1: Purpose of the proposal/strategy/decision

No	Question	Details
1.	Clearly set out the proposal and what is the intended outcome?	<p>The proposal being put forward by the Local Authority (LA) is to bring the Pupil Referral Unit (PRU) under the leadership and governance of Torbay School – a special school for secondary aged children with behavioural, emotional and social difficulties (BESD).</p> <p>The LA has a statutory duty to ensure that appropriate school provision is made for all children with special and alternative needs and to ensure that provision is kept under review. Overall demand for specialist places for primary and secondary age children with behavioural, emotional and social difficulties (BESD) is rising so it became a priority to review the current arrangements for children with these needs and maximise opportunities for enhancing and improving that provision.</p> <p>In 2013 the LA established alternative provision for primary aged children at Chestnut and placed the leadership and governance for this provision under Mayfield Special School.</p> <p>The LA also considered options for developing a high quality alternative provision for secondary aged children and as part of this process appointed the Headteacher of Torbay School as the Executive Headteacher of the PRU. This brought the two provisions in closer alignment and since then the LA has been working closely with the Headteacher to develop the provision.</p> <p>However, currently the PRU remains a standalone provision under the responsibility of the LA; it is governed by a management committee that is independent of Torbay School whilst the Torbay School is governed by its governing body. This means that the Headteacher of Torbay School is therefore not only accountable to his governing body but also the management committee of the PRU. Both organisations have individual budgets and neither the school governors or the management committee have a clear understanding of the needs of the other provision.</p> <p>By bringing the PRU under the governance of the Torbay School the LA believes both provisions would benefit financially and strategically. By consolidating provision under a single provider would enable them:</p> <ul style="list-style-type: none"> • To share teaching resources • To share BESD expertise • To plan more effectively a continuum of provision for vulnerable secondary aged young people • To reduce the pressures and conflicts for the Headteacher • To provide opportunities for staff to work in both settings providing more job security & scope for

APPENDIX 6

No	Question	Details
		<p>progression</p> <ul style="list-style-type: none"> • To facilitate the further development of a consolidated high quality provision • To realise cost efficiencies through shared support services such as admin <p>The intended outcome is that:</p> <ul style="list-style-type: none"> • The governance and management of the PRU will come under Torbay School • That Torbay School continues to offer 60 places for children with BESD at its site on Torquay Road Paignton and become a split school site offering 74 places for non-statement children that have BESD at the sites currently being used by the PRU • The provision will continue to offer sixth day provision for excluded pupils in line with the LA's duty
2.	Who is intended to benefit / who will be affected?	<p>It will benefit:</p> <ul style="list-style-type: none"> • Young persons aged 11-16 with BESD as it will give them access to a wide range of provision under the one provider • Young persons aged 11-16 currently attending the PRU as it will bring the provision under the management of a school and pupils will benefit from shared expertise from this BESD special school • Staff at the existing provisions through the sharing of resources and expertise plus the increase in job security and opportunities for progression • The Headteacher through having one body to answer to thereby reducing possible areas of contention

Section 2: Equalities, consultation and engagement

Torbay Council has a moral obligation as well as a duty under the Equality Act 2010 to eliminate discrimination, promote good relations and advance equality of opportunity between people who share a protected characteristic and people who do not.

The **equalities, consultation and engagement** section ensures that, as a council, we take into account the Public Sector Equality Duty at an early stage and provide evidence to ensure that we fully consider the impact of our decisions / proposals on the Torbay community.

Evidence, consultation and engagement

No	Question	Details
3.	Have you considered the available evidence?	In 2013 the LA established a unit for primary aged children with behavioural needs under the management and leadership of Mayfield Special School. Linked to this was the change in age range of Torbay School so that it

No	Question	Details																					
		<p>only admitted secondary aged young people. These changes enabled Torbay School to offer more, much needed, secondary places and to focus its resources on that age group. These changes have been successfully implemented. The LA is now keen to build on this and develop its alternative provision for secondary aged pupils.</p> <p>The existing PRU delivers to the secondary age group many of whom have been excluded from school due to their challenging behaviour. So there is a correlation between the type of provision that is on offer at the PRU and that on offer at Torbay School; both have young people of a similar age with similar behavioural needs. And there is clearly an established need for the provision and it has steadily risen over the past years as the table below indicates:</p> <table border="1" data-bbox="576 546 858 1451"> <thead> <tr> <th>Year</th> <th>Spring Census PRU Number on Roll</th> <th>Number excluded from other schools</th> </tr> </thead> <tbody> <tr> <td>2009</td> <td>41</td> <td>28</td> </tr> <tr> <td>2010</td> <td>42</td> <td>27</td> </tr> <tr> <td>2011</td> <td>47</td> <td>30</td> </tr> <tr> <td>2012</td> <td>48</td> <td>28</td> </tr> <tr> <td>2013</td> <td>52</td> <td>35</td> </tr> <tr> <td>2014</td> <td>53</td> <td>37</td> </tr> </tbody> </table> <p>The proposals here will have no impact on the quantity or type of provision offer. There are currently 74 places on offer at the PRU there will be 74 alternative provision places on offer under Torbay School. There are currently 60 places on offer at the Torbay School site and these will remain. The objective of these proposed changes are to make more effectively use of the LAs available resources to better serve the needs of these vulnerable young people.</p> <p>Another LA which has taken a similar strategy in amalgamating their PRU with a special school is Neath Port Talbot Council. As stated in their Cabinet Report, 'to develop the potential for pupils at Bryncoch PRU to further benefit from the schools, expertise and facilities available at the special school, it is proposed to transfer management responsibility for these pupils to the governing body of the newly established special school'. This proposal was approved by their Cabinet on 30th July and will be implemented on 1st January 2015.</p>	Year	Spring Census PRU Number on Roll	Number excluded from other schools	2009	41	28	2010	42	27	2011	47	30	2012	48	28	2013	52	35	2014	53	37
Year	Spring Census PRU Number on Roll	Number excluded from other schools																					
2009	41	28																					
2010	42	27																					
2011	47	30																					
2012	48	28																					
2013	52	35																					
2014	53	37																					

APPENDIX 6

No	Question	Details
4.	How have you consulted on the proposal?	<p>As part of the statutory decision making process the LA has carried out two consultations to engage and get feedback from the school, families and communities affected by these proposals. This included a written consultation paper which was sent to the families of those attending the 2 provisions, to the Headteachers of schools within Torbay, neighbouring LAs, the local diocesan offices and local Councillors. The consultation paper outlined the proposals being put forward, their objective and the process for implementing them. The consultation ran from 15th September 2014 until 13th October 2014.</p> <p>The second opportunity for interested parties to register their support or objection was during the representation period which followed the publication of the proposals in the local newspaper and on the Council website. This covered a 4 week period from the date of publication on the 23rd October 2014 until the 20th November 2014.</p>
5.	Outline the key findings	<p>In total only 5 responses were received by the close of the written consultation, this equates to a 2.6% response rate. Of those responses 100% were in favour of the proposals. A copy of the consultation paper and results are attached to the Full Council report.</p> <p>As all the responses received were in support the LA has not made any changes to its proposals. However, there was a comment made by one of the consultees regarding the importance of keeping parents and carers informed and aware of what these changes mean to them. The LA has taken this on board and can confirm that it will be working closely with the school to ensure that there is a smooth transition on implementation day, that all parties are kept informed and that any arising issues are addressed. An Implementation Plan has been developed and is attached to the Council Report.</p> <p>Copies of the notices that were published, the full proposal and the responses received are attached to the Council report. The Council did not receive any representations during the 4 week period so; therefore, no changes have been made to the proposals as a result of this exercise.</p>
6.	What amendments may be required as a result of the consultation?	<p>As all the responses received have been in support of the proposal the LA will not be making any changes to the proposal outlined in paragraph 1 above.</p>

APPENDIX 6
Positive and negative equality impacts

		Details		
No	Question	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
7.	Identify the potential positive and negative impacts on specific groups			
	Older or younger people	<p>By bringing the PRU under the governance of the Torbay School the LA believes that both provisions and pupils would benefit. By consolidating provision under a single provider would enable:</p> <ul style="list-style-type: none"> • Stability of provision • To give young people access to a wider range of provision under one provider • Existing and future pupils will benefit from shared experience & expertise 	<ul style="list-style-type: none"> • No negative impact 	<ul style="list-style-type: none"> • There would be no impact on those children already attending the provisions
	People with caring Responsibilities	<p>By bringing the PRU under the governance of the Torbay School the LA believes that both provisions and pupils would benefit. By consolidating provision under a single provider would enable:</p> <ul style="list-style-type: none"> • Stability of provision • To give young people access to a wider range of provision under one provider • Pupils will benefit from shared experience & expertise 	<ul style="list-style-type: none"> • No negative impact 	<ul style="list-style-type: none"> • No neutral impact
	People with a disability	<ul style="list-style-type: none"> • The proposal is in line with the Council's objective of prioritising vulnerable children and children with 	<ul style="list-style-type: none"> • No negative impact 	<ul style="list-style-type: none"> • No neutral impact

APPENDIX 6

No	Question	Details
		<ul style="list-style-type: none"> special educational needs By developing this provision the LA is helping to ensure that all children have an equal opportunity to achieve & succeed
Women or men		<ul style="list-style-type: none"> No differential impact
People who are black or from a minority ethnic background (BME)		<ul style="list-style-type: none"> No differential impact
Religion or belief (including lack of belief)		<ul style="list-style-type: none"> No differential impact
People who are lesbian, gay or bisexual		<ul style="list-style-type: none"> No differential impact
People who are transgendered		<ul style="list-style-type: none"> No differential impact
People who are in a marriage or civil partnership		<ul style="list-style-type: none"> No differential impact
Women who are pregnant / on maternity leave		<ul style="list-style-type: none"> No differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)		<ul style="list-style-type: none"> No differential impact
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)		<ul style="list-style-type: none"> No differential impact

APPENDIX 6

No	Question	Details
8.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	No cumulative impacts – Council wide
8b	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	No cumulative impacts – Other public services

Section 3: Mitigating action

No	Action	Details
9.	Summarise any negative impacts and how these will be managed?	No negative impacts have been identified during the consultation or this process.

T

Section 4: Monitoring

No	Action	Details
10	Outline plans to monitor the actual impact of your proposals	The LA will work closely with Torbay School to ensure that it has everything it needs to deliver an effective provision. An Implementation Plan has been prepared by the Headteacher and is attached to the Council Report. This plan will be reviewed and monitored by the Headteacher.

Section 5: Recommended course of action

No	Action	Outcome	Tick ✓	Reasons/justification for recommended action
11.	State a recommended course of action	Outcome 1: No major change required	✓	No major change to the proposal is required as no negative comments have been received and no negative impacts identified. The proposal does not present any significant changes to the service currently on offer to its users.
		Outcome 2: Adjustments to remove barriers		
		Outcome 3: Continue with proposal		
		Outcome 4: Stop and rethink		

Agenda Item 11

Appendix 7

APPENDIX 7

Proposed closure of Torbay Pupil Referral Unit and Re-designation of Torbay School

Proposed implementation date – January 1st 2015

Considerations and plans for implementation

Rationale

To continue to develop an outstanding educational provision for secondary students across Torbay who require education outside of mainstream schools due to significant social, emotional, behavioural, mental health difficulties or who are at risk of or are excluded from school.

To increase standardisation and integration of systems and processes to create a continuum of high quality educational provision that enables the individual needs of students to be identified and met.

To work with an increasingly multi agency approach that is supported by the Local Authority and which recognises the complex and wide ranging needs of students unable to achieve in mainstream schools. This includes, but is not limited to, safeguarding and child protection concerns, mental health needs, specific learning and developmental needs, antisocial and criminal behaviour in the community and housing needs.

Context

Torbay School is a Special School for up to 56 children between the ages of 11 and 16 with a statement (now Education, Health and Care Plan or EHCP) for Social Emotional and Mental Health Difficulties (SEMHD) (prior to Sept 14 Special Educational Needs and Disability reform, known as Behavioural, Emotional and Social Difficulties (BESD)). It is based in Preston, Paignton, and also operates a number of 1:1 provisions for high and complex need students and is currently in the process of setting up an off-site provision for vulnerable girls. The school is a co-educational provision. However, in its 10 years of operation, it has always had a minimum of 90% boys on roll. As part of its 56 places the school also offers assessment places for students undergoing statutory assessment for SEMHD. Each of these places is individually agreed with the School Services manager for Torbay Council.

Torbay Pupil Referral Unit (TPRU) has undergone significant remodelling in the last 2 years led by the Executive Headteacher and in conjunction with Torbay Council. It now offers up to 74 places of educational provision for students who are at risk of exclusion from mainstream schools or who are excluded from mainstream schools. It also offers education for students from the 6th day of exclusion from school, pending ratification/appeal of decisions. TPRU offers personalised programmes for students who require a far higher teacher student ratio than mainstream schools can offer and works in partnership with the YMCA, South Devon College and all the mainstream secondary schools and academies to provide appropriate education for

APPENDIX 7

students who cannot access full-time education in mainstream provisions due to their challenging behaviour, social and emotional and mental health needs.

TPRU also provides an assessment provision that enables the Torbay Council chaired Pupil Placement Panel to make informed decisions about the most appropriate placement for students.

TPRU has operated from a variety of buildings in its recent history but currently delivers its KS4 (year 9-11) provision from the Waterside Centre in Paignton and is moving its Assessment Centre work from Polsham to Hillside Learning Centre. This enables a vulnerable girls groups to operate from the Polsham site.

Torbay School currently employs a total of 41 staff. TPRU employs 19 staff. 19 staff employed by Torbay School have contracts that require them to work across both organisations. All of these staff hold Torbay Council contracts of employment.

The journey so far

This proposal requires the closure of TPRU and the redesignation of Torbay School. However, it should be noted that this proposal is in effect a “merger” of two organisations where all the employees remain employed by Torbay Council (the term “merger” will be used in this document to reflect the outcome of the above while recognising the facts).

However, because it is crucial for the Leadership and Governance of Torbay School and the Local Authority to maintain the continued development and improvement of the school it is essential that the school retains its existing Department for Education number. This was also agreed to be the best way to proceed with Her Majesty Inspector who is working with the school on its journey to “Good and outstanding” and I also understand this was agreed with the DFE as the most effective and efficient way to move these two organisations forward.

