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Tuesday, 31 January 2017

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 **Rosetor Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 2 February 2017** 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
Chief Executive

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

A prosperous and healthy Torbay

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

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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 8 December 2016.

(Pages 6 - 12)

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 Chief Executive.

6. **Petitions**

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

7. **Petition for Debate - Save our King George V Playing Fields**

Approximately 957 valid written signatures and 202 valid e-signatures from residents and people who work or study in Torbay.

(Page 13)

In accordance with Standing Orders the petition will be considered at this meeting.

8. **Members' questions** (Pages 14 - 16)
To respond to the submitted questions asked under Standing Order A13.
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 - King George V Playing Field (Page 17)
- (b) Notice of Motion - Devolution Discussions (Page 18)
- (c) Notice of Motion - Care Leavers Council Tax Exemption (Pages 19 - 20)
10. **Local Government Association Corporate Peer Challenge Follow Up Visit and Finance Review, plus CIPFA Financial Resilience Review - Progress Report and Revised Action Plan** (Pages 21 - 124)
To consider the submitted report on the above.
11. **Call In of Mayor's Decision on Potential Helipad and Light Rail System for Torbay** (Pages 125 - 134)
To consider the submitted report in respect of the above Mayoral decision which was called in by the Overview and Scrutiny Board and referred to Council for consideration.
12. **Call In of Mayor's Decision on Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas** (Pages 135 - 148)
To consider the submitted report in respect of the above Mayoral decision which was called in by the Overview and Scrutiny Board and referred to Council for consideration.
13. **Community Infrastructure Levy (CIL)** (Pages 149 - 199)
To consider the submitted report on the proposed adoption of the Community Infrastructure Levy, which forms part of the Council's Policy Framework.
14. **Mayor's Response to Objection to Planning Contributions and Affordable Housing Supplementary Planning Document (SPD)** (Pages 200 - 308)
To consider the Mayor's response to the Planning Contributions and Affordable Housing Supplementary Planning Document as set out in Appendix 4 to the submitted report (Policy Framework).
15. **Capital Plan 2016/2017 - Quarter 3 Monitoring** (Pages 309 - 320)
To consider the third Capital Plan monitoring report for 2016/2017 under the Authority's agreed budget monitoring procedures which provides high-level information on capital expenditure and funding for the year compared to the latest position as reported to Council in December 2016.

To consider any recommendations from the Overview and Scrutiny Board.

- 16. Revenue Budget 2016/2017 - Quarter 3 Monitoring** (Pages 321 - 328)
To note the submitted report setting out the projected outturn for the Council's Revenue Budget for 2016/2017 as at the end of Quarter 3.

To consider any recommendations from the Overview and Scrutiny Board.

- 17. Chairman/woman and Vice-Chairman/woman Select**
In accordance with the Council's Standing Order (A9.1) to select, by elimination ballot, the Chairman/woman-Elect and Vice-Chairman/woman-Elect for the Municipal Year 2017/2018.

- 18. Composition and Constitution of Executive and Delegation of Executive Functions** (Pages 329 - 335)
To receive details on the composition and constitution of the Mayor's Executive for 2016/2017, together with the record of delegation of Executive Functions.

- 19. Exclusion of the Press and Public**
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of items 20 and 21 on the agenda on the grounds that exempt information (as defined in Paragraph 3 to Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.

- 20. Torbay Economic Development Company Limited Business Plan 2017 to 2021** (Pages 336 - 338)
To consider the submitted report on the above Policy Framework document.

(Note: this report contains exempt appendices which have been circulated separately.)

- 21. Call-in of Mayor's Decision on Lease of part of the 4th Floor of Tor Hill House, Union Street, Torquay** (To Follow)
To consider the submitted exempt report in respect of the above Mayoral decision which was called in by the Overview and Scrutiny Board and referred to Council for consideration.

Adjournment

The following items form part of the Council's Annual Budget setting process and will be deferred for consideration at an adjourned meeting of the Council to be held on 9 February 2017.

- 22. Transformation Project - Children's Services Medium Term Finance Strategy** (Pages 339 - 361)
To consider the submitted report on the above.

- 23. Revenue Budget 2017/2018** (To Follow)
To consider the recommendations of the Mayor on the Revenue Budget proposals for 2017/2018. Circulated separately to this

report are the following documents:

- Mayor's Budget Proposals
- Chief Finance Officer's Report
- Proposed Budget Digest (including the proposals for service change, income generation and savings)
- Equality Impact Assessments
- Proposed Fees and Charges

- 24. Capital Plan Budget 2017/2018** (To Follow)
To consider the recommendations of the Mayor on the Capital Plan Budget proposals for 2017/2018 and the application of Capital Projects Scoring Matrix to the reserve list of Capital Schemes.
- 25. Review of Reserves** (To Follow)
To consider the submitted Policy Framework document on a review of the Council's reserves and any recommendations from the Overview and Scrutiny Board.
- 26. Treasury Management Strategy 2017/18 (incorporating the Annual Investment Strategy 2017/18 and the Minimum Revenue Provision Policy 2017/18)** (To Follow)
To consider the submitted report on the above Policy Framework documents and the recommendations of the Audit Committee.
- 27. Corporate Asset Management Plan** (To Follow)
To consider the submitted report on a review of the Council's Corporate Asset Management Plan (Policy Framework document).
- 28. Corporate Capital Strategy** (To Follow)
To consider the submitted report on the review of the Council's Corporate Capital Strategy (Policy Framework document).

Note

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



Minutes of the Council **(Council decisions shown in bold text)**

8 December 2016

-: Present :-

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

The Mayor of Torbay (Mayor Oliver)

Councillors Amil, Barnby, Bent, Bye, Carter, Cunningham, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, King, Kingscote, Lewis, Manning, Mills, Morey, Morris, O'Dwyer, Parrott, Robson, Pentney, Stockman, Sanders, Stocks, Stringer, Stubley, Thomas (D), Thomas (J), Tolchard, Tyerman and Winfield

97 Opening of meeting

The meeting was opened with a prayer.

98 Apologies for absence

Apologies for absence were received from Councillors Sykes.

99 Minutes

The Minutes of the meeting of the Council held on 27 October 2016 were confirmed as a correct record and signed by the Chairman.

100 Declarations of interests

No interests were declared.

101 Communications

The Overview and Scrutiny Co-ordinator thanked members of the Priorities and Resources Review Panel for their work on reviewing the Mayor's budget proposals and the support from officers (in particular the Overview and Scrutiny Manager). He advised that the Overview and Scrutiny Board would be reaching its conclusions and making recommendations to the Mayor at its meeting on 14 December 2016.

102 Public question time

In accordance with Standing Order A24, the Council heard from Mr Long who had submitted a statement and question in relation to the disposal of Christmas trees. Councillor King responded to the statement and question that had been put forward, plus a supplementary question asked by Mr Long.

103 Members' questions

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

Written responses were circulated prior to the meeting. Supplementary questions were then asked and answered in respect of questions 1, 2 and 3. Verbal responses were provided at the meeting. Councillor Mills responded to the supplementary question in respect of question 3 in the absence of the Mayor.

104 Notice of Motion - Petition Scheme (Council Decision)

Members considered a motion in relation to the requirements of the Council's Petition Scheme, notice of which was given in accordance with Standing Order A14.

Councillor Darling (S) proposed and Councillor Carter seconded the motion, as set out below:

The Council's petition scheme requires a signature, address and postcode. By making petitioners provide a postcode can exclude people who may wish to sign petitions.