The current Executive Headteacher of Torbay School and Torbay PRU was appointed in January 2012 with a brief of aligning both provisions so that they could become one organisation in the future. This has required significant work and the current consultation is the culmination of three years of improvement work in both organisations. Ofsted recognised this after their inspections of both organisations in November 2013 and appointed one HMI to work across both centres to support the ongoing work of bringing the two organisations together.

Torbay School and TPRU now work very closely together. As already stated, the Executive Headteacher works across both organisations, as does the School Business Manager. Catering, IT support, cleaning and premises management are also managed and operate across the two organisations. All contracts of new staff since September 2013 have stated that the requirement to work across both organisations may be required in the future and clarity to the close working relationship has been provided during recruitment processes.

APPENDIX 7

The chair of Torbay Governing Body took over the chair of TPRU management committee in November 2013 in a deliberate move to continue the alignment of both provisions. During the last year policy and practice has been developed across both organisations and IT systems, behaviour management systems, data tracking and management systems, exams administration, shared commissioning, health and safety and building and services shared procurement has further joined up the two provisions.

The proposals in this consultation will cement this joined up working and ensure that the improvement in standards and outcomes in both provisions would continue and be underpinned by a well-established leadership and management team.

Changes as a result of the proposed closure of the TPRU and redesignation of Torbay School.

1. Staff contracts would remain the same with Torbay Council. Staff could be required to work across any part of the new single organisation. Existing contracts already state that staff can be required to work at different sites.
2. The TPRU Management Committee would cease to operate and full governance would be the responsibility of Torbay School Governing Body. This Governing Body would be reconstituted as detailed in Appendix 1. It should be noted that in the Ofsted inspection Torbay School Governing Body was judged to be good. An external report was required into the governance of the TPRU and the findings of this made strong recommendations that significant changes needed to take place to ensure the group was fit for purpose. This included changes of membership. The newly reconstituted Governing Body would appoint agreed members of the Management Committee to reflect the need for mainstream school and academy representatives to be part of this governance.
3. Admissions processes for each organisation would remain the same as they are currently. However, once part of the organisation, a variety of settings and group sizes will enable provision to be more specifically personalised to meet the needs of individual learners. It is envisaged that a student on the roll of the school would be able to access learning in a variety of locations that best meets their need and the need of other students. (For example, when a student has a conflict with another student, a period of cooling off could be achieved by moving one student to another site prior to mediation and restorative work with both individuals enabling them to work in the same building.)

APPENDIX 7

Implementation from Sept 14 - January 2015. (pending outcome of consultation)

As outlined above significant work has already taken place to enable the potential merger of the two organisations to be a smooth and seamless process.

Communication prior to and throughout the consultation period has been conducted with all staff of both organisations and both governing bodies. This has been done in writing, in formal staff meetings, in small group question and answer sessions, in offers of one to one meetings and has included trade union representatives at all stages.

All employment issues have been considered with Human Resources, Payroll and Pensions, in consultation with trade union representatives of all staff.

Letters sent to all parents/carers informing them of the consultation, inviting them to respond and explaining the rationale for the proposals.

The community has been informed through statutory notices displayed outside each site, press releases and community engagement events at Torbay School.

There are no contractual changes, no impact on pensions, no TUPE considerations as all staff remain employed by Torbay Council, no redundancies as all staff remain in current posts and no additional capital or building requirements (over and above planned expansion into Torquay that is already underway). The only change from a Human Resources perspective is that post titles and staff employment numbers would change. Torbay Council are prepared for this work.

The other key change is that the budgets would be amalgamated for the remaining period of the financial year 14/15. Numerous discussions on how the funding formula will be developed in future years to reflect the changing nature and work of the organisation are underway with officers. There is no additional cost of either existing provision as a result of this "merger".

Contracts currently held by the TPRU would transfer to Torbay School - eg photocopiers, cleaning and maintenance. Much of this work has already been centralised.

Please note that all the alignment work up to the date of the decision to proceed with the "merger" are actions that would happen irrespective of the final decision and are part of aligning two organisations under one leadership and management team, work that was begun in 2012 by the Local Authority in the appointment of an Executive Headteacher across both provisions. Any actions required for the full "merger" would not be implemented until after the proposal is confirmed by Full Council and receives approval from the Mayor.

APPENDIX 7

Summary of actions post approval

- Agree remainder of TPRU budget to transfer to Torbay School. Already agreed with Torbay Council Children Finance department that there is no change to staff or cost base. 10/6/2014
- Revise MIS system merge with Scomis Reviewed - £730. 10/1/2014 - this will merge student and staff data bases.
- Letter to suppliers re change to Torbay School
- Letter re external contracts - no issue as paid BACS by Torbay Council so no change from suppliers view
- Formal accounts closure as at 31st December 2014.
- New contracts will be issued under the name of Torbay School - HR have been requested to check whether Devon conditions still apply on a small number of staff that transferred from Devon when TPRU started - this ongoing
- Revise budget structure for April 2015.

James Evans

Executive Headteacher.

Torbay School and Torbay Pupil Referral Unit

14th November 2014.

Appendix One.

Proposed Governance arrangements. Reconstitution of the Torbay School Governing Body. Chair of Torbay School Governing Body and Torbay PRU Management Committee, Iris Butler.

If it is agreed to amalgamate the Torbay Pupil Referral Unit (PRU) with Torbay School, it will be necessary to reconstitute the Governing Body of the Torbay School. The reconstitution will be in line with the requirements of the Department for Education publication "The Constitution of Governing Bodies of Maintained Schools" issued in May 2014.

Members of the Governing Body of the Torbay School and members of the Management Committee of the PRU have undertaken a skills audit in the last twelve months. Having reviewed the skills, knowledge and experience of the Governors/Management Committee members and the needs of the reconstituted Governing Body, it is proposed that the following Governors from the Torbay School are retained:

Iris Butler	Co-opted Governor	(Chair)
Philip Gregory	Co-opted Governor	(Vice-Chair)
James Evans	Headteacher	
Michelle Jones-Stephens	Parent Governor	
Dr John Broomhall	LA Governor	
Angela Tucker	Co-opted Governor	
Julie Shears	Staff Governor	

It is also proposed that two members of the PRU Management Committee be appointed to the Torbay School Governing Body - namely:

Glyn Penrice	Co-opted Governor
Claire Terry	Co-opted Governor

Two new Governors will be appointed - a second Parent Governor and a further Co-opted Governor. This will ensure the Governing Body has the relevant skills and experience necessary to be effective in our role of providing strategic leadership, holding the Executive Headteacher to account and making certain that the School's finances and resources are well managed.

The following Committee structure will be put in place from 1st January 2015, with the full Governing Body and sub-committees meeting as follows:

Full Governing Body	6 meetings each academic year
Raising Achievement Committee	6 meetings each academic year
Behaviour and Safeguarding Committee	3 meetings each academic year

APPENDIX 7

Finance and Premises Committee	3 meetings each academic year
Personnel Committee	3 meetings each academic year



Meeting: Council

Date: 4 December 2014

Wards Affected: All Wards

Report Title: Proposed Council Tax Support Scheme 2015/16

Is the decision a key decision? Yes

Executive Lead Contact Details: Mayor Oliver, Mayor and Executive Lead for Employment and Regeneration, Finance and Audit, email mayor@torbay.gov.uk

Supporting Officer Contact Details: Linda Owen, Revenue and Benefits, Town Hall, Castle Circus, Torquay, TQ1 3DR, telephone 01803 207572, email Linda.owen@torbay.gov.uk

1. Purpose and Introduction

- 1.1 To update members on the background of the current scheme and recommendations for delivering a local Council Tax Support scheme with effect from April 2015.
- 1.2 For each financial year billing authorities must consider whether to revise or replace its current scheme. The Council must approve the final scheme by 31st January each year, even if no changes are proposed. Council Tax Support schemes cannot be changed mid-year.

2. Proposed Decision

- 2.1 That the uprating of working age personal allowances and non dependant deductions for Council Tax Support from 1 April 2015 is in line with the uprating for national welfare benefits.
- 2.2 That the uprating of pension age household allowances for Council Tax Support from 1 April 2015 is in line with the Prescribed pensioner scheme for Council Tax Support from 1 April 2015 set by the Government.
- 2.3 That an Exceptional Hardship Fund for 2015/2016 of £80,000 be approved to top up Council Tax Support awards in appropriate cases.
- 2.4 That the Executive Head of Finance be given delegated authority, in consultation with the Mayor and Executive Lead for Employment and Regeneration, Finance for Audit, to make any further adjustments required to the Exceptional Hardship Policy and Fund and the Vulnerable policy.

3. Reason for Decision

- 3.1 If the personal allowances were not uprated working age residents would effectively have a cut in their entitlement as the cost of living increases.
- 3.2 In the case of non-dependent deductions, the general taxpayers would pick up the cost of living increase rather than other adults in individual households who could contribute to these costs. Additionally, uprating these allowances will not significantly increase the costs falling on this council and its taxpayers.
- 3.3 Appendix 2 provides details of the 2015/16 schemes in Devon.

Supporting Information

4. Position

- 4.1 Prior to April 2013 the national Council Tax Benefit scheme was available to taxpayers on low incomes to assist them with their Council Tax liability. This scheme had been in operation since 1993.
- 4.2 Following changes introduced by the Local Government Finance Act 2012, local authorities had to devise their own local schemes for low income households to take effect from 1 April 2013.
- 4.3 This was against a backdrop of reduced Government funding of approximately ten per cent, at a cost of £1.6m to the Council when compared to the funding given for the previous Council Tax Benefit scheme.
- 4.4 Torbay's scheme was prepared as part of a Devon wide approach, where the overarching principle was to develop a cost neutral scheme. However, it was unlikely that each authority's scheme would be identical, or produce the same end result for residents across the county, because of the different local demographics and the constraints placed on the design of local schemes by the government.
- 4.5 A detailed analysis of over 35 different financial models of reducing support was evaluated, based upon the principles of fairness, ease of understanding and ease of administration, taking into account the demographic profile of Council Tax Benefit claimants in Torbay.
- 4.6 The proposed scheme and its financial impacts were calculated by changing specific variables that are used in the Council Tax Benefit Regulations 2006. As defined by the Department of Communities and Local Government (DCLG), all pensioners are protected under the national framework.
- 4.7 Torbay's draft scheme was published in July 2012 to form the basis of the public consultation, which ran from 6 August to 1 October as part of a co-ordinated, Devon wide approach.
- 4.8 Section 9 of the Local Government Finance Act 2012, passed in November 2012, required all local authorities to approve their local scheme to reduce the Council Tax liability of persons it considers to be in financial need by 31 January 2013.

4.9 Following the consultation process the new scheme was approved by members at Full Council in December 2012.

4.10 The scheme adopted for 2014/15 is the same as the scheme adopted for 2013/14 with the clause to uprate personal allowances and non dependant deductions.

2015/16 Council Tax Support Scheme

4.11 The scheme that will be adopted for 2015/16 is the same as the scheme that was adopted for 2014/15. The reasons for this are it:

- Provides minimal disruption for the council and residents;
- is based on the previous scheme and involves no additional new risk;
- does not create any new administrative costs;
- does not disproportionately affect any particular group – disabled persons, single parents, etc;
- allows more time for the council to monitor the effects of other benefit cutting schemes around the country;
- presents a very low risk of legal challenge.

4.12 The Government uprates state benefit income every April and the components (personal allowances and non dependant deductions) that were used for calculating levels of entitlement for the old Council Tax Benefit scheme were also increased each year, normally in line with inflation.

4.13 The components used to calculate Council Tax Support consist of the following:

- **Personal Allowances** - the basic amounts of money the government says a claimant needs to live on. The level depends on the claimant's age and whether they are part of a couple. There are additional allowances for dependant children.
- **Premiums** - additional amounts added to the personal allowance because of claimant's personal circumstances. The government recognises that it is more expensive to live with a family or if someone has a disability or caring responsibilities. Extra amounts are added to income based benefits to account for this.
- **Disregards** - the amount of earnings not taken into account when calculating entitlement to benefits. There are standard earnings disregards for singles, couples and lone parents. People in certain groups, such as carers and people with disabilities are eligible for a higher disregard.
- **Non Dependant Deductions** - the amount that is deducted for other people who are 18 or over and live in the household. The deduction rates for non-

dependants are set according to their income, as it is assumed that they can make a financial contribution to the household.

- 4.14 Under the current scheme pensioners are protected and the level of entitlement for them must remain. Protection will be achieved by keeping in place the existing national rules, with eligibility and rates defined in Regulations broadly similar to those that already exist. This is known as the Prescribed pensioners scheme.

5. Possibilities and Options

- 5.1 None for the purpose of this report

6. Fair Decision Making

- 6.1 This decision will have a positive impact on the community.

7. Public Services (Social Value) Act 2012

- 7.1 The procurement of services or provision of services is not relevant for this report.

8. Risks

- 8.1 By maintaining existing levels of support it is not anticipated that there will be any legal challenge to the council's scheme.
- 8.2 The council continues to face the financial risk of receiving less Council Tax income than budgeted due to an increase in the number of residents receiving Council Tax Support.

9. Equality Implications

- 9.1 The scheme is being amended in line with statutory requirements and uprating the financial allowances. There is no change to the way the existing scheme operates so no equality assessment has been undertaken.

10. Legal Implications

- 10.1 Schedule 1A of the Local Government Finance Act 2012 requires local authorities to consider whether to revise or to replace its scheme each year. Any revisions or a replacement scheme must have been considered and agreed no later than the 31st January 2015 for operation by 1st April 2015.
- 10.2 There are no requirements to undertake public consultation should the scheme remain unchanged.

Appendices

Appendix 1 - 2014/15 Council Tax Support schemes in Devon

Appendix 2 - 2015/16 Council Tax Support schemes in Devon

Appendix 3 – Summary of Welfare Benefits Uprating Bill

Appendix 1

Devon's Approved Schemes 2014/15

All schemes are based on the *old* Council Tax Benefit rules but with the changes shown below.