Therefore this Council resolves:

That the Monitoring Officer be instructed to amend the Council's Constitution to remove the requirement for petitioners to include a postcode as part of their address when signing a petition to further support public involvement and engagement.

An amendment by Councillor Thomas (D) and seconded by Councillor Lewis was circulated prior to the meeting. During the debate, Councillor Darling (S) and Councillor Carter accepted the amendment, which was then incorporated in the original motion and was agreed by the Council (unanimously) as set out below:

The Council's petition scheme requires a signature, address and postcode. By making petitioners provide a postcode can exclude people who may wish to sign petitions.

Therefore this Council resolves:

That the Monitoring Officer be instructed to amend the Council's Constitution to remove the requirement for petitioners to include a postcode and that the requirement of 'full address' be amended to 'name or number, street and town' when signing a petition to further support public involvement and engagement.

105 Revision of Council Tax Support Scheme

The Council considered the submitted report on a review of the current Council Tax Support Scheme for 2016/17. The Scheme provided a discount to help low income households with the cost of Council Tax payments. Members noted that for each financial year the Council must consider whether to revise or replace its current scheme by 31 January and continued reductions in Government grants had led to a number of proposed changes to the Scheme to make it more affordable.

Councillor King proposed and Councillor Tyerman seconded the motion and during the debate Councillor Stockman proposed and Councillor Tyerman seconded an amendment (the addition of paragraph (vi) below). Councillor King and Councillor Tyerman accepted the amendment, which was then incorporated in the original motion and was agreed by the Council as set out below:

- (i) that, having considered the outcomes of the full consultation results and having due regard to the matters under the Public Sector Equality Duty (as set out in the Equality Impact Assessment) and the potential impacts on people with disabilities, carers, women and working age groups the proposed changes to the reviewed Council Tax Support Scheme as set out in section 11 to Appendix 1 to the submitted report be approved;**
- (ii) that Personal Allowances and Premiums for Council Tax Support are uprated from 1 April 2017 in line with the prescribed pensioner scheme and national working-age benefits, which are both set by the Government;**
- (iii) that the Discretionary Awards (Exceptional Hardship) fund of £80,000, which is used to top up Council Tax Support awards in appropriate cases, be continued;**
- (iv) that it be noted that the discretionary Awards (Exceptional Hardship) policy and fund will be reviewed during the new financial year, 2017/18;**
- (v) that the Head of Finance, in consultation with the Executive Lead Member for Customer Services, be authorised to make final detailed changes to the Council Tax Support Scheme and to implement the scheme from April 2017; and**

- (vi) **that the Council request the Head of Finance to review the exceptional hardship policy so as to consider an extension of the scheme to those impacted by the minimum set income for self employed earners.**

(Note: Mayor Oliver joined the meeting during this item.)

106 Council Tax Base 2017/2018

Members considered the submitted report which set out the Council's tax base for council tax purposes for 2017/18.

Mayor Oliver proposed and Councillor Mills seconded the motion, which was agreed by the Council, as set out below:

- (i) **that the calculation of the Council Tax Base for the year 2017/18 be approved as shown in Appendix 1 to the submitted report;**
- (ii) **that the calculation of the Brixham Town Council Tax Base for the year 2017/18 be approved as shown in Appendix 2 to the submitted report;**
- (iii) **that, in accordance with the Local Authorities (Calculation of Tax base) (England) Regulations 2012, the amount calculated by Torbay Council as its Council Tax base for the year 2017/18 should be 44,049.22; and**
- (iv) **that, in accordance with the Local Authorities (Calculation of Tax base) (England) Regulations 2012, the amount calculated by Torbay Council as the Council Tax base for Brixham Town Council for the year 2017/18 should be 5,900.83.**

107 Adoption of Planning Contributions and Affordable Housing Supplementary Planning Document

Following the adoption of the Torbay Local Plan 2012-2030 and the submission of the Community Infrastructure Levy, the Council considered the submitted report setting out a review of the Planning Contributions and Affordable Housing Supplementary Planning Guidance. Members noted the document set out the Council's approach to developer contributions for both commercial and residential properties.

Councillor King proposed and Councillor Mills seconded the motion, as set out below:

- (i) that following consideration of representations made on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document (SPD), the SPD be adopted, with minor modifications, as a Supplementary Planning Document as set out in Appendix 3 to the submitted report; and

- (ii) that the Executive Head of Business Services, in consultation with the Executive Lead for Planning, Transport and Housing, be given delegated powers to make minor amendments to the document to ensure legibility and clarity.

During the debate Councillor Thomas (D) proposed and Councillor Lewis seconded an objection to the motion as set out below:

that the Council formally objects to the adoption of the Planning Contributions and Affordable Housing Supplementary Planning Document on the basis that the officer recommendation should be adopted by Council as follows:

- 3.3 that following Consideration of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document (SPD), the SPD be adopted, with minor modifications, as a Supplementary Planning Document as set out in Appendix 3 to the submitted report except that the threshold for provision of affordable housing in paragraph 3.4 of the SPD, and accompanying text elsewhere, be amended to 3 instead of 11 to ensure that the document adheres to the affordable housing thresholds set out in Policy H2 of the Adopted Torbay Local Plan, i.e. 3 dwellings for greenfield sites and that the Written Ministerial Statement of 28 November 2014 should be noted in the SPD as a material consideration; and**
- 3.4 that the Executive Head of Business Services, in consultation with the Executive Lead for Planning, Transport and Housing, be given delegated powers to make minor amendments to the document to ensure legibility and clarity.**

In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to consider this objection by 6 January 2017 and either:

- a) submit a revision of the Planning Contributions and Affordable Housing Supplementary Planning Document with the reasons for any amendments to the Council for its consideration; or**
- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.**

The objection (substantive motion) was then considered by members, which was agreed by Council (shown in bold text above). The Mayor would consider the objection and publish his response by 6 January 2017 for consideration at the Extraordinary Council meeting on 19 January 2017.

108 Special Responsibility Allowance Chairman of Investment Committee

Following the Council's decision to establish an Investment Committee, members considered the submitted report on a proposal to introduce a Special Responsibility Allowance for the Chairman of the newly formed Committee.

Councillor Mills proposed and Councillor Bent seconded the motion, which was agreed by the Council, as set out below:

that the Special Responsibility Allowance for the Chairman of the Investment Committee be set at £3,405 and that the Members' Allowances Scheme be updated accordingly.

109 Capital Plan Update 2016/2017 Quarter 2 and Mayor's Proposals for Capital Plan Revisions for Budget Process 2017/2018

The Council noted the current position in respect of the Council's approved Capital Plan for quarter two, as set out in the submitted report.

110 Revenue Budget Monitoring 2016/2017 - Quarter Two (Mayoral Decision)

The Council noted the forecast position for Revenue Budget for 2016/17 based on quarter two information, as set out in the submitted report. Members also noted the observations of the Overview and Scrutiny Board which were circulated prior to the meeting.

111 Standing Order D11 (in relation to Overview and Scrutiny) - Call-in and Urgency

Members noted the submitted report setting out the executive decision taken (appointment of consultants to develop an alternative delivery option for Children's Services) to which the call-in procedure did not apply.

112 Summary of decision taken by the Mayor in accordance with Standing Order E15 - Access to Information (Special Urgency)

Members noted the submitted report on an executive decision (appointment of consultants to develop an alternative delivery option for Children's Services) which had not been included in the Forward Plan.