Name of Authority	Limit Liability	Second Adult Rebate	Band Restriction	Capital Limit	Hardship Fund
East Devon District Council	80%	Withdrawn	Band D	£8,000	Yes
Exeter City Council	80%	Withdrawn	No restriction	£6,000	Yes
Mid Devon District Council	80%	Withdrawn	Band D	£8,000	Yes
North Devon District Council	75%	Withdrawn	Band D	£6,000	Yes
South Hams District Council	80%	Withdrawn	Band D	£16,000	Yes
Teignbridge District Council	100%	Withdrawn	Band D	£6,000	No
Torridge District Council	75%	Withdrawn	Band D	£6,000	Yes
West Devon District Council	80%	Withdrawn	Band D	£16,000	Yes
Torbay Council	75%	Withdrawn	No restriction	£6,000	Yes
Plymouth City Council	80%	Withdrawn	Band E	£6,000	Yes

Devon's Proposed Schemes 2015/16

All are based on the 2014/15 local schemes but with the changes shown below.

East Devon District Council

Increase in personal allowances and non dependant deductions. No other changes

Exeter City Council

Increase in personal allowances and non dependant deductions. No other changes

Mid Devon District Council

Increase in personal allowances and non dependant deductions. No other changes

North Devon District Council

Increase in personal allowances and non dependant deductions. No other changes

South Hams District Council

Increase in personal allowances and non dependant deductions. No other changes

Teignbridge District Council

Increase in personal allowances and non dependant deductions. No other changes

Torridge District Council

Increase in personal allowances and non dependant deductions. No other changes

West Devon District Council

Increase in personal allowances and non dependant deductions. No other changes

Torbay Council

Increase in personal allowances and non dependant deductions. No other changes

Plymouth City Council

Increase in personal allowances and non dependant deductions. No other changes

Welfare Benefits Uprating Bill

Bill No 116 of Session 2012-13

RESEARCH PAPER 13/01 4 January 2013

Social security legislation requires the Secretary of State to review benefit levels each year to determine whether they have retained their value relative to prices. For most benefits annual uprating is not mandatory, but historically governments have exercised their discretion by increasing the principal means-tested working-age benefits each April in line with prices. Since 2011 the measure used has been the Consumer Price Index (CPI).

In his 2012 Autumn Statement, the Chancellor announced that increases in most working-age benefits would be limited to 1% a year for three years from 2013-14, as part of a package to deliver additional welfare savings of £3.7 billion a year by 2015-16. Increases in the basic rates of benefits such as Jobseeker's Allowance and Employment and Support Allowance (ESA), and benefits including Statutory Sick Pay and Statutory Maternity Pay, will be limited to 1% a year, but disability and carer premiums payable with means-tested benefits, and the ESA Support Component, will rise by the full CPI (2.2% from next April). Uprating by 1% will also extend to the couple, lone parent and child elements of tax credits and, for 2014-15 and 2015-16, to Child Benefit and the basic and 30 hour elements of Working Tax Credit (these are already frozen for 2013-14). Universal Credit (UC) earnings disregards and certain UC elements are also to be limited to a 1% increase in 2014-15 and 2015-16, as will Housing Benefit rates (subject to certain exceptions).

The Bill amends primary legislation to enable the decisions on uprating in 2014-15 and 2015-16 to be implemented. This paper has been prepared for the Second Reading debate in the House of Commons.

Agenda Item 14



Meeting: Council

Date: 4 December 2014

Wards Affected: All wards in Torbay

Report Title: Torbay Council Annual Pay Policy Statement and Review of Pensions Discretions

Executive Lead Contact Details: Executive Lead for Business Planning and Governance, Councillor McPhail, beryl.mcphail@torbay.gov.uk

Supporting Officer Contact Details: Anne-Marie Bond, Executive Head Commercial Services, (01803) 207160, Anne-marie.bond@torbay.gov.uk

1. Purpose and Introduction

- 1.1 Section 38 (1) of the Localism Act 2011 requires English and Welsh Authorities to produce a pay policy statement for each financial year. This is a statutory requirement. The pay policy statement must be approved formally by Council. The pay policy statement draws together the Council's overarching policies on pay and conditions and will publish them on the Councils Website and update them as necessary through the year.
- 1.2 Under the current Pensions Regulations, Torbay Council is able to exercise a range of discretions in regard to how the Local Government Pension Scheme is applied to its employees who are members of the Scheme.

2. Proposed Decision

- 2.1 That the Torbay Council Annual Pay Policy Statement 2015/16 as set out at Appendix 1 to the submitted report be approved.
- 2.2 That the proposal to amend the Employers Pensions Discretions, specifically Regulation **R30(6) Flexible Retirement and Regulation R30(8) Waiving of Actuarial Discretion**, as set out in Appendix 2 to the submitted report be approved.

3. Reason for Decision

- 3.1 The Annual Pay Policy Statement 2015/16 must be approved by the Council in order for the Council to be compliant with Section 38 (1) of the Localism Act 2011.
 - 3.2 To allow the Council flexibility in being able to agree and apply the above discretions under the Pensions Regulations 2014.
-

Supporting Information

4. Position

- 4.1 The publication of the Annual Salary Statement is a Statutory requirement under Section 38 (1) of the Localism Act 2011. If Council does not approve the Salary Statement then there is a significant risk that the Council will be in breach of the legislation from 1 April 2014.
- 4.2 See attached Pay Policy Statement for full details.
- 4.3 The position has not significantly changed from last year, Pay Policy Statement 2014/15. There are changes to the Salary Levels (referred to under Appendix 1) and Multiplier (Appendix 2), in regard to job titles and structure changes since last year. A positive change is also noted in the ratio between the highest and lowest paid grade within the Council due to an increase in the National Minimum Wage on 1st October 2014. Employee Pension contribution rates have also changed to reflect the changes in the Local Government Pension Scheme Regulations 2014.
- 4.4 Changing the discretions regarding Flexible Retirement and Waiving Actuarial reduction (on flexible retirement), will allow a greater opportunity for staff aged 55 or over to flexibly retire and draw immediate payment of their pension benefits.
- 4.5 Currently, flexible retirement is only agreed where there is no cost to the employer, however, this stance is inflexible and does not allow the Council to be able to allow requests where it would be mutually beneficial. Enabling flexibility in the approval of requests will enable the Council to retain key skills, where employees would ordinarily feel that they have no choice but to resign in order to achieve a better work/life balance. Also, it will enable the Council to address periods of change with more options.
- 4.6 Requests will be considered by the Head of Paid Service and/or Council, dependent upon the seniority of the role and the cost.

5. Possibilities and Options

The proposed changes to the Pensions Discretions will enable the Council greater flexibility in managing periods of change and the options that are available for both the Council and the employee.

6. Fair Decision Making

- 6.1 Consultation is currently being undertaken with Trade Union representatives.

7. Public Services (Social Value) Act 2012

- 7.1 Both decisions will not relate to the above Act as there are no associated services or goods that need to be purchased or hired.

8. Risks

- 8.1 Non-Compliance with Section 38 (1) of Localism Act 2011. It is currently not determined as to whether there would be a financial penalty for non-compliance. However, it is advisable for the Council to publish in terms of its legal obligations, and reputation.
- 8.2 In amending the Flexible Retirement and Waiving of Actuarial Reduction discretions, there is the risk that the Council will incur pension related employer 'strain' costs. This is because some scheme members will have protection under the 85-year rule. In cases where this is agreed, there will be a pension cost to the Council, it is not possible to predict what this cost will be due to the fact that the cost of flexible retirement is based on the scheme member's age, length of service and their protection under the 85-year rule.

9 Appendices

Appendix 1 – Torbay Council's Pay Policy Statement April 2015/16

Appendix 2 - Torbay Council Pension Discretions

Additional Information

Copies of Torbay Councils associated Pay Policies will be made available upon request. All current policies are held on the HR Intranet pages:-

<http://insight/humanresources>

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

Localism Act Pay Policy Guidance from the Local Government Association

<http://www.local.gov.uk/localism-act>

TORBAY COUNCIL ANNUAL PAY POLICY STATEMENT APRIL 2015/16

Human Resources

This document can be made available in other languages, on tape, in Braille, large print and in other formats. For more information please contact 01803 207366 or HRPolicy@torbay.gov.uk

1. Purpose and Scope of the Policy Statement

- 1.1 Section 38 (1) of the Localism Act 2011 requires the Council to prepare an Annual Pay Policy Statement.
- 1.2 In dealing with staff pay it is the Council's strategy to ensure that our Pay Policy facilitates the recruitment and retention of staff with the skills and capabilities the Council needs.
- 1.3 Arrangements for staff pay must comply with Equal Pay legislation.
- 1.4 This Pay Policy Statement applies to the Executive Director Operations and Finance, Directors, Executive Heads and Senior Officers within Torbay Council. It addresses the legal requirement to set out how pay is determined for this group. This includes the following posts within Torbay Council:
 - Executive Director Operations and Finance
 - Directors
 - Executive Heads (and those posts with specific responsibility such as Section 151 Officer)
 - Senior Officers (non-executive heads) – These are posts where the salary is above £50,000.
- 1.5 This Pay Policy Statement is a supplement to Torbay Council's overarching Pay and associated policies which form part of the terms and conditions of employees. These include but are not limited to;
 - Torbay Council Pay Policy
 - Job Evaluation Scheme Policies (Greater London Provincial Councils Job Evaluation Scheme).
 - NJC Terms and Conditions of Employment (Green Book)
 - JNC Terms and Conditions for Chief Executives

- JNC Terms and Conditions for Chief Officers (Directors within Torbay Council are appointed to these Terms and Conditions).
- Torbay Council Local Government Pension Scheme Policy Discretions
- Employment of Apprentices Policy
- Re-Evaluation Policy
- Temporary Acting Up Policy
- Expenses Policy
- Market Supplement Policy
- Market Forces Policy
- Staff Travel Plan
- Key Skills Retention policy
- Flexible retirement
- Voluntary Reduced Hours Scheme
- Re-organisation and Redundancy Policy
- Retirement Award

1.6 Draft guidance from the Secretary of State makes reference to the Hutton Review of Fair Pay. This indicated that the most appropriate metric for pay dispersion is the multiple of chief executive pay to median salary. Tracking this multiple will allow the Council to ensure that public services are accountable for the relationship between top pay and that paid to the wider workforce. This annual pay policy statement will pay-publish this multiple along with the following information:

- The level of salary for each of the Officers as defined in (1.4) above;
- The salary of the lowest paid employee

This information can be found at appendix 2 of this policy.

2. *Arrangements for Officer Pay*

2.1 The general terms and conditions of employment are governed by the following national agreements:

- Executive Director Operations and Finance - JNC for Chief Executives of Local Authorities,
- Directors - JNC for Chief Officers of Local Authorities,
- Executive Heads - NJC for Local Government Services
- Educational Advisors and Inspectors/ Educational Psychologists – Soulbury Pay and Conditions
- All other Employee Groups – NJC for Local Government Services
- Public Health – NHS Terms and Conditions of Service (for employees who have transferred under TUPE)

2.2 The council uses two forms of Job Evaluation to identify officer pay. This is either through the Council's GLPC Job Evaluation Scheme and Torbay Council Pay rates, or via the Hay Evaluation Scheme and Torbay Council Spot Salaries. The Hay Evaluation scheme produces both a Know How Score and a total points score for each post evaluated. Torbay Council pays a spot salary on the basis of the Know How Score only (not the final points score). Know-How is the sum of every kind of knowledge, skill and experience required for standard acceptable job performance.

2.3 The Hay Job Evaluation scheme is used to evaluate the following roles within the Council.

- Executive Director Operations and Finance
- Directors
- Executive Heads
- All Grade N roles as evaluated under GLPC (this is due to the cross over point of the two schemes). Where a Hay evaluation results in a Know How Score of 304, this is equivalent to grade N and therefore the post-holder is paid at Grade N. Where a Hay evaluation results in a higher Know How Score than 304, they are paid on a spot salary allocated to the Know How Score.
- Public Health posts are evaluated on the Council's GLPC Job Evaluation Scheme. Public Health posts can also be evaluated using the "Agenda for Change" job evaluation scheme in order to provide Market Forces information.
- All other posts within the Council are evaluated under the Torbay Council GLPC evaluation scheme in accordance with the agreed policies.

2.4 The Officers evaluated as having a Know How Score above 304 under Hay within Torbay Council are paid on spot salaries based on median salary levels as set in 2008 for Local Government. Torbay Council publishes this in bands of £5,000. This is set out in appendix 1. This salary information, together with corresponding job descriptions, is also available from the Council's internet page, link as follows:-
<http://www.torbay.gov.uk/index/yourcouncil/financialservices/expenditure/salarydisclosure.htm>

2.5 In determining the salary for both the Executive Director Operations and Finance and other Directors within the Council, advice will be taken by the Employment Committee from Human Resources Hay Trained assessors and the Executive Head Commercial Services, formally as the Head of Human Resources. Further independent advice will be sought from South West Councils (HR and Employment Services) and other professional organisations to ensure the correct level of remuneration is awarded. Full Council will agree the overall budget for the remuneration level of the Executive Director Operations and Finance and Directors. The Council's Employment Committee will make the final decision on the actual salary level and any other terms and conditions provided that it is line with the Council's Annual Pay Policy Statement.

2.6 In determining the salary for Executive Heads and other senior officers as defined by 1.4 above, the Directors will take advice from Human Resources Hay trained assessors.

The Directors following consultation with the Executive Director will then agree the salary level.

- 2.7 Following significant changes in duties, posts can be re-evaluated. The evaluation will be based on a Job Evaluation Questionnaire which will be assessed by an independent panel of Hay Trained assessors within Human Resources. External advice and benchmarking can also be undertaken. These assessments will then be considered by the Mayor, Employment Committee, Executive Director and/or Directors depending on the job role. Where appropriate the Employment Committee will be involved for Executive Director Operations and Finance and Directors salary and other Directors of the Council. Changes to Executive Heads roles and other senior officers will be agreed by Directors following consultation and agreement of the Executive Director Operations and Finance. Successful re-evaluations can result in a change to the salary.
- 2.8 Salary increases in relation to cost of living will be applied according to the awards made by the appropriate National Joint Council as described in paragraph 2.1.
- 2.9 No additional payments are made to in respect of:
- Bonus payments or Performance payments to the Senior Officers defined in 1.4, unless where given as a result of protections under TUPE e.g. Consultant in Public Health (currently Acting Director of Public Health) whose protected medical terms and conditions include access to additional NHS allowances in regard to Clinical Excellence and on-call duties), details can be found on the NHS Employers webpage as follows: - <http://www.nhsemployers.org/Aboutus/Publications/PayCirculars/Pages/PayCircular-MD1-2013.aspx>
 - Additional payments are made to NJC Employees who are employed on SCP 29 or below of the Torbay Council Salary Scale. These are paid in accordance with NJC Terms and Conditions of Employment (Green Book) part 3, pay and grading.
- 2.10 Additional payments are made to any Council Officers who act as Returning Officers and carry out duties at elections. These payments are calculated according to the approved scale or set by a government department depending on the nature of the election. This is treated as a separate employment as and when required.
- 2.11 In comparing Executive Director Operations and Finance Pay with the wider workforce the Council will use the following definitions:
- The lowest-paid employee: the employee or group of employees with the lowest salary (full-time equivalent) employed by the Council at the date of assessment.
 - The median: the mid -point salary when full-time equivalent salaries are arranged in order of size (highest to lowest). Based on salary levels of staff on the date of assessment.