113 Exclusion of the Press and Public

Mayor Oliver proposed and Councillor Mills seconded the motion, which was agreed by the Council (unanimously), as set out below:

that the press and public be excluded from the meeting prior to consideration of the following items on the agenda on the grounds that exempt information (as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) is likely to be disclosed.

Prior to consideration of the items in Minutes 114 and 115 the press and public were formally excluded from the meeting.

114 Proposed investment at Torbay Business Park

The Council considered proposals for investment at Torbay Business Park as set out in the submitted exempt report.

Mayor Oliver proposed and Councillor Thomas (D) seconded the motion, which was agreed by the Council (unanimously), as set out below:

that Council Minute 42/7/16 – Proposed Investment at Torbay Business Park be rescinded and that the following amendment to the original report be approved:

That subject to confirmation of heads of terms, a satisfactory *five year* rental guarantee, parent company guarantee and such guaranties being confirmed as acceptable by the Assistant Director, Corporate and Business Services, in consultation with the Mayor and Group Leaders and Section 151 Officer, the Council approves investing the sum [as set out in the exempt report] in the project, at Torbay Business Park.

115 Investment Committee Recommendation - Investment Opportunity

The Council considered the recommendations of the Investment Committee on an investment opportunity. Members received details of the proposal as set out in the exempt report circulated prior to the meeting.

The decision of the Council meeting is restricted due to exempt information contained within the decision.

Chairman

Petition for Debate - Save our King George V Playing Fields

957 paper signatures

202 e-signatures

We the undersigned note that 80 years ago the King George the Vth playing fields off the Teignmouth Road Watcombe Torquay should have been registered with the National Memorial scheme for King George the Vth. Unfortunately, this was never done. On the basis that the Corporate Asset Management Plan means that the dedication of the King George the Vth playing fields is a decision for Full Council, the Petitioners ask Torbay's Full Council to approve such a dedication and instruct officers to register it.

Submitted by Mr David Ward

Agenda Item 8

Meeting of the Council

Thursday, 2 February 2017

Questions Under Standing Order A13

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

Question (1) by Councillor Thomas (J) to the Executive Lead for Planning, Transport and Housing (Councillor King)	<p>I understand the Council has been awarded a one off grant of £400,000 to help with our current homelessness issues, could the Executive Lead please advise:-</p> <ul style="list-style-type: none">i) what are the priorities for these monies andii) specific examples where this money is to be spent andiii) the projected outcomes this should achieve. <p>Would the Executive Lead also outline how this money is being prioritised against the Torbay Homelessness Strategy 2015 to 2020.</p>
Question (2) by Councillor Carter to the Mayor and Executive Lead for Finance and Regeneration (Mayor Oliver)	<p>In light of the recent fire at Crossways, could you advise me if there is a deadline for serving a compulsory purchase order for Crossways and if so what that date is?</p>
Question (3) by Councillor Sanders to the Mayor and Executive Lead for Finance and Regeneration (Mayor Oliver)	<p>What representations has he made to the Prisons Minister to act on the number of prisons in the South West and in Devon whom he claims recommend prisoners on release to come to Torbay?</p>
Question (4) by Councillor Darling (S) to the Executive Lead for Planning, Transport and Housing (Councillor King)	<p>Residents along Moor Lane Torquay and adjoining roads are concerned that over many years there has been an increasing problem with anti social driving and parking along this road. How has the Council engaged with the three schools to ensure that they play their part in reducing this problem.</p>

Question (5) by Councillor Doggett to the Councils Representative on the Devon and Somerset Fire Authority (Councillor Ellery)	In light of the fire at the Royal Clarence Hotel Exeter, what lessons have been learnt by the Fire Authority that would assist in a similar fire in Torbay?
Question (6) by Councillor Darling (M) to the Executive Lead for Planning, Transport and Housing (Councillor King)	I have been lead to believe that a property in Torre, Torquay has been converted into a house of multiple occupation (HMO) without planning permission. What enforcement action is being considered?

Second Round

Question (7) by Councillor Carter to the Mayor and Executive Lead for Finance and Regeneration (Mayor Oliver)	No action appears to be happening with regard to Oldway and surrounding area, could you advise me of the plans for action with regard to Oldway, the tennis courts, the parking and the bowls club, and when action is likely to take place.
Question (8) by Councillor Sanders to the Mayor and Executive Lead for Finance and Regeneration (Mayor Oliver)	What was: a) the total expenditure on new beach huts at Meadfoot; b) the estimated income from the beach huts at Meadfoot over this financial year; and c) the actual income from the beach huts so far this financial year?
Question (9) by Councillor Darling (S) to the Executive Lead for Planning, Transport and Housing (Councillor King)	Torbay Council is set to introduce a 20mph zone on Moor Lane Torquay. However, a representative of Devon & Cornwall police has advised residents that they are unlikely to have the resource to enforce the speed limit. Without enforcement this appears to make this and other 20MPH zones outside schools a paper tiger. How do you plan to ensure that the Police do enforce these speed limits?
Question (10) by Councillor Doggett to the Executive Lead for Planning, Transport and Housing (Councillor King)	I understand that over £400,000 has been spent on developing the Edginswell rail halt with little chance of a successful scheme. Has this scheme hit the buffers and wasted hundreds of thousands of tax payers money?

<p>Question (11) by Councillor Darling (M) to the Executive Lead for Planning, Transport and Housing (Councillor King)</p>	<p>As Part of the 60 & 61 motion passed at Full Council on 11 May 2016 it was agreed that “That the Council will develop a user group for bus users in Torbay and will hold regular meetings with bus operators to assist in the future of transport provision.” When does the Council plan to act upon this minute?</p>
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Third Round

<p>Question (12) by Councillor Sanders to the Executive Lead for Planning, Transport and Housing (Councillor King)</p>	<p>What progress has he made over the past year ensuring the protection of disabled parking bays in residential parking zones?</p>
<p>Question (13) by Councillor Darling (S) to the Executive Lead for Community Services (Councillor Excell)</p>	<p>Local residents feel that to reduce parking problems on and around Moor lane schools should be encouraged to use the car park for Watcombe beach. Can the Council enter into negotiations with the schools with a view to introduce the use of the car park for them?</p>
<p>Question (14) by Councillor Darling (M) to the Mayor and Executive Lead Finance and Regeneration (Mayor Oliver)</p>	<p>The Former B & Q building in Torre continues to be a blot on Torquay’s landscape. What options have the Council considered in the last 18 months to force action on this eyesore?</p>

Notice of Motion – Council 2 February 2017 (Council Decision)

King George V Playing Fields

That this Council notes:

That, 80 years ago the King George the V playing fields off of Teignmouth Road, Watcombe, Torquay should have been registered with the National Memorial scheme for King George the V. Unfortunately, this was never done.

That this Council be recommended:

On the basis that the Corporate Asset Management Plan means that the dedication of the King George the V playing fields is a decision for Full Council, the movers of the motion ask Torbay's Full Council to approve such a dedication and instruct officers to register it.

Proposed by Councillor Darling (S)

Seconded by Councillor Stringer

Notice of Motion – Council 2 February 2017 (Council Decision)

Devolution Discussions

That the Council be recommended:

- A) To confirm its commitment to the devolution deal for the Heart of the Southwest and instruct the Chief Executive and Officers to continue their support for the development of the productivity plan and the establishment of governance for its delivery,
- B) To instruct the Chief Executive (working with representatives from the Devolution Working Party) to explore as a matter of urgency sub regional opportunities with Plymouth City Council, Exeter City Council and any other authorities wishing to discuss devolution options which would have a potential benefit to Torbay. These discussions will enable the Council to ensure that all possibilities have been considered in the event that the Heart of the South West deal is not progressed, or is not as significant as originally envisaged.
- C) The Chief Executive is instructed to report progress on both (a) and (b) above, to the Devolution Working Party and Council as he deems appropriate.

Proposed by Councillor Thomas (D)

Seconded by Councillor Tyerman

Notice of Motion – Council 2 February 2017 (Council and Mayoral Decision)

Care Leavers Council Tax Exemption

The Council notes that:-

1. Last year a number of young people (aged 16 or over) left the care of Torbay Local Authority and began the difficult transition out of care and into adulthood.
2. A 2016 report by the Children's Society found that when care leavers move into independent accommodation they begin to manage their own budget fully for the first time. The report showed that care leavers can find this extremely challenging, and, with no family to support them and insufficient financial education, are falling into debt and financial difficulty.
3. Research from the Centre of Social Justice found that over half (57%) of young people leaving care have difficulty managing their money and avoiding debt when leaving care.
4. The Local Authority has a duty of care to care leavers.

The Council believes that:-

1. To ensure that the transition from care to adult life is as smooth as possible, and to mitigate the chances of care leavers falling into debt as they begin to manage their own finances, they should be exempt from paying Council Tax until they are aged 25.
2. Care leavers are a particularly vulnerable group for Council Tax debt.

This Council resolves:

- i) To request officers to explore exempting all care leavers from Council tax up to the age of 25 as part of the development of the 2018/19 Council Tax Support Scheme; and
- ii) the Mayor write to the Minister of State for Children and Families, Edward Timpson M.P, urging him to introduce a national exemption for care leavers from Council Tax up to the age of 25.

Proposed by Councillor Ian Doggett

Seconded by Councillor Cindy Stocks



Meeting: Extraordinary Council

Date: 19 January 2017

Wards Affected: All

Report Title: Local Government Association Corporate Peer Challenge Follow Up Visit and Finance Review, plus CIPFA Financial Resilience Review – Progress Report and Revised Action Plan

Is the decision a key decision? No

When does the decision need to be implemented? Ongoing implementation of action plan

Executive Lead: Councillor Derek Mills, Deputy Mayor and Executive Lead for Governance and Public Health

Supporting Officer Contact Details: **Anne-Marie Bond**, Assistant Director of Corporate and Business Services, 01803 207160 and anne-marie.bond@torbay.gov.uk

1. Proposal and Introduction

1.1 The Council approved the final Local Government Association's (LGA) Corporate Peer Challenge action plan at its meeting on 7 April 2016. This report provides an update on the progress made since the action plan was implemented and presents a revised and prioritised action plan which encompasses further reports received from the LGA (follow up visit and finance review) plus the CIPFA Financial Resilience Review feedback. The LGA Corporate Peer team undertook a follow up visit to Torbay on 27 September 2016 and a review of the Council's finances on 9 and 10 November 2016. CIPFA also undertook a financial resilience review in November 2016.

2. Reason for Proposal

2.1 To enable the Council to respond to the LGA and CIPFA's feedback reports and continue to make improvements.

3. Recommendation(s) / Proposed Decision

3.1 That the LGA Corporate Peer Challenge Follow up day Summary Report and Efficiency Plan Review (Appendices 1 and 2), the LGA Finance Review of Torbay Council (Appendix 3) and CIPFA Financial Resilience Review (Appendix 4), be noted;

- 3.2 That the progress made on the original Local Government Association (LGA) Corporate Peer Challenge Feedback Action Plan (as set out at Appendix 5 to the submitted report) be noted; and
- 3.3 That the revised and re-prioritised LGA Corporate Peer Challenge/Finance Review and CIPFA Financial Resilience Review action plan as set out at Appendix 6 be approved.

4. Background

- 4.1 The LGA undertook a Corporate Peer Challenge review of the Council during an on-site visit (30 November to 3 December 2015). The Peer Challenge Team considered the following questions which form the core components looked at by all corporate peer challenges:
1. Understanding of the local place and priority setting: Does the council understand its local context and place and use that to inform a clear vision and set of priorities?
 2. Leadership of Place: Does the council provide effective leadership of place through its elected members, officers and constructive relationships and partnerships with external stakeholders?
 3. Financial planning and viability: Does the council have a financial plan in place to ensure long term viability and is there evidence that it is being implemented successfully?
 4. Organisational leadership and governance: Is there effective political and managerial leadership supported by good governance and decision-making arrangements that respond to key challenges and enable change and transformation to be implemented?
 5. Capacity to deliver: Is organisational capacity aligned with priorities and does the council influence, enable and leverage external capacity to focus on agreed outcomes?
- 4.2 At the end of their review, the Peer Challenge Team made a number of recommendations and provided feedback. A key component of the review was the Council's financial position, in respect of which the Team advised 'The financial challenges facing the council are clear and pressing now and this will continue into the medium term. They will therefore require prioritised attention and pace to address and then drive to deliver the changes needed,' they also advised that the Council needed to 'invest in...appropriate capacity to deliver organisational and business transformation at pace.'
- 4.3 A detailed action plan to respond to the LGA's recommendations was developed. A follow up visit took place on 27 September 2016 to review our progress. Their report following that visit is attached at Appendix 1. The report demonstrates that there has been some real progress with the issues identified from the original peer challenge, with the report stating that the Council "has shown real intent and progress has been made against all 27 of our recommendations." However it is recognised that some have progressed further than others and this needs to be addressed going forward.

- 4.4 The LGA also undertook a Financial Review of the Council on 9 and 10 November 2016 which was undertaken as a result of one of their original recommendations. This report is attached at Appendix 3.
- 4.5 To complement the LGA Finance Review the Council commissioned CIPFA to undertake an in depth financial resilience review – their report is attached at Appendix 4.
- 4.6 As a result of these financial reviews and LGA follow up visit, the original action plan has been revised, reprioritised and updated to incorporate the new recommendations arising from the three reports. The new action plan also includes completed sections and operational actions at an officer level as is set out at Appendix 6.
- 4.7 For completeness and to provide an audit trail, the original action plan has been updated with progress made and incorporated in the new action plan – Appendix 5.

5. Outline of significant key risks

- 5.1 The main risk associated with the report is the failure to continue to respond to the recommendations of the LGA Peer Challenge Team and CIPFA. This may result in the Council not responding adequately to the challenges it faces. The new action plan addresses the recommendations by the LGA and CIPFA.

6. Other options

- 6.1 To stop implementing the action plan – this is not recommended as the action plan is mitigating the risks outlined above.

7. Summary of resource implications

- 7.1 The action plan is being delivered within identified resources and any additional resources will be incorporated in the budget setting process for 2017/2018.

8. Consultation

- 8.1 Key partners, stakeholders, elected members, and officers contributed towards the development of the original LGA Corporate Peer Challenge action plan. All members have received the summary report of the LGA Corporate Peer Challenge follow up visit and the CIPFA Report. The Mayor, Group Leaders and Overview and Scrutiny Co-ordinator have provided an input in preparing the revised action plan. The revised action plan continues to assist the Council in making improvements which will ultimately lead to better outcomes for the community.