This excludes those employed on casual contracts of employment, but includes part time employees where their salaries are normalised to the full-time equivalent. It also excludes Apprentices who are employed on the Torbay Council apprentice pay grade.

3. Contributions and other terms and conditions

3.1 All staff who are members of the Local Government Pension Scheme make individual contributions to the scheme in accordance with the following table. These figures represent the 2014/2015 contribution rates.

Band	Salary Range	Contribution Rate
1	£0 To £13,500.00.	5.50%
2	£13,501.00 To £21,000.00.	5.80%
3	£21,001.00 To £34,000.00.	6.50%
4	£34,001.00 To £43,000.00.	6.80%
5	£43,001.00 To £60,000.00.	8.50%
6	£60,001.00 To £85,000.00.	9.90%
7	£85,001.00 To £100,000.00	10.50%
8	£100,001.00 To £150,000	11.40%
9	More than £150,000.00	12.50%

3.2 The Employer Contribution pension rate is: 18.6%

3.3 All employees are currently able to apply for a Car Parking permit, which enables the employee to park on council property for a reduced daily rate.

4. Payments on Termination

The Council's approach to statutory and discretionary payments on termination of employment of chief officers, at retirement age or prior to this, is set out within its Redundancy policy and is in accordance with Regulation 5 of the Local Government (Early termination of Employment) (Discretionary Compensation) Regulations 2006 and Regulations 8 and 10 of the Local Government Pension Scheme (Benefits, Membership and Contribution) Regulations 2007. Final payment details are submitted to Full Council for approval.

5. Settlement Agreements

- 5.1 Torbay Council will only enter into Settlement Agreements in exceptional circumstances where it is in the Council's overall commercial and financial interests to do so. Any Settlement Agreement for the Executive Director Operations and Finance or Directors will need to be approved by the Council's Employment Committee and Full Council. This will include any severance package including associated pension costs equating to £100,000 or more.

Settlement Agreements for any other member of staff will need to be authorised by the Director of the service following consultation with the Executive Director Operations and Finance.

6. Publication

- 6.1 Once approved by Full Council, this Policy and any subsequent amendment will be published on the Council's website. Human Resources Policy will be responsible for the annual review to ensure an accurate pay policy is published ahead of each financial year.
- 6.2 In accordance with the Code of Practice on Local Authority Accounting the annual Statement of Accounts includes pay details of Senior Officers reporting directly to the Executive Director and statutory posts where the salary is above £50,000 per annum.
- 6.3 Full Council decisions in relation to staff pay matters are available from the Council's internet page, link as follows:-

<http://www.torbay.gov.uk/DemocraticServices/ieDocHome.aspx>

8. Current Salary Levels for Executive Director, Directors and other Senior Officers

Torbay Council publishes a Salary Levels list with post details, salary spot rates or bands and full-time equivalent salaries, available from Torbay Council's web-site:-

<http://www.torbay.gov.uk/index/yourcouncil/financialservices/expenditure/salarydisclosure.htm>

Appendix 1 Multipliers

The idea of publishing the ratio of the pay of an organisation's top salary to that of its median salary has been recommended in order to support the principles of Fair Pay and transparency. These multipliers will be monitored each year within the Pay Policy Statement.

The Council's current ratio in this respect is 5.75:1, i.e. the highest salary earns 5.75 times more than the Council's median salary. When measured against the lowest salary the ratio is 10.03:1.

In comparing the highest paid salary with the wider workforce the Council will use the following definitions:

- The lowest-paid employee: the employee or group of employees with the lowest rate of pay (full-time equivalent) employed by the Council at the date of assessment. This includes all types of employment within the Council.
- The median: the mid-point salary when full-time equivalent salaries of all core council staff are arranged in order of size (highest to lowest). Based on the salary levels of staff on the date of assessment. This includes all types of employment within the Council.

The lowest full time equivalent salary is £12,541, which is Point 5 of Grade A. Date of assessment: 03/11/2014

	Annual Salary	Ratio to Highest
Highest Salary	£125,787	
Median (Mid-point) value	£21,866.40	5.75:1
Lowest full time salary	£12,541.00	10.03:1

Equality Statement

These guidelines apply equally to all Council employees regardless of their age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

Policy Feedback

Should you have any comments regarding this policy, please address them to the HR Policy Feedback mailbox –

HRpolicy@torbay.gov.uk

History of Policy Changes

This policy was first agreed by members of the Torbay Joint Consultative Committee in March 2012

Date	Page	Details of Change	Agreed by:
November 2012	Various	Amendment from Chief Executive to Chief Operating Officer	SSG 8.11.12 Approved by Full Council
6 th December 2012	4-5	Update to pension ranges re: LGPS contribution rates Addition of Payments upon Termination Section	Approved by Full Council
6 th December 2012	7	Update to Ratio + Multiplier information (Appendix 2)	Approved by Full Council
6 th December 2012	6	Update to current salary levels + addition of newly appointed posts (Appendix 1)	Approved by Full Council
5 th December 2013	Various	Update to current salary levels and reference to Chief Executive Officer throughout. Inclusion of Public Health information.	To be approved by Full Council – 5.12.13
5 th December 2014	Various	Update to current salary levels and pension rates, reference to Executive Head of Commercial Services.	To be approved by Full Council – 4.12.14

Policy to be reviewed November 2015

Example Discretions policy

The Local Government Pension Scheme Regulations 2013

And

The Local Government Pension Scheme (Transitional Provisions
& Savings) Regulations 2014

Employer Name: TORBAY COUNCIL

Policy effective from: To be confirmed – following Council
decision 4th December 2014

Regulation R16(2)(e) & R16 (4)(d)	Policy Decision
<p>Shared Cost Additional Pension Scheme</p> <p>An employer can choose to pay for or contribute towards a member's Additional Pension Contract via a Shared Cost Additional Pension Contract (SCAPC)</p>	<p>Torbay Council will not normally enter into a Shared Cost Additional Pension Contract to count towards a member's Additional Pension Contract except in exceptional circumstances.</p>

Regulation R30(6) & TP11(2)	Policy Decision
<p>Flexible Retirement</p> <p>Employers may allow a member from age 55 onwards to draw all or part of the pension benefits they have already built up while still continuing in employment. This is provided the employer agrees to the member either reducing their hours or moving to a position on a lower grade.</p> <p>In such cases, pension benefits will be reduced in accordance with actuarial tables unless the employer waives reduction on compassionate grounds or a member has protected rights</p>	<p>Torbay Council will take all reasonable steps to accommodate an employee's request for Flexible Retirement.</p> <p>However, the Council will not waive any reduction to pension benefits and under Torbay Council's discretionary powers, will only consider Flexible Retirement requests when there is no cost to the employer.</p> <p>Change to:- The Council will consider waiving reduction to pensions benefits where flexibility will enable the Council to retain key skills within critical service areas. <u>The Council will also consider requests where an employee is aged between 55 to 60 and satisfies the 85 year rule criteria.</u></p> <p>Requests will be considered by the Head of Paid Service and/or Council, dependent upon the seniority of the role and associated costs, in line with the Local Government Transparency Code 2014.</p> <p>Further detail to follow.</p>
<p>Regulation R30(8)</p>	<p>Policy Decision</p>

<p>Waiving of actuarial reduction</p> <p>Employers have the power to waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to members benefits paid on the grounds of flexible retirement.</p> <p>Employers may also waive, on compassionate grounds, the actuarial reduction (in whole or part) applied to member's benefits for deferred members and suspended tier 3 ill health pensioners who elect to draw benefits on or after age 60 and before normal pension age</p> <p>Employers also have the power to waive, in whole or in part, the actuarial reduction applied to active members benefits when a member chooses to voluntarily draw benefits on or after age 55 and before age 60.</p>	<p>The Council will not waive the actuarial reduction to scheme member's benefits in respect of flexible retirement, deferred member's benefit requests, suspended tier 3 ill health pensioners or active members who retire voluntarily and draw benefits from age 55 to normal retirement age.</p> <p>Change to:-</p> <p>The Council will consider waiving the actuarial reduction to the scheme member's benefits in respect of flexible retirement only.</p> <p>Further detail to follow.</p>
--	--

Regulation TPSch 2, para 2(2) & 2(3)	Policy Decision
<p>Power of employing authority to “switch on” the 85 Year Rule</p> <p>An employer can choose whether to “switch on” 85 year rule for members who voluntarily retire on or after age 55 and before age 60</p> <p>An employer can also choose to waive, on compassionate grounds, the actuarial reduction applied to benefits for a member voluntarily drawing benefits on or after age 55 and before age 60</p>	<p>Torbay Council will not ‘switch on’ the 85 year rule for members who voluntarily retire on or after age 55 and before age 60.</p> <p>The Council will also not waive the actuarial reduction in respect of benefits drawn for a member from age 55 to 60.</p>
Regulation R31	Policy Decision
<p>Power of employing authority to grant additional pension</p> <p>An employer can choose to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500* per annum)</p> <p><i>(* the figure of £6,500 will be increased each April under Pensions Increase orders)</i></p>	<p>Torbay Council will not normally exercise the discretion to grant additional pension except in exceptional circumstances.</p>

These policies may be subject to review from time to time. Any subsequent change in this Policy Statement will be notified to affected employees.

Signed on behalf of _____

Signature of authorised officer: _____

Date: _____

Print name of authorised officer: _____

Job Title: _____



Briefing Report Public Agenda Item: **Yes**

Title: **Revenue Budget Monitoring 2014/15 – Quarter 2**

Wards Affected: **All Wards in Torbay**

To: **Overview and Scrutiny Board** **On: 26 November 2014**
Council **On: 4 December 2014**

Contact Officer: **Paul Looby**

☎ Telephone: **01803 207283**

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

1. Key Points and Summary

- 1.1 At the half way point in the financial year the latest projected forecast for council services is an overspend of £1.6m. This compares to a £1.4m projected overspend at the same time last year.
- 1.2 There are a number of variations to the approved budget across services with Children's - Safeguarding and Wellbeing and Adult Social Care facing the largest budget pressures.
- 1.3 Members were advised of the challenging financial climate it faced when the 2014/15 budget was set in February 2014. The inherent risks faced by the Council when the budget proposals were approved, were set out in the report and these risks were accepted by Members. They arise from the ongoing austerity measures from the coalition government and demand pressures across a number of services
- 1.4 Whilst the latest forecast is an improving position when compared to the first quarter of the year (where a £2.1m projected overspend was forecast), due to a number of continued service pressures and the impact of previous budget reductions the council still needs to make further in year savings to ensure a balanced budget is achieved at year end.
- 1.5 The Senior Leadership Team and Executive Lead Members are working hard to address the pressures and take corrective action where appropriate and have already identified savings proposals that were due to be implemented from April

2015 which can be implemented in the current year. These amount to £0.6m and have been included within the forecast outturn position.

1.6 The key variations within services are summarised below:

- Children's Services: The Director of Children's Services forecast a projected overspend of £1.4m at the end of the first quarter. Based upon existing client numbers and associated staffing costs (including the continued use of agency staff) the forecast overspend at the end of the second quarter has increased to £2.254m. This is after the application of the earmarked contingency for Safeguarding and Wellbeing and savings derived to date from the recovery plan.
- Adult Social Care: £0.717m projected overspend. The forecast overspend for Adults services (provided by the Torbay and Southern Devon Care and Health NHS Trust) has fallen to £0.492m but this has been offset by budget pressures amounting to £0.225m (Torbay's share) within the Torbay Community Equipment Service for adaptations and equipment for clients. This service is commissioned jointly with the Clinical Commissioning Group (CCG).
- Residents and Visitors: projected overspend of £0.220m due to lower forecast income against the approved budgets for, Parking Services, Sports, Torre Abbey and Corporate Security. This is an improving position compared to the first quarter.

1.7 In response to the projected outturn position within Children's Services, a 5 year Cost Reduction Plan has been developed and was approved by Council in October. The plan is designed to manage existing and future pressures and has identified work packages as part of a cost reduction programme. This work was supported by Social Finance.

1.8 With respect to Adult Social Care an updated recovery plan has been appended to this report which sets out the actions that are being taken to reduce spend and there is a recovery plan to address the pressures within the Torbay Community Equipment Service.

1.9 Members will be aware that the Council must achieve a balanced budget at year end. This will be achieved by either:

- a) those services overspending producing in-year recovery plans which reduces or removes the projected overspend;
- b) all other services deliver in year savings resulting in an underspend at year end;
- c) if insufficient savings can be made there is a risk that, as a last resort,

uncommitted reserves or uncommitted budgets will be required to ensure a balanced budget can be achieved at the end of the year.

- 1.10 Members will be aware the Council does hold reserves. These should only be used for one off purposes or for invest to save initiatives and is not a solution to supporting ongoing financial commitments. Members should be aware that unless action is taken to reduce the existing overspends there is a possibility that the council will have to draw down monies from the Comprehensive Spending Review Reserve in 2014/15 to ensure a balanced position is achieved.

Strategy for in Year Budget Management

- 1.11 As in previous years' the Council will continue with its adopted ongoing Strategy in response to the coalition government's austerity programme and to address its own financial challenges. Fundamentally the Senior Leadership Team and Executive Lead Members must maintain strict financial management and control over all services areas. The Senior Leadership have agreed on all of the following measures:

- a moratorium on all non essential expenditure and a reduction in all other expenditure with an assessment of the services consequences.
- a freeze on all non essential recruitment.
- a review of budgeted expenditure that could be ceased and an assessment of the service consequences including reshaping of services where possible.
- where possible identification of any further savings proposals for 2015/16 agreed at Council in October 2014 and implementing these to derive in-year savings.
- Redeployment of staff directly affected by any restructuring proposals where vacancies exist.
- identification of any invest to save schemes that will have immediate cost savings in 2014/15 and beyond.