Appendices

Appendix 1: LGA Corporate Peer Challenge Follow up day – Summary Report

Appendix 2: LGA Corporate Peer Challenge Follow up day – Efficiency Plan Review

Appendix 3: LGA Finance Review Torbay Council – Summary Feedback Report

Appendix 4: CIPFA Financial Resilience Review

Appendix 5: Original LGA Corporate Peer Challenge Action Plan Progress Update and position statement for new revised action plan

Appendix 6: LGA Corporate Peer Challenge/Finance Review and CIPFA Financial Resilience Review Action Plan

Background Documents

Local Government Association Corporate Peer Challenge Torbay Council Feedback Report

Local Government Association Corporate Peer Challenge Finance Review Torbay Council Summary Feedback Report

CIPFA Financial Resilience Review Torbay Council November 2016



Corporate Peer Challenge Follow up day Torbay Council

27 September 2016

Summary Report

1. Background

Torbay Council's Corporate Peer Challenge (CPC) took place in November 2015. Following that challenge the LGA team produced a report of findings which was delivered to the council. In response to this the council produced an action plan which, having been taken through its political and managerial governance arrangements, was approved in April 2016.

Since 2005 the council has had a mayoral governance model. The current Directly Elected Mayor has been in office since 2011, having been re-elected in 2015. Since the original CPC there has been a mayoral referendum in Torbay. This took place in May of this year and the outcome will result in the council moving to a leader and cabinet model of political governance in May 2019. The Council has also made further financial savings equivalent to 12% of its net budget and recruited a replacement DCS.

The LGA's Principal Advisor and Challenge Manager have, along with several members of the original peer team visited the council on a number of occasions since the action plan was produced to help, advise and review progress directly with the council. As part of this process it was agreed that a follow up day 6-12 months following the original peer challenge would be arranged.

That follow up day took place on 27 September 2016. The aim of the day was:

- Jointly, with the council undertake a progress review (1.5 hour session)-this was essentially to check progress to date since the original CPC and establish the current position-this was done through a led discussion between the peer team and five officers of the council's Senior Leadership Team (SLT). The Chief Executive and one of his Directors were unable to attend due to an important international civic engagement.
- To delve deeper into key efficiency plan/transformation challenge areas which the council chose to confirm specific progress and use these themes below to also help provide an overall gauge of progress-this was done via four workshops held between members of the team and senior officers and members from Torbay Council, including the Directly Elected Mayor and chief executive (4 x 1.5 hour sessions). Those themes were
 - Children and adults; Housing Company; Council tax and , TOR2

- For the team to feedback summary findings and recommendations at the end of that day-this was done through a PowerPoint presentation undertaken by some members of the team with an audience of most of the senior members and officers we met with on the day.

The day and process was also informed by a desk review of the council's efficiency plan undertaken by Chris West, Director of Resources for Coventry Council, who was part of the original CPC team. Chris West was unable to attend on the day, but in addition to the desk top review he had a telephone conference call with the Mayor and Chief Executive in respect of the council's Efficiency Plan and budget the day prior to the follow up day.

This summary report captures the essence of all of the above. It provides:

- The details of the team which undertook the follow up day
- Headline messages from the team
- A summary of the team's views from the respective sessions i.e. the progress review and four workshops
- A summary of the Efficiency Plan desk-top review
- Recommendations from the team
- Two appendices:
 - a summary of areas of focus and recommendations from the original corporate peer challenge
 - the full desk-top review of the council's DRAFT Efficiency Plan

2. Peer challenge follow up day team

The team was as follows:

- Trevor Holden, Chief Executive - Luton Borough Council
- Stuart Drummond, ex-Mayor - Hartlepool Borough Council

- Andy Felton, Acting Head of Transformation (Assistant Director) - Staffordshire County Council
- Sheila Smith, Director of People and Communities – North Somerset Council
- Paul Clarke, LGA Challenge Manager

Team members who have also contributed to the process and this report are:

- Cllr Alan Jarrett, Leader - Medway Council
- Chris West, Executive Director Resources - Coventry City Council
- Andy Bates-Principal Advisor-LGA
- Vicki Goddard, LGA Improvement Support Advisor

3. Headline feedback from follow up visit

The council engaged positively in the original peer challenge process. In response to the findings from the CPC it developed a detailed action plan covering all 27 recommendations arising from it. Progress against the action plan has been reported to both Audit Committee and Full Council. As such the council is to be commended for its engagement with and response to the CPC. Now it is time for that action plan to be reviewed and prioritised in the light of the experience of the council and in conjunction with this summary report.

The council has produced and adopted at full council, just the week prior to the peer follow-up day, an Efficiency Plan. Prior to this a desk top exercise was undertaken by Chris West in August 2016 to review at that stage the council's draft plan. Subsequent to this a telephone conversation was arranged the day prior to the follow up peer challenge with Chris West and Paul Clarke from the peer team with the Directly Elected Mayor, Chief Executive and Monitoring Officer from Torbay Council. The full report Chris completed is at Appendix 2 to this report and a summary of the review is outlined in section 6 below. It was useful to have Chris undertake the original review and it is positive that the council has now approved an Efficiency Plan. Nevertheless the savings required for next year alone i.e. 2017/18 to balance the budget in year currently are £9.8m. We understand that since Chris undertook his original review just a month ago the financial forecasts the council has undertaken have again worsened. As such it would be wise to have a further assessment undertaken between now and when the council sets

its budget for 2017/18. We are pleased to report that the council has already responded very positively to this recommendation and work is scheduled for November 2016, to be undertaken by the LGA, to test the robustness of the proposals to achieve a balanced budget for 2017/18 and to provide challenge and test the realism of the council's medium terms financial plans i.e. 2018 -20 and beyond. Additionally, and again positively, the council has commissioned via CIPFA a review of its financial resilience.

During the follow-up day we met at various times with leading members and senior officers from Torbay. It was very clear from our discussions with members that since the original peer challenge they felt more empowered, engaged and informed. This has been a strength of the engagement between members and officers over the last 10 months as they collectively galvanised around the findings of the report and the actions with the council's own action plan as a consequence. In terms of progress there was a range of positive outcomes and in our feedback we drew particular attention to the recent changes in the way the governance arrangements for Policy Development Groups (PDGs) had changed, where these were now meetings where executive decisions could be and were now being made. Previously, these had largely been taken by the Directly Elected Mayor following discussion and recommendations from full council. In our view this change will provide clarity as to process, speed up and help the council make more effective decisions.

In addition the council has attended to many of the 27 actions arising from the CPC. It has established a Transformation Board, appointed a director to lead this and now is starting to generate momentum with some 'big ticket' areas, including the establishment of a Housing Company. This shows that when there is a council wide priority, when there is focus and capacity and where there is ambition and all of this is coordinated Torbay Council can, does and will make progress.

However against a number of issues we reported back a lack of significant progress or concerns, that if not successfully addressed will continue to hold the council back.

There has clearly been a lot of endeavour and this progress report will highlight some of that, but in overall terms some of the original issues remain. Delivery against scheduled actions is often slow, so there is a whole issue of pace and prioritisation and in part this stems from the way the council prioritises actions and how it makes decisions. This begs questions of both leadership and capacity.

Whilst we found some positive member and officer relationships, including those between individual directors and their respective executive leads, we also found tensions at a senior level both politically and managerially which have real implications for the leadership of the

council and its ability to successfully manage change. These tensions, in the view of the team derive from the lack of a consistent political purpose which officers can then put their collective energy into delivering, and a continuing misunderstanding of roles and responsibilities.