Paul Looby
Executive Head of Finance and Chief Finance Officer

Appendices

- | | |
|----------------|---|
| Appendix 1 | Summary of Main Variations |
| Appendix 2 (a) | Torbay and Southern Devon Health Care Trust Recovery Plan |
| (b) | Torbay Community Equipment Service Recovery Plan |

Summary of Main Variations

A.1 Report Overview

- A1.1 The purpose of this report is to provide Members with a summary of the projections of income and expenditure for all Business Units within the Council and to set out how the Council will maintain expenditure within its approved budget of £115.8m.
- A1.2 The revenue monitoring statement shows the expenditure and projected outturn position based upon the latest information available to finance officers in consultation with service departments. Where possible, the implications or consequences arising from the variations are reflected in the key performance indicators for that service.
- A1.3. Ongoing financial monitoring will be provided to Members quarterly.

A.2 Financial Performance

- A2.1 Table 1 below provides a summary of the projected outturn position for Council services. The 2014/15 budget has been revised to reflect changes to services within individual Business Units.

Table 1

Projected Outturn Position – Quarter 2

Business Unit/Service	2014/15 Budget	Spend to Date	Projected Out-turn	Variation at Out-turn
	£'000	£'000	£'000	£'000
Director Adults				
Adult Social Care	41,733	19,969	42,450	717
Other Adult Services	1,878	419	1,785	(93)
	43,611	20,388	44,235	624
Director of Children's Services	25,333	17,816	27,587	2,254
Director of Operations and Finance				
Commercial Services	4,601	2,232	4,611	10
Finance	8,565	(1,624)	7,171	(1,394)
Information Services	3,273	1,311	3,209	(64)
	16,439	1,919	14,991	(1,448)
Director of Place				
Residents & Visitors	7,293	3,520	7,503	210
Spatial Planning	5,521	3,086	5,521	0
TDA - Clientside	2,278	1,643	2,278	0
TDA – TEDC	1,485	2,867	1,485	0
Torbay Harbour Authority	26	81	16	(10)
Waste & Cleaning	11,499	10,325	11,499	0
	28,102	21,522	28,302	200
Director of Public Health				
Community Safety	2,271	1,424	2,262	(9)
Public Health	0	2,770	0	0
	2,271	4,194	2,262	(9)
Total	115,756	65,839	117,377	1,621

Main Variations

A2.2 A summary of the main variances and the principal reasons for any underspends or overspends and any emerging issues within each directorate are explained below.

Adults

A2.3 This portfolio covers Adult Social Care and Supporting People and is projecting to overspend by £0.624m.

Adult Social Care

The provision of Adult Social Care is a commissioned service provided by the Torbay and Southern Devon Health and Care NHS Trust. The Trust are forecasting a £0.492m overspend for the year at the end of quarter 2 – a £0.3m reduction compared to quarter 1.

The Torbay Community Equipment Service is forecasting a projected overspend of £0.225m at the end of the second quarter. This is a jointly Commissioned Service with the CCG providing adaptations and equipment to clients.

Further details of the projected outturn and Recovery Plans are appended to this report.

As previously reported the main reason for the forecast overspend within Adult Social Care is due to the non achievement of some of the 2014/15 savings which form part of the Trust's Cost Improvement Programme (CIP). A summary of the key issues as identified by the Trust include:

1. Under delivery against CIP Plan to date on Packages of Care (POC) under £70. The Trust undertook a Telephone Pilot for this category of care throughout May 2014 and this did not realise the expected savings as client number have remained constant.
2. No progress has been made to date on non-residential POC between £70 to £606. Since the beginning of the year there are additional cost pressures. Non delivery for this scheme has had an impact on the financial position for Mental Health over 65s and Torquay, Mental Health under 65s teams and Learning Disability.
3. Good progress has been made on the other main schemes including Residential Based under £606 and POC over £606. If the current client base is maintained throughout the remainder of the financial year then the majority of the CIP target will be achieved. The Learning Disability service is estimated to exceed its CIP target by the end of the year.

The Trust has advised that as the latest forecast is based on 6 months data the overall financial challenges are becoming clearer. The forecast is based on the current client base and there could be further changes to the forecast outturn position due to the nature of the service, demands placed upon it as there are a number of volatile factors that could influence the forecast.

The Torbay Community Equipment Service is projecting an overspend of £0.225m due to increased demand for adaptations and equipment in the first half of the year.

Supporting People is projecting to underspend by £0.093m due to a combination of contractual savings and vacancy management savings.

A2.4 Children, Schools & Families

At the end of quarter one the Director of Children's Services was forecasting a projected overspend of £1.4m after the application of the £2m contingency for Children's Social Care and £1.5m from reserves which was agreed as part of the budget proposals in February 2014. The forecast position at the end of quarter 2 is £2.254m which is after the delivery of anticipated savings from their recovery plan. A summary of the budget pressures within Children's Services are shown below:

	£'m
Children's Services Projected Overspend	5.754
Less:	
Use of Contingency	2.000
Use of one off PFI sinking reserve (approved by Council Feb 14)	1.500
Forecast Outturn Position	2.254

To achieve a forecast outturn position of £1.4m, further cost reductions amounting to £0.854m are required in the second half of the financial year.

The projected overspend is primarily due to budget pressures within Safeguarding and Wellbeing due to the number and cost of independent sector placements (ISP) and residential placements and increased staffing costs due to the ongoing use of agency social workers within the Safeguarding and Wellbeing service.

The headline position for Safeguarding and Wellbeing after the application of the contingency, reserves and the recovery plan is a forecast overspend of £2.4m. The

overall forecast position is partly offset by a projected underspend within Schools Services of £0.2m.

The number of looked after children at the end of September 2014 is 294, a decrease of 20 since the end of March 2014. The number of children on Child Protection Plans at the end of September is 137, a decrease of 36 since the end of March 2014.

Members approved a 5 year cost reduction plan to address the budget pressures within Children's Services in October 2104. This report set out the work undertaken by Social Finance who have been supporting Children's Services in the delivery of new operational working practices to ensure the costs for the service are brought in line with the average cost when compared to other local authorities.

The plan requires investment over the next three years which will be funded from earmarked reserves as set out in the Review of Reserves report which Council approved in October 2014. These reserves will have to be replenished from the forecast savings achieved within the service. If these savings are not delivered this will impact upon all other services within the council as the reserves are earmarked for specific purposes in the future.

The programme of activities currently in place and being developed will continue to remodel the service and are required to reduce the number of Looked After Children and the amount of time they spend in care. The programme will include embedding a more robust and assertive Fostering Strategy, which will have to increase the number of in-house foster carers and move Children from Independent Sector Placements without affecting outcomes if savings are to be delivered. The implementation of a residential migration project must be achieved if it is to be a cost effective alternative to residential care.

Council approved that the Director of Children's Services bring separate monitoring reports on progress of the programme of activities which will deliver the Cost Reduction Pan. These will be presented to Members of the Overview and Scrutiny Panel.

Place

A2.5 There is a projected overspend of £0.200m. A summary of the main variations are identified below:

Residents and Visitor Services is projecting an overspend of £0.210m at the end of the second quarter.

This is due primarily to:

- spending pressures within Parking Services where there is a projected shortfall in car parking income of £0.360m. This is a combination of on

and off street parking and a reduction in enforcement income. On 30 October 2014, Council approved a revised car parking tariff commencing December 2014 through to May 2015. The council report set out the estimated financial consequences of the approved proposal. It should be noted that car parking income is a volatile budget and subject to a number of factors outside of the council's control. The impact of the change will be closely monitored in the last 4 months of the financial year.

- Torre Abbey is reporting a projected overspend of £0.09m due to lower than anticipated visitor numbers and operational pressures.
- Sports Services are projected a shortfall in income of £0.1m.
- Corporate security costs (CCTV) are projected to overspend by £0.04m due to a shortfall in forecast income partly offset by vacancy management savings.
- These overspend have been partly offset by administrative savings and vacancy management across the service and the strict financial control across all services to maintain spend within the approved budget.

Waste and Cleaning is projecting to spend within its approved budget. The impact of waste tonnages and recycling will be monitored closely in the second half of the year.

Spatial Planning – is projected to spend within its approved budget at the end of quarter 1.

However achievement of the approved budget is subject to receipt of budgeted income i.e. planning and building control and the number of passenger journeys within the Bay which will impact upon the Concessionary Fares budget.

Economic Development Company (Client side) and Business Services are projecting to spend within budget as at the end of quarter 2.

Torbay Harbour Authority – includes the management of beach services where a small projected underspend of £10,000 is reported.

A2.6 Public Health

Services within Public Health and Community Safety are projecting a small underspend of £9,000. This relates to Community Safety as the Public Health budget is ring fenced.

A2.7 Operations and Finance

Operations and Finance is projected to underspend by £1.448m

Commercial Services is projecting a small overspend of £10,000 due to a delay in realising savings from the new combined Coroner area.

Finance is projected to underspend by £1.394m.

Financial Services is projecting to underspend by £0.2m due to vacancy management savings within Financial Services and lower external audit inspection fees.

A number of corporate budgets are “accounted for” within the Finance budget. Due to the council projected overspend where possible any potential underspend from these have been identified and will be used to offset the overspend and include a council contingency (£0.5m).

In addition savings have been identified with, reduced pensions costs (£0.2m) and the forecast surplus for Torbay’s share of the Devon Wide Business Rates Pool (£0.3m) and higher than budgeted for NNDR section 31 grant income (£0.2m).

Information Services is projecting an underspend of £64,000 due to vacancy management.

A3 Reserves

- A3.1 The Comprehensive Spending Review (CSR) reserve is the Council’s uncommitted reserve which was set up to meet the financial challenges it faces over the next few years. Its main purpose is to fund the costs for restructuring but can also be called upon to fund unforeseen events and pressures as they arise.
- A3.2 The Chief Finance Officer has advised that where possible reserves should only be used to support one off initiatives as it is not sustainable to use reserves to support ongoing commitments. As identified within the 2013/14 outturn report the balance for the CSR reserve was £3.8m as at April 2014.
- A3.3 Council approved budget savings proposals at its meeting on 30 October 2014. These will form the basis of the 2015/16 budget. It is too early to confirm the final costs for restructuring arising from these proposals but it is prudent to assume these could be approximately £1m – for comparative purposes redundancy and associated costs for the 2014/15 budget round was £0.8m. As any decisions with respect to the 2015/16 savings proposals will be made in the current financial year all associated restructuring costs will be a charge in 2014/15.
- A3.4 As part of the approved budget savings proposals, transitional funding was approved to support services in 2015/16 which will be funded from the CSR reserve.

- A3.5 The Council must declare a balanced budget at year. If after the application of uncommitted budgets and savings the current forecast overspend cannot be resolved any overspend will have to be funded from reserves. This will reduce the Council's uncommitted reserves and impact upon how the Council manages further reductions in government grant in future years.
- A3.6 Despite the fall in the forecast overspend in the current financial year due to increasing demands upon services and the use of earmarked reserves for invest to save initiatives within Children's Safeguarding and Wellbeing and the affect of reduced budgets for all Business Units, there is still a risk that the CSR reserve may be required to balance the budget in 2014/15.
- A3.7 A summary of the Council's uncommitted reserve is shown below in table 2.

Table 2 - Uncommitted Reserves

Comprehensive Spending Review Reserve	Working Balance £'m
Balance as at 1 April	3.8
Transitional Funding (14/15 and 15/16)	0.4
	3.4
Potential Calls on CSR Reserve	
Estimated Redundancy Costs arising from 2015/16 budget	1.0
2014/15 Budget Pressures	Tbc
Estimated Balance	tbc

- A3.8 The Council also has its General Fund balance. Since Torbay became a Unitary authority in 1998 there has not been a call on the general fund balances. The current balance is £4.4m and represents 3.8% of the Council's net budget.
- A3.9 Members will be aware that that the general fund balance is uncommitted (unlike other earmarked reserves) and provides funds that would only be used for any unforeseen or unexpected expenditure that could not be managed within service budgets or earmarked reserves. With this in mind and in light of the difficult financial climate faced by the Council and reduction to the Council's net budget, the Chief Finance Officer believes that a cash balance of £4.4m is a prudent and sustainable level to protect the Council from the increased risks it faces with respect to the ongoing grant reductions from Government and increased demand for some services. However this will be monitored closely during 2014/15 taking into account the forecast overspend and the delivery of recovery plans within Children's and

Adult Social Care. Members should note the Council's external auditors will have a view as to the level of the Council's General Fund Balance.

A.4 Dedicated Schools Grant (DSG)

A.4.1 DSG funded activities is currently reporting an underspend of £0.249m. The DSG is a ring fenced grant and can only be used to fund schools related activities.

A.5 Debtors

A5.1 This section of the report provides Members with an update for the second quarter in 2014/15 in respect of council tax and business rate collection.

Council Tax

A5.2 The targets for the collection of Council Tax in 2014/15 are:

- (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.

A5.3 The Council is due to collect £65.9m after the granting of statutory exemptions and reductions and Local Council Tax Support in the period April 2014 to March 2015. To date the Council has collected £33.9m which is 51.5% of the Council Tax due in year. The collection level is lower than last year when 52.3% was collected.

A5.4 The total arrears outstanding at 31 March 2014 were £4.89m and this has been reduced by £1.24m which is about 25.4% of the total arrears due. At the equivalent time last year the Council had collected £1.03m of arrears of £3.67m, which equates to around 28.1%.

A5.5 There are no Council Tax write-offs over £5,000 to report. 398 council tax accounts with a value of £0.133m have been written off in the first quarter.

Non-Domestic Rates

A5.6 The targets for the collection of NNDR (business rates) re:

- (i) collect 97% 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.

A5.7 The Council is due to collect £36.9m after the granting of mandatory relief in the period April 2014 to March 2015. To date the Council has collected £19.9m which is

53.9% of the business rates due in year. In the equivalent period last year the Council had collected £21.6m which equates to 59.2%.

A5.8 The total arrears outstanding at 31 March 2014 were £1.53m and this has been reduced by £0.651m which is about 44.4% of the total arrears due. Last year the Council had collected £0.532m off arrears of £1.55m which equates to around 34.3%

A5.9 There are six write offs above £5,000 which have been circulated to Members of the Overview and Scrutiny Board and are available to all Members upon request.

A5.10 The Council has written off 26 accounts in quarter one with a value of £0.115m.

Other Debtors – Housing Benefits

A5.11 The total debt written off in quarter 1 on the Benefits system is £0.029m relating to 52.

Report to Torbay Council providing an update on the Adult Social Care 2014/15 budget recovery plan

Introduction

1. This report is based on Adult Social Care financial performance to 30th September and sets out the progress being made in implementing the recovery plan to reduce the forecast overspend by the financial year end. The Council carries the risk if an overspend occurs on the In House Learning Disability budget and Independent Sector budget. As the Learning Disability service is forecast to break-even against its budget this year, this report focuses on the Independent Sector budget financial performance.

Performance as at Period 6 – 30 September 2014

2. The Trust is reporting a forecast overspend on the ASC Independent Sector budget at period 6 of £492k, which is an improvement of £287k in the previous period forecast of £779k. Details of financial performance by service area and by care type are set out in Appendices 1a and 1b respectively.
3. Progress in delivering the 2014/15 Cost Improvement Programme (CIP) at period 6 is set out in Appendix 2. Members will note that of the £2,461k Independent Sector CIP target, 69%, £1,694k, is forecast to be delivered in 2014/15 based on savings delivered for the period.

Financial Recovery plan

4. The action plan to mitigate the risk of an end of year overspend and progress made since period 6 is described below: -
 - i. **Management of demand**, in particular short term residential care which relates to respite and emergency placements. We have implemented further controls in respect of authorisation of emergency placements. This is to ensure placements are appropriate and prevent long term dependency on residential services.
Progress: the impact of these additional controls is currently assessed as having saved a further £33k.

ii. **Respite care:** we are reassessing users of short term respite against eligible need and offering respites services within the limits of the personal allowance.

Progress: a respite policy has been drafted which is currently undergoing an internal review process before public consultation is undertaken. No savings are anticipated before 2015/16.

iii. **Short break vouchers:** We are reviewing the uptake of short break vouchers to ensure appropriate use and that the cost is within the personal allowance.

Progress: this work is in hand but no savings are expected before 2015/16

iv. **Improving delivery of savings on the care package reviews:** -

a. We have established a review team of drawn proportionally from all adult service areas who will focus on the reassessment and review of packages of care between £70 and £600 per week. This team will continue this work for the remainder of the financial year and we expect that all reviews will be completed within this timeframe. Individual staff will work to set targets and this activity will run alongside normal review activity within zones as part of day to day business.

b. We are defining specific categories of service users to review which will be against FACS eligibility

c. There are detailed operational plans underpinning these schemes.

Progress: details are set out below: -

There are 930 cases held within the database provided to the Reassessment Team. During October, the following progress has been made:

- 135 cases have been allocated to members of the Reassessment Team for review
- 27 reviews have been completed by the Reassessment Team in October, 41 to date
- 48 are open to the under 65 mental health team for review, 5 have been completed to date

The table below illustrates achievements made to date:

	Savings realised in August and September 2014	Savings realised in October 2014	Total
Weekly increase	(£17)	(£17)	(£34)
Weekly savings	£500	£2,107	£2,607
Total of savings in year	£16,707	£49,753	£66,460
Total FYE	£25,085	£108,706	£133,791

If this level of savings continues for the remainder of the year, a further contribution to the financial recovery plan of £167,000 will be achieved. However, it should be noted that a reassessment of care packages can also result in an increase in costs.

v. Alternative savings schemes that would not need consultation

We are developing an enhanced brokerage service for high end specialist packages of care to ensure best value and better market control. This process will harmonise with the commissioning of Continuing Health Care packages.

Progress in hand but no savings anticipated in 2014/15

vi. Bringing forward 2015/16 savings:

Progress: apart from accelerating the review of care packages, the Trust is not in a position to advance any of the planned 2015/16 savings into 2014/15

5. The actions described above will potentially reduce the yearend forecast deficit by £200k to £292k. A reduction in residential long stay clients in October could add further savings (net) of £130k unless new long stay placements are made. There are a number of caveats surrounding this forecast, in particular: -
- i. No increase in ordinary residence cases over the £152k budget
 - ii. No price pressures arising out of the current market testing exercise for domiciliary care
 - iii. Activity pressures on the social care work force do not prevent progress in implementing CIP schemes. In particular: -
 - a. Safeguarding referrals as at the end of October currently stand at an increase of 30% over 2013/14
 - b. Whole home investigation: there have been four to date this year which is on a par with 2013/14
 - c. Provider of Concern: there have been eleven providers that have gone, or are still going through, the provider of concern process since April 2014.
15. Commissioners will continue to work with providers to examine other schemes to bring the budget into a balanced position by the financial year end.

ASC Independent Sector Financial Performance Statement for the Year Ending 2014/15 (Zone /Team basis)

Period 6 - 30/09/2014

Expenditure Type	Annual Budget	Forecast	Variance
	£000	£000	£000
Expenditure			
Brixham	2,716	2,820	104
Torquay	9,198	9,425	227
Paignton	6,650	6,713	63
Learning Disabilities	10,658	10,538	-120
Older General	1,094	1,090	-4
MHu65 Mental Illness	2,858	3,247	389
MHu65 Dementia	150	31	-119
MHu65 Substance Misuse	169	169	-0
MHo65	5,378	5,947	569
O/R	152	153	1
Total	39,023	40,132	1,109
Income			
Brixham	-928	-1,075	-147
Torquay	-2,711	-2,822	-111
Paignton	-2,496	-2,481	15
Learning Disabilities	-838	-970	-132
Older General	-34	-29	5
MHu65 Mental Illness	-344	-354	-10
MHu65 Dementia	-55	-11	44
MHu65 Substance Misuse	-9	-9	0
MHo65	-2,287	-2,569	-282
Total	-9,702	-10,319	-617
NET COST	29,321	29,813	492

Period 6 - 30/09/2014

Expenditure Type	Activity description	Annual Budget			Forecast	Variance
		Activity	£000	Unit Cost	£000	£000
Care type						
Residential Long Stay	Bed Weeks	37,152	17,493	£470.85	17,551	58
Residential Short Stay	Bed Weeks	2,731	1,226	£448.97	1,474	248
Nursing Long Stay	Bed Weeks	4,589	2,378	£518.24	2,582	204
Nursing Short Stay	Bed Weeks	254	125	£491.24	165	40
Direct Payments	Weeks	19,801	5,872	£296.55	5,961	89
SWAPS	Bed Weeks	1,017	315	£309.80	411	96
Domiciliary Care			8,315		8,813	498
Day Care			1,392		1,341	-51
O/R			152		153	1
Total			37,268		38,451	1,183
ISC Adjustments						
DP Reclaims			-414		-430	-16
Net Contract Adjustments			-436		-406	30
IPP Recode			-110		-161	-51
Intermediate Care Recharge			-97		-97	0
Total			-1,057		-1,094	-37
Other Expenditure Areas						
£500 One Off Individual Negotiated Payments			0		-56	-56
Voluntary Block Contracts			211		220	9
Supported Living Block (Learning Disability)			378		378	0
Day Care Transport			154		154	0
Residential / Community Recovery Service (MHu65)			314		305	-9
Staffing (MHU65 & Subs)			580		607	27
Residential / Intermediate Care Block (Older)			868		873	5
Bad Debt Provision			196		196	0
Other			111		97	-14
Total			2,812		2,775	-37
TOTAL EXPENDITURE			39,023		40,132	1,109
INCOME						
Residential Long Stay		37,152	-6,668	-£179.48	-6,783	-115
Residential Short Stay		2,731	-479	-£175.41	-490	-11
Nursing Long Stay		4,589	-902	-£196.58	-1,012	-110
Nursing Short Stay		254	-35	-£137.55	-95	-60
Domiciliary Care		0	-959		-1,170	-211
Day Care		0	-207		-240	-33
OLA In House			-159		-156	3
OLA Independent Sector			-252		-345	-93
Other			-41		-27	14
Income total			-9,702		-10,319	-617
NET COST			29,321		29,813	492

Adult Social Care CIP Schedule 2014/15 Month 6

Appendix 2

Operations

Community Alarms Charging

-94

Community Alarms Withdrawal

-48

LDDF

-17

-17

Carers Services

-18

-18

Back office savings / redesign of Care Model

-100

-100

Operation Total

-277

-135

49%

In House LD

LD In House Review

-150

-150

In House LD Total

-150

-150

100%

Independent Sector

2013/14 recurrent under spend

-500

-500

Sandwell Dom Care Block Contract Mgt

-75

50

Review of High Cost Clients (over £606 per week)

-500

-716

Review of enhanced & medium cost clients (non residential between £70.01 to £606 per week)

-350

34

Review of Low cost clients (under £70 per week)

-400

4

Residential & Nursing Care standard & non standard fee rates (under £606 per week)

-371

-310

Non Residential charging policy

-50

-50

£500 payments to LD / MH Homes

-122

-122

LD Transport

-40

-40

Voluntary Block Contracts

-38

-29

Thera Block contract

-15

-15

Independent Sector Total

-2,461

-1,694

69%

Total

-2,888

-1,979

69%

BRIEFING PAPER: TORBAY COMMUNITY EQUIPMENT SERVICE

1. BACKGROUND

- 1.1 The Torbay Community Equipment Service is a joint contract with Torbay Council and the CCG, with the Council as lead commissioner. Based upon spend in the first half of the year there is a projected overspend.
- 1.2 If no action is taken by Commissioners, the forecast overspend will be £700k, half of which the CCG would be responsible for.
- 1.3 The contract is set up as a 100% “credit back” model. This means that items of equipment are bought by the Authority to be used in the community. When this equipment is returned, the company credit the Authority the full cost of that equipment. The Authority is charged for delivery and collection of the equipment, as well as for any maintenance and repair work that is needed.
- 1.4 The service expected a high financial outlay for the first few months of the new contract, whilst the initial stock was purchased, but had anticipated this being refunded as the equipment came back from the community (including the old stock from prior to April 2014). This has not been realised, largely due to issues during the transition to the new contract.
- 1.5 The main reason for the overspend is that the demand for the service has far exceeded expectations (currently twice the anticipated level). Wider strategic objectives to reduce hospital admissions, minimise delays in hospital discharge, and to treat people in the community have led to a large quantity of equipment being ordered.
- 1.6 In addition to this, a lot of equipment being ordered tends to be higher value (e.g. pressure relieving mattresses and hoists) so the initial cost against the contract is high. This cost will not be recouped until the equipment is no longer required and is returned to the store and the timescales for this have been longer than previously seen.

2. RECOVERY PLAN

- 2.1 Commissioners have begun a proactive collection process, chasing up items of equipment that are out beyond the loan period indicated at the time of ordering. By cleaning up historical data the service will be able to identify the large amount of stock in the community pre April 2014 that could be collected. There is potential for this activity to bring in up to £300k in collection credits, although this will depend on how much of this equipment is still in a usable condition. A pragmatic estimate would be closer to £150k.
- 2.2 Discussions are taking place with the provider regarding a change in the contract model. This would result in £50k - £100K reduction in the forecast overspend.
- 2.3 A further £50k may be saved through other changes in ordering practice.

3. SUMMARY

- 3.1 Planned actions detailed in Section 2 above could recoup £300k - £450k. Commissioners are due to meet with NRS and the Council’s legal adviser to agree the financial model on 12th November, and the process of arranging the additional collections have already begun.

Agenda Item 16



Meeting: Overview & Scrutiny Board
Council

Date: 26th November 2014
4th December 2014

Wards Affected: All

Report Title: Capital Investment Plan Update - 2014/15 Quarter 2

Executive Lead Contact Details: mayor@torbay.gov.uk

Supporting Officer Contact Details: martin.phillips@torbay.gov.uk

1 Purpose

- 1.1 The Council's capital investment plan with its investment in new and existing assets is a key part of delivering the Council's outcomes. This is the second Capital Monitoring report for 2014/15 under the Authority's agreed budget monitoring procedures. It provides high-level information on capital expenditure and funding for the year compared with the latest budget position as reported to Council in September 2014.

2 Proposed Decision

Overview & Scrutiny Board

- 2.1 **That Members note the latest position for the Council's Capital expenditure and income for 2014/15 and consider any recommendations to Council.**

Council

- 2.2 **Council note the latest position for the Council's Capital expenditure and funding for 2014/15.**

3 Reasons for Decision

- 3.1 Quarterly reporting to both the Overview and Scrutiny Board and to Council is part of the Council's financial management process and the Capital Investment Plan forms part of that process.

4 Summary

- 4.1 Members of the Overview and Scrutiny Board and Council receive regular budget monitoring reports on the Council's Capital Investment Plan throughout the year. The Council's four year Capital Investment Plan is updated each quarter through the year. This report is the monitoring report for the second quarter 2014/15 and includes variations arising in this quarter to the end September 2014
- 4.2 The overall funding position of the 4-year Capital Investment Plan Budget of £69.5 million, covering the period 2014/15 – 2017/18, is in balance but still relies upon the generation of £4.1 million of Capital income from capital receipts and capital contributions over the life of the Capital Investment Plan.
- 4.3 Of this £4.1m, £3.6 million was required from capital receipts before the end of the current Plan period. Of this sum £1.5 million has been received by the end of September, leaving a balance of £2.1 million still to be realised. It is only after this target has been reached that any capital receipts should be applied to new schemes.

- 4.4 The Plan also requires a total of £0.5m from capital contributions including community infrastructure levy. In addition £2.1m is due to be generated from S106 contributions to part fund the South Devon Link Road.
- 4.5 As the target income for capital receipts and capital contributions are required to meet existing Council commitments, it is important that any capital income raised is allocated to existing commitments and not used to support additional expenditure on new schemes.

5 Supporting Information

- 5.1 The original capital budget approved by Council in February 2014 was £26.4 million. That has been subsequently revised for re profiling of expenditure from 2013/14, new schemes and re profiling expenditure to future years. All changes with reasons have either been included in previous monitoring reports, or are detailed in this report.
- 5.2 Capital budgets of £5.1m were brought forward to 2014/15 to enable schemes not completed or progressed in 2013/14 to be continued in the current year along with the funding sources for the scheme. It should also be noted that re profiling budgets often result from valid project management reasons such as scheme re engineering, further consultations and clarification with users or detailed tendering.
- 5.3 Of the total £69.5 million of the 4 year programme, £30.3 million is currently scheduled to be spent in 2014/15, including £9.0 m on the South Devon Link Road.