The consequences of this inevitably lead to a lack of a collective joint sense of purpose between senior politicians and officers which in turn negatively impact upon the capacity of the council to:

- lead change and develop the organisation to meet its significant challenges
- develop and enable effective partnerships and external relationships
- maintain focus on strategic and long-term issues
- work effectively within and across the political dimension of the council especially creating effective connections/enabling appropriate working across the boundary of politics and management

This is not serving the interests of Torbay nor the council well and we urge the Directly Elected Mayor, Chief Executive and leading politicians within the council to address these matters otherwise we do not believe that sufficient progress will be made at the pace that is now required.

The absence of a strategic vision for Torbay and clarity of purpose in respect of working towards it, is in the view of the team, again holding back both Torbay and the council. Its absence means that the council is generally making short term decisions without the benefit of a longer term strategic framework. It is positive that the council has begun more effective engagement with its public and private sector partners and intends to develop a stronger and more cohesive strategic partnership. The council is now making progress here and it will be important that this positive endeavour now moves on at pace so that such a vision is established and all partners rally around the priorities that arise from it. This will help drive action and with a collective will enhance the capacity of the partnership to deliver too.

In line with our comments above in respect of relationships, at our feedback session we reported that in the view of the team there still exists what we described as 'deficit language' and blame. For example, we saw some of the council's leaders, politically and managerially, blaming each other for the situation in which the council currently finds itself. This does not instil confidence and should be addressed as given the range of challenges the council has it is crucial that the senior leaders of the organisation are jointly working with purpose in the best interests of Torbay's residents.

Whilst it is positive that the council has adopted an Efficiency Plan, we saw again people within the council already questioning the credibility of

the projections, and we heard them described on more than one occasion as 'heroic'. Indeed we have already made reference to the reported in-year savings requirements for 2017/18 of £9.8m and overall for the next 3 years of £21.5m. The Peer team are aware that Council has successfully delivered £60m of savings over the last 6 years, however both demand pressures and performance, particularly in Children's Services, has resulted in further and significant budgetary challenges. However a planned use of reserves to invest in Children's Services has not resulted in delivering the savings envisaged. Achieving a stabilised and sustainable budget within Children's Services has to remain a key priority for the Council.

The achievement of the Efficiency Plan will require a strong and purposeful political will to make the very tough decisions that are required, and astute and steadfast managerial leadership and expertise to see it through and achieve unprecedented levels of savings and efficiencies.

In the view of the team elements of the plan need to be reviewed, rescheduled and brought forward. The Council needs to be sure that its budget proposals can and will be delivered upon. We would recommend a further review to be undertaken prior to the council setting its budget for 2017/18. As referred to earlier we are very pleased the council is already addressing this recommendation.

We can see that the council has sought to reinvest capacity at a senior level and this has been important but the scale of change required needs greater capacity with more integration, focus and pace. Within the senior officer team the Director of Children Services, whose introduction to the council is to be very welcomed is understandably focused on children's improvement and those significant challenges that quite rightly he and the council are prioritising; as such he has not had the capacity to make his refreshing outlook as a new leader influence more deeply.

The Director of Adults is leading a service which has had a national reputation for health and social care integration but this is a service with immense pressures and demands and she is also leading on a part-time basis (2 days per week) the council's transformation plan, which is 'mission critical' to its medium term sustainability. The financial issues addressing Torbay Council are very significant and we felt this area would benefit from greater political and managerial leadership and capacity, at both member and officer level. The Chief Executive is also undertaking two challenging roles, one for the council (four days per week) and one for Torbay Development Agency (a wholly owned and controlled company of the Council - delivering council functions, whilst also seeking external work to support regeneration activities within Torbay).

Our overwhelming view is the senior officer capacity within Torbay

Council, throughout its Senior Leadership Team, but particularly in relation to its commercially based financial expertise and capacity to deliver its transformation plans, needs to be increased. The council would be wise to address this and at pace with its transformation plans now. Equally, the capacity of members will also merit further consideration and review.

4. Progress Review

It is important to record some real progress with the issues identified from the original peer challenge. The council has established an action plan and has shown real intent and we can see progress has been made against all 27 of our recommendations. Understandably some have progressed further than others and given the comments we have made about capacity this in part explains why.

The focus on transformation, the appointment of a lead director, a board to oversee this and the development of a range of projects to help deliver real change and improvement is to be applauded.

We have recorded the fact that a strategic partnership forum is being developed, it now needs pace and purpose driving it as well as the evident good will of both the council and its partners. Nevertheless this is a positive step in the right direction.

We have encouraged the council to invest in development in respect of its members, its constitution and governance. Again we have seen progress, specifically highlighted the progress within the PDDGs. We have also seen some members, including Executive Leads really embracing the challenges laid down in our original peer challenge and being both determined and brave despite political opposition. The progress towards setting up a housing company is a good example of this. It was also very clear from our discussions with members that since the original peer challenge they felt more empowered, engaged and informed.

We saw clear political and managerial alignment now around the children's agenda and given the issues that the council is facing this is of fundamental importance and we were very encouraged to see this development. It is essential that senior members and officers know, understand and work together in facing the challenges the council has.

The action plan has been very well led by the council's Monitoring Officer who has shown drive, purpose and real leadership in making sure it was agreed and is being progressed. Now is a good time to think again about that plan and refocus attention and priorities. There were 27 actions from the original plan and many overlap. It will be an important

next step to now rationalise and prioritise these and to focus on what is most important.

In our original report we recommended that the council implement more effective working practices in relation to decision making. Despite the good work undertaken since our original visit, some members remain unclear as to the role of Policy Framework and the difference between Council and Executive decision making. Work on this understanding should continue.

The issue we constantly came back to on the day was a feature of the original peer challenge and that is both senior politicians and senior officers need to work more effectively together. This matter is dealt with in the Headline Feedback section above and a specific recommendation has been assigned to this. In the view of the team it is essential that this is addressed by the Directly Elected Mayor, the Chief Executive and by leading politicians and we believe they will need support, guidance and possibly even further mediation to do so.

5. Summary Headlines from the four workshops

5.1 Adults and Children

The integration of adult social care with health in Torbay was an early national exemplar of good practice and it is well documented in relation to the establishment of the Integrated Care Organisation (ICO). As such in terms of transformation and efficiency the council has shown it can and will continue to make difficult decisions in an environment of significant demand pressures and is therefore planning for the medium to longer term. The Director of Adult Social Care has led the service well throughout this significant period of change. Given that this service was at the forefront of the council's approach to transformation and as much of the resource now resides within the ICO, it is plainly clear that it will be unlikely that any further significant financial efficiencies will be gleaned from this area and as already said the demand pressures in this service area are placing a significant strain on the council's finances.

Torbay's children's services are in intervention. In terms of driving things forward we should report here that the appointment of the fairly new Director of Children's services has not only been very positive for the understandable focus required to improve the services and outcomes for young people in Torbay but his insights and experience will also have the potential for real benefit for the council as a whole, if and when he is able to offer time beyond his current core focus.

It is true to say that previous approaches to gaining efficiencies from children's services have been less than successful and with the

knowledge of this the council has made adjustments to its Efficiency Plan accordingly. It is also directing its efforts to both achieve improved outcomes for its Looked after Children and ease those financial burdens. Nevertheless, in the short to medium term the service failures and demand pressures are such that there are real risks in terms of achieving a sustainable budget in children's services.