6 **Movements in 2014/15 Estimated expenditure**

- 6.1 The movements in the estimate of expenditure in 2014/15 on the Capital Investment Plan between the last monitoring report at June 2014 of £35.6m and the current approved budget for 2014/15 of £30.3 m, split by the categories of funding, are as follows:

Scheme	Variation in 2014/15	Change £m	Reason
Estimate as at Q1 2014/15		35.6	Capital Investment Plan Update – 2014/15 Quarter 1 (Report 25 th Sept 2014)
Budget changes since Q1 2014/15			
“Old” Funding Regime			
Childrens Services	Reallocation of budgets	0	Various budgets reallocated but no impact overall
Education Review Projects	Reprofile 14/15 budget	(0.4)	Review of likely expenditure to next financial year
Babbacombe Beach Road	Rephase 14/15 budget	(0.1)	Work unlikely in 14/15, so budget moved to 15/16
Enhancement of Development Sites	Reschedule budget	(0.1)	Part budget moved to 15/16
Torbay Enterprise Project	Reschedule part budget	(0.1)	Remaining spend likely in 15/16
		(0.7)	
“New” Funding Regime			
Affordable Housing	Rephase whole budget	(0.9)	Budget reprofiled evenly over 2015/16 and 2016/17
Capital Repairs and Maintenance 2014/15	Rescheduled 14/15 budget	(0.6)	Works at Furzeham Primary Ph 2 to start Easter 2015
Flood Defence (Environment Agency)	Rephase budget	(0.1)	Part of budget provides match funding for future schemes
Princess Pier Structure	Reprofile part budget	(1.6)	Expenditure unlikely in 2014/15
Torre Valley North	Reschedule part budget	(0.1)	Main work to start Spring 2015
Transport Structural Maintenance	Increased resources	0.3	Additional DfT grant for Highways Structural Mtce
Transport Western Corridor	Rephase part budget to 2015/16	(0.3)	Small delay in expected expenditure
		(3.3)	
“New” Ring fenced funding			

DfT Better Bus Areas	Reduction in budget	(0.1)	Some resources transferred to Revenue
Local Transport Board schemes	Increased budget provision	0.1	Council match funding to schemes
Small Ports Recovery Fund - Winter 2013/14 Storm Damage	Part of Government funding package for severe storms	0.3	Funds provided for specific storm damaged Harbour sites
		0.3	
Prudential Borrowing			
Council Fleet Vehicles	Rephased budget	(0.1)	Funding re phased to reflect revised spending plans.
Empty Homes Scheme	Reinstated budget	0.4	Budget reinstated from Torquay Harbourside scheme
	Rephased budget	(0.3)	Review of likely spend profile
Paignton Cyclopark	Reduced budget	(0.7)	Removal of veldrome plans from project
South Devon Link Road	Re profile to 2014/15	(0.5)	Latest profile of expenditure for this major scheme
Torquay Harbourside	Budget removed	(0.4)	Scheme currently deferred awaiting funding sources
		(1.6)	
General Capital Contingency			
General Contingency			
		0	
Estimate – Quarter Two 2014/15		30.3	

7 Expenditure

- 7.1 The Council approved the original 4-year Capital Investment Plan Budget for the period 2012/13 – 2015/16 in February 2012. This plan has been subsequently updated for any further revision to both projects and timing, resulting in the latest revision attached to Annex 1. The Plan now totals £69.5 million over the 4 year period of which £30.3 million relates to 2014/15 and £18.1 million relates to 2015/16
- 7.2 The purpose of this report and the Monitoring statement attached is to highlight any existing or potential issues which may affect the delivery of the major projects included in the Plan and to consider any potential effect on corporate resources.
- 7.3 Expenditure to the end of this second quarter was £6.5 million with a further £11 million of commitments on the Council's finance system. The expenditure of £6.5 million is only 21% of the latest budget for 2014/15. This compares with £8 million (or 46% of outturn) for the second quarter last year. It is recognised that for a number of schemes, notably the South Devon Link Road (14/15 budget £9m), the Council will not incur significant expenditure until later in the year.

	2009/10 £m (%)	2010/11 £m (%)	2011/12 £m (%)	2012/13 £m (%)	2013/14 £m (%)	2014/15 £m (%)
Quarter One	8 (16%)	10 (23%)	3 (14%)	2 (11%)	4 (23%)	2 (6%)
Quarter Two	11 (22%)	13 (30%)	7 (32%)	4 (21%)	4 (23%)	4 (15%)
Quarter Three	13 (27%)	9 (21%)	5 (22%)	5 (26%)	3 (18%)	-
Quarter Four	17 (35%)	11 (26%)	7 (32%)	8 (42%)	6 (35%)	-
Total In Year	49	43	22	19	17	30

Main Variations & Management Action

8 "New Funding Regime"

- 8.1 An estimate of funds was identified in the Capital Investment Plan (February 2012) for the four years of the Plan, which was provisionally allocated to a number of "priority" areas.

- 8.2 The Capital Investment Plan as at 2014/15 Quarter Two shows the approved schemes to the extent that funding has been received or confirmed. Where the value of the approved schemes exceeds the known funding, temporary prudential borrowing has been used pending the future receipt of funds, at which point the funding will be swapped. However if funding is not realised, such as lower than anticipated grant funding, then the Capital Investment Plan will have to be reduced accordingly or alternative sources of funding allocated such as prudential borrowing.
- 8.3 Scheme Updates:
- 8.4 School Basic Need projects: There have been a few minor adjustments to the allocations and/or phasing of budgets between years at various sites but these changes have no impact on the overall budget position.
- 8.5 Schools Capital Repairs and Maintenance 2014/15: The bulk of this budget is required for much needed improvement works at Furzesham Primary. Phase 2 works here will commence at Easter 2015 so £0.62 m of the budget has been transferred to 2015/16
- 8.6 Affordable Housing: Allocations to particular schemes are still to be confirmed so the 2014/15 budget of £0.9 m has been moved to future years and spread between 2015/16 and 2016/17.
- 8.7 Flood Defence Schemes – This budget covers works at a number of cliff and sea wall locations, including Manscombe Quarry, Torquay where last winter's severe weather caused further deterioration increasing the extent and cost of the works. Currently there is a potential overspend of £0.065 m at Manscombe however it may be possible to offset some of these extra costs from savings on some of the other cliff and sea wall schemes. Officers are awaiting final accounts on some schemes and will be in a better position to determine likely outturn in coming months.
- 8.8 Princess Pier Structural Repair – This budget is provided to enable work to the superstructure and whilst some relatively minor work may be required in the short term the majority of this funding will not be used until funding for the substructure is secured. Consequently £1.7m of the budget has been moved to 2015/16.
- 8.9 Torre Valley North Enhancements – Works are planned to start later this year but will likely spread into next year and so part of the budget (£0.062 m) has been rescheduled to 2015/16.
- 8.10 Transport Structural Maintenance – The Dept for Transport provided additional grant support to authorities to help deal with damage to roads caused by last winter's storms. £0.322 m of this funding is to fund capital improvements so this budget has been increased accordingly.
- 8.11 Western Corridor – preliminary work on this scheme continues however some delays mean part of budget (£0.3m) will not now be required until next financial year. The scheme will involve the purchase of property where land is required for the project.

9 **"Old Funding Regime"**

This section relates to the schemes in the Capital Investment Plan that were allocated to services from capital funding that originated in 2011/12 and earlier financial years.

9.1 Children's Services:

Children's Centres: A further £0.02 m has been reallocated to the Torbay School Hillside scheme to cover additional costs.

Education Review budget. – Again much of this budget provision is not likely to be required for further projects until next year so £0.4 m has been moved to next financial year.

- 9.2 Babbacombe Beach Road £0.07 m – work on this scheme has still to be scheduled so the budget has been transferred to next financial year.
- 9.3 Enhancement of Development Sites – Some expenditure will be incurred during the current financial year but it is now anticipated that £0.15 m of the budget will not be used until next year.
- 9.4 Hele's Angels Housing Scheme – This scheme is not now progressing so the small £0.005 m funding has been transferred to the Affordable Housing budget line for reallocation

9.5 Torbay Enterprise Project. Part of the funding has been used this year to facilitate a property acquisition but £0.1 m of the budget has been moved to next year when the remaining funding is likely to be required, to provide facilities to assist people in to work and independent living.

10 **“New” Ring fenced funding**

10.1 Better Bus Areas – part of the funding provided for this scheme is identified for revenue expenditure, so £0.078 m has been transferred to revenue to fund this work.

10.2 Dept for Transport Small Ports Recovery Fund – Following a successful bid for funding, the DfT have awarded funds of £0.295 m to repair specific storm damaged sites around the Tor Bay Harbours. This funding is in addition to other severe weather funding we have received and reported previously e.g. Environment Agency, Highways Structural Maintenance and Bellwin (revenue) schemes

10.3 Local Transport Board: Initial development work amounting to £0.125 m on two of these schemes at Torquay Gateway and Torquay Town Centre Access schemes is required and is being funded from revenue contributions and earmarked Reserves. The other schemes currently included under this budget heading are Western Corridor and Edginswell Station.

11 **Schemes funded from Prudential Borrowing**

11.1 South Devon Link Road: A further review of the level of Torbay’s contribution to this project in this financial year indicates that around £9 m will be needed. As a result £0.5m has now been rescheduled to next financial year. The project is still expected to be completed in December 2015.

11.2 Paignton Cyclopark – The velodrome part of the project will not now proceed as a result of increased forecast costs, and British Cycling have indicated they will not now support the scheme. Consequently the project budget has been reduced by £0.760 m to reflect the loss of this part of the scheme.

11.3 Empty Homes Scheme – resources have been reinstated for this scheme although expenditure plans are still under discussion with the majority of expenditure not expected to materialise until the next two financial years, requiring £0.3m to be transferred to future years.

11.4 Fleet vehicles: A small rephasing of the budget has been made to reflect reduced costs and revised expenditure plans.

11.5 Torquay Harbourside Public Realm £0.350m – Council rejected a recommendation to fund this work from resources originally allocated to the empty homes scheme. Plans are being reviewed to identify alternative resources to deliver this scheme but at present the budget has been removed, awaiting funding.

12 **Contingency**

12.1 The Council has approved a capital contingency of £0.6 million. This contingency is still in place to provide for unforeseen emergencies or shortfall in projected income over the 4-year Plan period but represents less than 1% of the total Capital Investment Plan budget. Currently it is not anticipated that the contingency will be required in this financial year.

13 **Receipts & Funding**

13.1 The funding identified for the latest Capital Investment Plan budget is shown in Annex 1. This is based on the latest prediction of capital resources available to fund the budgeted expenditure over the next 4 years. A summary of the funding of the Capital Investment Plan is shown in the Table below:

	2014/15	2015/16	2016/17	2017/18	Total @ Q2 14/15
	A	B	C	D	E
Funding	£m	£m	£m	£m	£m
Supported Borrowing	1	0	0	0	1
Unsupported Borrowing	13	7	3	4	27
Grants	13	9	8	5	35
Contributions	1	0	0	0	1
Reserves	1	1	0	0	2
Revenue	0	0	1	0	1
Capital Receipts	1	1	0	0	2
Total	30	18	12	9	69

Notes to Table:

Column E – reflects the Capital Investment Plan as at Quarter Two 2014/15 and shows the approved schemes to the extent that funding has been received or confirmed. Where the value of the approved schemes exceeds the known funding, temporary prudential borrowing has been used pending the future receipt of funds, at which point the funding will be swapped.

Grants

13.2 Capital Grants continue to be the major funding stream (over 60% in 12/13 and 13/14) for the Council to progress its investment plans. An element of these grants result from “bid” processes from other public sector bodies. The Council used £10.6 million of grants in 2013/14 and is currently estimating to use £13m of grants in 2014/15.

13.3 Since the last Capital update (Quarter 1 2014/15) reported to Council in September 2014, the Council has been notified of the following capital grant for 2014/15.

Dept. of Health – Autism Innovation Grant. This is a small one-off un-ring fenced capital grant of £0.0185 m with the intended purpose of “making environments used by people with autism, such as public buildings, more autism friendly or for assisting people with autism through the purchase of new equipment or IT. This grant is to be considered in line with Think Autism”, the update to the 2010 Adult Autism Strategy. It is currently proposed that the grant be used to enable suitable enhancements for Autistic people within Council owned buildings.

Capital Receipts –

13.4 The approved Plan relies upon the generation of a total of £3.4 million capital receipts from asset sales by the end of 2016/17 of which £1.5m has now been received by the end of September leaving a target of £2.1 m to be achieved. This target is 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 and,
- no more new (or amended) schemes are brought forward that rely on the use of capital receipts for funding.

13.5 Assets proposed for disposal are reported to Council for approval, with the latest report at Council in October 2014.

Capital Contributions – S106 & Community Infrastructure Levy

13.6 The general target for securing capital contributions to fund the 4-year Capital Investment Plan, following review of the Budget in February 2013 was £0.5 million (required by March 2016). In addition the South Devon Link Road business case estimated external contributions including s106 payments of £2.1m to help fund the scheme (£0.085m, received to date).

13.7 The intention is that capital contributions are applied to support schemes **already approved** as part of Capital Investment Plan and not allocated to new schemes unless the agreement with the developer is specific to a particular scheme outside the Capital Investment Plan.

- 13.8 Income from Section 106 capital contributions so far in 2014/15 only amount to £0.1 million, however there are accumulated payments of £0.33 m Education contributions which have been used to replace unsupported borrowing resources previously allocated to Education. In addition Housing S106 contributions of £0.09 m have been received and added to the Affordable Housing capital budget.

14 Borrowing and Prudential Indicators

- 14.1 The Council set its Prudential Indicators and monitoring arrangements for affordable borrowing in February 2014. The Authorised Limit for External Debt including long term liabilities (the maximum borrowing the Council can legally undertake) and the Operational Boundary (the day-to-day limit for cash management purpose) are monitored on a daily basis by the Executive Head of Finance and reported to Members quarterly.

The limits are as follows

- **Authorised Limit** £231 million
- **Operational Boundary** £161 million

External Debt, and long term liabilities, such as the PFI liability, as at end of September 2014 was £146.8 million. The current level of debt is within the Operational Boundary and the Authorised Limit set for the year. No management action has been required during the quarter.