We had concerns in the original peer challenge in Torbay about plans at that stage to transfer arrangements to the ICO when the service and the finances underpinning it were so frail. We are pleased to note that the council has commissioned a short focused piece of work to undertake an options appraisal in relation to this and will be considering a wider range of options in doing so.

5.2 Housing Company

The week before our follow up visit full council agreed in principle to establish a housing company with an investment of £60m and to undertake due diligence and commission work accordingly at a cost of £75k. Subject to that due diligence this is a very positive step, it will create new homes for Torbay's residents and a revenue stream for the council.

In terms of transformation, innovation and showing the council's potential appetite for risk this is a very positive step. It is also a great example of members working together on a contentious issue, where despite some political resistance, the Executive Lead has shown leadership and supported by others across the breadth of the political spectrum has achieved full council endorsement for this proposal.

The initial approach was very financially focused and lacked a wider perspective including the other potential benefits for residents and place. We believe this is also a good example of how a proper lack of vision for place allowed a proposal to be fostered in isolation. Through wider political engagement the benefits that could be realised, in addition to the obvious capital and revenue ones, in terms of social benefits including affordable housing are now coming to the fore.

The council is enhancing its capacity on an interim basis to ensure it has the resource to drive this now, and again this is positive. However in developing the business case for the future it would be useful to present the spectrum of potential benefits and options as the current one relies on a 'worst case' scenario.

5.3 TOR2

This is a company in which the council has a circa 20% stake. The services include waste and recycling collections; the maintenance of highways,

grounds, parks, car parks, buildings and the council's vehicle fleet; street and beach cleansing; and out of hours call centre support. As such it is clearly significant financially to the council and is in the second five year period of a rolling contract of up to 15 years having started in 2010.

We identified this contract as a prime area where the council could look to gain efficiencies. The council acknowledges it was not as robust at the first five year break point as it might have been and is seeking to play 'catch up'. We had a sense that officers are doing the right things now in escalating matters to the parent company for TOR2 and exploring strategic opportunities for future efficiencies. The concern we have, and officers have too, is the time taken to get this far and oiling the drivers for pace.

In our view the council needs to drive the leverage Torbay has tactically at this time and reposition the contract so that it is fit for purpose and flexible. As said the officers now leading this have credibility and they are developing capacity to help them tackle this but it will be crucial that within the next twelve months they make real progress and find ways to gain efficiencies from this area. The council has highlighted this as a core area for efficiencies in its plan and as such it must attend to this.

5.4 Council Tax

The workshop focused primarily on the approach the council is and can plan for in terms of its local taxing decisions, which is a key element but just one from the Efficiency Plan. That Efficiency Plan has currently a requirement for savings of £21.5m in the three year period 2017/18 (£9.8m) 2018/19 (£6.5m) and 2019/20 (£5.1m).

The Efficiency Plan has been agreed by full council now and within that there are clear assumptions made by officers that the maximum increases for both council tax and adult social care precept will be taken throughout the next four years. At this stage politically this is acceptable for 2017/18 and the Executive has indicated a desire that smaller tax increases will be applied in the subsequent years of the plan. However, it is plain to us that if such decisions are taken it will require either further service efficiencies or income to be found elsewhere.

The desk review of the Efficiency Plan is summarised below and our view is that the officers have been wise to assume increases of 4% per annum for the duration of the plan and the members have been sensible to endorse it. Beyond this it will be crucial that Torbay finds ways to bridge its significant budget gap and this will require difficult decisions to be made and at pace. This will require the council membership to be exposed to the very stark choices that will be needed to keep Torbay viable. The Council cannot delay making decisions in this respect, very many of these difficult decisions will take some time to implement and need to be progressed

now. The Council should not look to use its limited reserves without having clear, robust and deliverable plans for how savings will ultimately be achieved.

6. Summary feedback on desk review

As a written plan our observation is that the Efficiency Plan is a good document, well presented and it covers the bases. At the stage when we reviewed the plan in late August 2016 the forecast budget gap for 17/18-19/20 was £18.5m.

Over the last few weeks the council has revised its efficiency plan and the total required to be identified has now increased by £3m to £21.5m. This is the plan which was agreed at full council just the week before our follow up visit.

However, as we understand currently the additional savings required has actually increased to £5m, as the original plan included a £2m reduction from the Children's budget, which at this point we are told the council cannot rely upon.

The commentary that follows relates to our desk review of the draft efficiency plan (when the savings required were £18.5m) and given the latest situation (estimated savings of £21.5m) it only serves to reinforce the points we make below.

- By 2021/22 even at the maximum end of the range the savings do not balance the budget (93%) and the minimum end of the range falls well short (65%). By then, additional grant reductions in 2021 and 2022 are likely to have moved the goalposts back still further.
- The savings that do materialise are back loaded
- There is a relatively low percentage of green rated, easier to deliver proposals, and a significant reliance on red rated issues that are back loaded
- The plan shows too little action and too late in the plan period, meaning that more action and greater urgency is required.

Our concerns from our review of the draft was that Torbay Council must be doing more to bring proposals forward, and/or to accelerate progress and to de-risk them to ensure they are deliverable. The short term priority must be to balance the budget in 2017/18 and 2018/19. From the review we undertook we believed there was effectively a range of savings plans which cumulatively by 2018/19 cover only 41% to 68% of the predicted gap. This is highly concerning and in our view the Efficiency Plan and financial resilience of the Council needs to be urgently reviewed.

7. Summary Recommendations

Efficiency Plan

The council must urgently review the assumptions it has made in its Efficiency Plan and it would be wise to gain an external view of its revised plan and act upon those recommendations. At this stage we can already advise that the savings required will need to be brought forward and efficiencies driven at a much faster pace if the council is to be sustainable into the medium term.

Vision

The council must in conjunction with its partners, develop a vision and narrative for Torbay and the council that was outlined in the original peer challenge and again do this at pace.

Leadership and Capacity

This report has highlighted a number of existing inherent weaknesses. The capacity across senior politicians and officers should be reviewed as a matter of urgency. We specifically recommend:

- Enhancing the commercial/financial capacity within the senior officer structure (and further throughout officers and members) to further ensure the delivery of the council's Transformation Programme
- Addressing the council's leadership challenges through a revised Member Development Programme, including consideration of external support to facilitate this.

Decision making

The speed and nature of decision making currently both in terms of policy (delegation) nor speed is helping a council which is facing the issues that Torbay must tackle and this will require urgent review.

As part of this it will be important that all members have consistently clear line of sight and ownership of the council's strategic direction e.g. transformation plan.

The Council needs to develop a new prioritised plan to respond to these recommendations

8. Next steps

Immediate next steps

We appreciate you will want to reflect on these findings and suggestions with your senior managerial and political leadership in order to determine how the Council wishes to take things forward.

As part of the peer challenge process, there is an offer of further activity to support this. The LGA is well placed to provide additional support, advice and guidance on a number of the areas for development and improvement and we would be happy to discuss this. Andy Bates, Principal Adviser and Paul Clarke, Programme Manager are the main contact between your authority and the Local Government Association (LGA).