- 14.2 The only anticipated change to the level of Council's liabilities in 2014/15 is the PFI scheme for the Energy from Waste facility plant in Plymouth. If this scheme is judged to be an asset to be recognised on the Council's balance sheet then a corresponding liability will also need to be recognised.
- 14.3 The Council's capital expenditure has an overall positive impact on the Council's Balance Sheet. Expenditure in the Capital Investment Plan on the Council's own assets will increase the value attached to the Council's fixed assets. As at 31 March 2014 the Council's "Non Current Assets" were valued at £265 million.

15 Possibilities and Options

- 15.1 Council could consider reducing the Capital Investment Plan to reflect any potential reduction in capital receipts or other capital resources.

16 Consultation

- 16.1 Where appropriate individual capital schemes have public consultation and negotiation with stakeholders.

17 Risks

- 17.1 That capital receipts, other capital contributions such as S106 and Community Infrastructure Levy and future year grant allocations will be not be received to support the plan.
- 17.2 The contingency is approximately 1.6% of total planned expenditure on a total programme of £69 million. There could be inflationary cost pressures on the programme thus increasing expenditure.

Appendix

Annex 1 Capital Investment Plan Budget 2014/15 – 2017/18 (as at October 2014)

CAPITAL INVESTMENT PLAN - QUARTER 2 2014/15- EXPENDITURE

Annex 1

	Expend in Prev Years (active schemes only)	Revised 4-year Plan Oct 2014							
		Actuals & Commitments 2014/15 Qtr 2	Previous 2014/15 Q1 14/15	2014/15 Q2 Adjustments	New Schemes 2014/15	Total 2014/15 Revised	2016/17	2017/18	Total for Plan Period
Old Funding Regime (pre 12/13)									
Adults & Resources									
Mental Health Care Initiatives	-		7		7			7	
Various ICT Improvements	-		15		15			15	
	0	0	22	0	22	0	0	22	
Childrens, Schools & Families									
Asbestos Removal	-		7		7			7	
Barton Primary Cap Project	3,927	392	573		573	0		573	
Capital Repairs & Maintenance 2011/12	-		6		6			6	
Childrens Centres	219	8	143	(20)	123			123	
Education Review Projects	-	1	496	(401)	95	400		495	
EOTAS Halswell House	48		1		1			1	
Preston Primary - ASD Unit	1,515	1	0	1	1			1	
Short Breaks for Disabled Children	-		9	(9)	0			0	
Torbay School Hillside	-	68	100	20	120			120	
Youth Modular Projects	-		51		51			51	
	5,709	470	1,386	(409)	977	400	0	1,377	
Place & Resources									
Babbacombe Beach Road	-		70	(70)	0	70		70	
Barton Infrastructure	95	29	43		43			43	
Enhancement of Development sites	39	20	176	(146)	30	146		176	
Haldon Pier - Structural repair Phase I/2	2,212	1	861		861			861	
NGP - HCA Match Land Acquisitions	714		590		590			590	
NGP - Strategic Cycleway	477	(45)	0		0			0	
NGP - Torbay Innovation Centre Ph 3	69		100		100	246		346	
NGP - Windy Corner Junction	10		1		1			1	
Sanctuary HA - Hayes Road	250		250		250			250	
Sanctuary HA - Langridge Road , Pgn (4 units adapt)	44		2		2			2	
Hele's Angels scheme	-	5	5	(5)	0			0	
Sea Change - Cockington Court	3,267	14	9		9			9	

CAPITAL INVESTMENT PLAN - QUARTER 2 2014/15- EXPENDITURE

Annex 1

	Expend in Prev Years (active schemes only)	Revised 4-year Plan Oct 2014					Total for Plan Period			
		Actuals & Commitments 2014/15 Qtr 2	Previous 2014/15 Q1 14/15	2014/15 Q2 Adjustments	New Schemes 2014/15	Total 2014/15 Revised		2015/16	2016/17	2017/18
Sovereign HA - Beechfield (102 units + adapt 3 units)	300		8			8				8
Torbay Enterprise Project	500	160	250	(90)		160	90			250
Public Health	7,977	184	2,365	(311)	0	2,054	552	0	0	2,606
Private Sector Renewal	-		58			58	0	0	0	58
	0	0	58	0	0	58	0	0	0	58
	13,686	654	3,831	(720)	0	3,111	952	0	0	4,063

CAPITAL INVESTMENT PLAN - QUARTER 2 2014/15- EXPENDITURE

Annex 1

	Expend in Prev Years (active schemes only)	Actuals & Commitments 2014/15 Qtr 2	Previous 2014/15 Q1 14/15	2014/15 Q2 Adjustments	New Schemes 2014/15	Revised 4-year Plan Oct 2014				Total for Plan Period	
						Total 2014/15 Revised	2015/16	2016/17	2017/18		
New Funding Regime (12/13 onwards)											
Childrens, Schools & Families											
Capital Repairs & Maintenance 2014/15			630	(620)		630		620			630
Capital Repairs & Maintenance 2013/14		149	155			155					155
Capital Repairs & Maintenance 2012/13	-	86	255			255		100			355
Cockington Primary expansion	546	1,236	2,757			2,757		70			2,827
Coombe Pafford Council contribution		100	100			100					100
Ellacombe Primary expansion	2	15	50			50		100	350		500
Mayfield expansion	1,311	9	9			9					18
Roselands Primary expansion	174	259	516			516		10	500	500	1,526
St Margarets Academy expansion		2	0			0		495	1,000	500	2,000
St Margaret Clitherow Primary expansion	23	6	485			485		0			485
Torre CoE Primary expansion	638	520	562			562					562
Warberry CoE Primary expansion	1,054	99	646			646					646
Whiterock Primary expansion	97	315	603			603		1,500	1,300		3,403
	3,845	2,796	6,768	(606)	0	6,162		2,895	3,150	1,000	13,207
Place & Resources											
Affordable Housing	-		868	(868)		868		715	716		1,431
Flood Defence schemes (with Env Agency)	7	173	312	(155)		312		155			312
Livermead Sea Wall structural repair	611	36	69			69					69
Meadfoot Sea Wall structural repair	223	25	43			43					43
Oldway Estate works			400			400					400
Old Toll House, Torquay			150			150					150
Princess Pier - Structural repair (with Env Agency)	-		1,850	(1,650)		1,850		1,650			1,850
Princess Promenade Phase 3	169	6	0			0					0
Riviera Centre renewal	883	217	226	20		246		11			257
SWIM Torquay - improve facilities	571	58	9			9					9
TCCT - Grant re Green Heart Project			100			100					100
Torre Abbey Renovation - Phase 2	4,941	90	128			128					128
Torre Valley North Enhancements	3		124	(62)		124		62			124
Transport - Edginswell Station	1	32	159			159					159

CAPITAL INVESTMENT PLAN - QUARTER 2 2014/15- EXPENDITURE

Annex 1

	Expend in Prev Years (active schemes only)	Actuals & Commitments 2014/15 Qtr 2	Previous 2014/15 Q1 14/15	2014/15 Q2 Adjustments	New Schemes 2014/15	Revised 4-year Plan Oct 2014				Total for Plan Period
						Total 2014/15 Revised	2015/16	2016/17	2017/18	
Transport Gateway Enhancement	86	6	14			14				14
Transport Integrated Transport Schemes	-	98	1,487			1,487	590	(132)	(528)	1,417
Transport Structural Maintenance	-	327	1,036	322		1,358	840			2,198
Transport Western Corridor	65	4	540	(300)		240	300			540
Public Health	7,560	1,072	7,515	(2,693)	0	4,822	4,323	584	(528)	9,201
Disabled Facilities Grants	-	172	427			427	519	0	0	946
	0	172	427	0	0	427	519	0	0	946
	11,405	4,040	14,710	(3,299)	0	11,411	7,737	3,734	472	23,354

CAPITAL INVESTMENT PLAN - QUARTER 2 2014/15- EXPENDITURE

Annex 1

	Expend in Prev Years (active schemes only)	Actuals & Commitments 2014/15 Qtr 2	Previous 2014/15 (@ Q1 14/15)	2014/15 Q2 Adjustments	New Schemes 2014/15	Revised 4-year Plan Oct 2014				Total for Plan Period	
						Total 2014/15 Revised	2015/16	2016/17	2017/18		
<i>New Ring Fenced or Specific Funding (12/13)</i>											
Adults & Resources											
Payroll Project	0	220	370	0	0	370	0	0	0	370	370
Childrens, Schools & Families											
2 Year Olds Provision	60		193			193	0	0	0	193	193
Devolved Formula Capital		79	274			274	0	0	0	274	274
Key Stage 1 Free School Meals		55	122			122				122	122
Place & Resources											
Brixham Harbour - Victoria Breakwater	46	(6)	4			4	0	0	0	4	4
DFT Better Bus Areas	62	149	478	(78)		400	0	0	0	400	400
DFT Local Sustainable Transport Fund (Ferry/Cycle)	1,344	136	164			164	0	0	0	164	164
Env Agency - Winter 2013/14 Storms damage		382	408			408	2,900	6,900	5,425	15,350	408
Local Transport Board schemes		19	0		125	125	0	0	0	125	15,350
Public Toilets - Utilities saving measures	61	27	38			38	0	0	0	38	38
Riviera Renaissance (Coastal Communities Fund)	479	170	170			170	0	0	0	170	170
Small Ports Recovery Fund - Winter 13/14		90			295	295	0	0	0	295	295
Torbay Leisure Centre - structural repairs	519	26	26			26	0	0	0	26	26
	2,511	993	1,288	(78)	420	1,630	2,900	6,900	5,425	16,855	16,855
	2,571	1,347	2,247	(78)	420	2,589	2,900	6,900	5,425	17,814	17,814
<i>Prudential Borrowing Schemes</i>											
Place & Resources											
Beach Hut Acquisition/Renewal (Broadlands, Meadfoot)	601	517	1,390			1,390	103	225		1,390	1,390
Council Fleet Vehicles	227	34	195	(63)		132				235	235
Empty Homes Scheme	0		0	50		50	225			500	500
Office Rationalisation Project Ph 2 - Project Remainder	8,079	132	587	20		607				607	607

CAPITAL INVESTMENT PLAN - QUARTER 2 2014/15- EXPENDITURE

Annex 1

	Expend in Prev Years (active schemes only)	Actuals & Commitments 2014/15 Qtr 2	Previous 2014/15 Q1 14/15	2014/15 Q2 Adjustments	New Schemes 2014/15	Revised 4-year Plan Oct 2014				Total for Plan Period
						Total 2014/15 Revised	2015/16	2016/17	2017/18	
On Street Parking meters	804	51	53			53				53
Paignton Velodrome Cyclopark	477	412	1,083	(760)		323				323
Princess Promenade (Western Section) Repairs	3,834	(47)	0			0				0
South Devon Link Road - Council contribution	1,310	9,001	9,507	(507)		9,000	5,507	1,500	2,907	18,914
Street Lighting - Energy reduction		430	515			515				515
TOR2 grant - Refuse transfer vehicles			378			378				378
Torquay Harbourside Public Realm			350	(350)		0				0
Torre Abbey Pathway	47		3			3				3
Torquay Inner Harbour Pontoons	135	774	765			765				765
	15,514	11,304	14,826	(1,610)	0	13,216	5,835	1,725	2,907	23,683
	15,514	11,304	14,826	(1,610)	0	13,216	5,835	1,725	2,907	23,683

CAPITAL INVESTMENT PLAN - QUARTER 2 2014/15- EXPENDITURE

Annex 1

	Expend in Prev Years (active schemes only)	Actuals & Commitments 2014/15 Qtr 2	Previous 2014/15 Q1 14/15	2014/15 Q2 Adjustments	New Schemes 2014/15	Revised 4-year Plan Oct 2014				Total for Plan Period	
						Total 2014/15 Revised	2015/16	2016/17	2017/18		
Contingency											
General Capital Contingency	0		0			0	631	0	0	0	631
	0	0	0	0	0	0	631	0	0	0	631
TOTALS	43,176	17,345	35,614	(5,707)	420	18,055	12,359	8,804	8,804	69,545	
CAPITAL INVESTMENT PLAN - QUARTER 2 2014/15- FUNDING											
Supported Borrowing			504	(67)		437	67			504	
Unsupported Borrowing			15,888	(2,032)		13,856	6,982	2,720	3,907	27,465	
Grants			16,005	(2,795)	295	13,505	8,548	8,481	4,512	35,046	
Contributions			374	155		529	285	3	385	817	
Reserves			702	53	105	860	771	100		2,116	
Revenue			649	(280)	20	389	300	505		1,194	
Capital Receipts			1,492	(741)		751	1,102	550		2,403	
Total			35,614	(5,707)	420	30,327	18,055	12,359	8,804	69,545	

Standing Order D11 (in relation to Overview and Scrutiny) – Call-in and Urgency Council Meeting, 4 December 2014

In accordance with Standing Order D11, the call-in procedure does not apply where the executive decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests.

Before deciding whether a decision is urgent the decision making person or body must consult the Overview and Scrutiny Co-ordinator, or in his absence either:

- (a) (if the decision is a Key Decision and Standing Order E14 (General Exception) applies) each member of the Overview and Scrutiny Board shall be consulted; or
- (b) (in all other cases) the Chairman of the Council, or (if there is no Chairman/woman of the Council appointed) the Vice-Chairman/woman of the Council, shall be consulted.

Decisions taken as a matter of urgency shall be reported to the next available meeting of the Council, together with the reasons for urgency and a summary of the consultation undertaken.

The table below sets out this information:

Matter for decision	Decision-taker	Reasons for urgency	Consultation
Heritage Lottery Fund Bid at Cockington	The Mayor	The Mayor on 13 August 2014 approved a request for the Council to co-sign the application to allocate £100k from the capital receipt of the sale of Higher Lodge to provide partnership funding to the Torbay Coast and Countryside Trust against the Heritage Lottery Fund Stage 2 bid application which will provide £1.6m towards the redevelopment of property and lands within the Cockington estate. The application had to be submitted urgently to meet the Heritage Lottery Fund timescales and bid to obtain external funding. Any delay likely to be caused by the call-in process would prejudice the Council's and public's interests.	The Overview and Scrutiny Co-ordinator was consulted on 12 August 2014.

Anne-Marie Bond
Monitoring Officer