Key areas considered and recommendations from the original peer challenge

The original Corporate Peer Challenge (CPC) covered the five core areas which every CPC addresses and in doing so sort to provide assurance and challenge on those key elements (in brackets) which the council asked us to specifically to explore. These were:

- Understanding of the local place and priority setting
- Leadership of Place
- Financial planning and viability (Financial Resilience)
- Organisational (leadership and governance)
- Capacity to deliver (Corporate Capacity)

The recommendations arising from the challenge were as follows:

Understanding and Leadership of Place

- Develop a clear long term, high level vision for Torbay that is agreed with key stakeholders
- Develop a clear communication and engagement strategy for the above to embed it with partners and the community
- Develop and understand Torbay's place in the national and regional context

Finance

- Develop a Medium Term Financial Plan which covers the period of your corporate plan and which demonstrates how Torbay will be viable and meet the budget challenges it faces
- Ensure the delivery of the Children's Services 5 Year Plan creates a stable financial platform for the future
- Ensure robust due diligence of the decision and timing of the transfer of Children's Services to the Integrated Care Organisation (ICO)

Leadership and Governance

- Implement more effective working practices in relation to governance and especially in respect of transparency and political decision making
- Engage with an external provider for training on the constitution, and the respective roles of officers and members
- Full Council to reconsider the recommendations and report of the Centre for Public Scrutiny

- Provide peer support and mentoring for chief officers and elected members to support their capacity and provide guidance as the key changes that are required are made
- Develop and deliver an organisational succession plan so that your leadership capability and capacity issues are addressed

Capacity

- The perceived spectre of “non-viability” needs to be exorcised
- Continue to develop and deliver an organisational development and workforce plan
- Review the capacity of your political and managerial leadership to help you meet most effectively the future challenges you are facing
- Review and invest in the training and development needs of senior members and officers
- Invest in or identify through reprioritisation appropriate capacity to deliver organisational and business transformation at pace
- Establish clear plans with key targets and milestones for the delivery of your Corporate Plan

Appendix 2 Efficiency Plan Review

Report attached

Remote Review of Draft Torbay Efficiency Plan and underlying savings plans.

I have carried out a desktop review of Torbay’s Efficiency Plan as requested. There is no formal guidance on the production of these documents, and few examples of completed ones from other local authorities, although I have shared drafts from Coventry and Peterborough. It is clear that practice will vary widely, and that the bar for assessment by CLG will be very low.

Authorities around the country are working up devo deals, an element of which is usually some form of wider Public Service Reform, which will begin to reconfigure service planning across the public sector and the area of the deal/Combined Authority. I am aware that some authorities are beginning to build savings from these initiatives into their MTFPs. This will be heavily driven by local progress on devo, and I certainly would not advocate building in figures without foundation. However, tactically it may be worth referencing all this much more in the Efficiency Plan – in the very long run something big has to shift to enable costs to be managed and revenues grown.

It may be helpful to include reference to the level of approval that the plan has eg has it been to Cabinet or Council? Similarly, how does it relate in detail to the MTFP, some see it as overarching, others almost as an addendum

Overall, I think the Torbay Plan is a good document, well presented, that covers the bases. One of the central questions is whether these plans need to include a summary table that shows categorically that the efficiencies/savings and meet the predicted gap over the period. Torbay have chosen not to include such a table. I concur with that tactic, and am clear that many authorities round the country will do the same, but there remains a risk that this may prompt some comeback from CLG in due course.

My major concern is on detailed financial plans underlying the content. From the supporting documentation the overall financial position can be summarised as follows:

Table: Summary of Torbay Savings Projects.

	2016/17	2016/17	2017/18	2017/18	2018/19	2018/19	2019/20	2019/20	2020/21	2021/22	TOTAL	TOTAL
	MIN	MAX	MIN	MAX	MIN	MAX	MIN	MAX			MIN	MAX
Red	-	-	81	126	875	1,328	967	1,717	-	2,000	3,923	5,171
Amber	75	75	1,425	2,705	2,540	3,788	2,450	3,200	450	450	7,390	10,668
Green	-	-	250	788	250	306	250	250	-	-	750	1,344
TOTAL	75	75	1,756	3,619	3,665	5,422	3,667	5,167	450	2,450	12,063	17,183
Budget Gap			6,825	6,825	6,539	6,539	5,101	5,101			18,465	18,465
% of Gap			26%	53%	56%	83%	72%	101%			65%	93%
Cumulative												
Savings			1,831	3,694	5,496	9,116	9,163	14,283			12,063	17,183
Gap			6,825	6,825	13,364	13,364	18,465	18,465			18,465	18,465
% of Gap			27%	54%	41%	68%	50%	77%			65%	93%

Key issues:

- By 2021/22 even at the maximum end of the range the savings do not balance the budget (93%) and the minimum end of the range falls well short (65%). By then, additional grant reductions in 2021 and 2022 are likely to have moved the goalposts back still further.
- The savings that do materialise are backloaded
- There is a relatively low percentage of green rated, easier to deliver proposals, and a significant reliance on red rated issues that are backloaded.

This detail is not discernible from the draft efficiency plan itself, but could emerge in the event of any detailed scrutiny of the plan by CLG – although I think such scrutiny is highly unlikely.

I am not sighted on other plans that Torbay has to balance its budget across the next four years that are not covered in the documentation. It is also clear that many, probably most, authorities are really struggling to identify proposals to balance across the four year period. *Nevertheless, the plan shows too little action and too late in the plan period.* The concern for Torbay must be to bring more proposals forward, and/or to accelerate progress and to de-risk them into lower categories - the short term priority must be to balance the budget in 2017/18 and 2018/19. *The summary table above show a range of savings plans which cumulatively by 2018/19 cover only 41% to 68% of the predicted gap. This is highly concerning.*

Detailed Comments on (Draft) Underlying Transformation and Savings Plans.

I have a number of detailed observations outlined below – these are made from a distance with the sole intention of being constructive, and inevitably there will be areas where I am wrong or colleagues in Torbay disagree.

Children's Services Plan.

The Plan is intended to deliver £2m pa of savings by 2019/20, and a further £2m in 2021/22. Given the history and sensitivity of this area, delivery of this presents a major risk. We have agreed that there will be a separate review of the Plan in due course, but I remain concerned at the possibility of vesting Children's budgets into the ICA until these savings are either in delivery or the risks have been mitigated. All efforts must be made to bring forward the delivery of these savings. This is the single biggest area of corporate financial risk – it needs to be at the heart of officer and member understanding and decision making on the MTFP.

TOR2 Service Contract Savings

I note the delivery of these savings is towards the end of the plan period. I wonder if there is scope to bring this forward? I would also suggest that this area might be one where some external resource with a private sector commercial edge might bring results more quickly? In particular, I wonder whether there have been any changes to the governance of this

arrangement, which may be the key to unlocking savings more quickly, and possibly at a greater level. I would be happy to discuss this further if useful.

Review of Minimum Revenue Provision

Most Authorities have or are in the process of looking at this. I guess I am surprised that the potential savings are not larger, although the scale is very dependent on local history and risk appetite. Depending on the precise proposals, this also feels green rather than amber as it is a device widely used across the sector.

Council Tax Increases.

I understand that Torbay is proposing going for the ASC Precept and a basic Council Tax increase in all years, although the latter is not clear even from the more detailed working papers. Both increases raise up to approximately £1m additional per annum growing cumulatively. Given the overall picture, it is essential that full consideration is given to maximizing Council Tax Revenues across the plan period.

Central government policy has shifted away from freezing Council Tax, and CLG's own predictions for LG spend assume (non ASC) Council Tax increase in line with CPI – many authorities see 2% as a reasonable proxy. When I was in Torbay many stakeholders expressed surprise to me that the Council had gone for Council Tax freezes given its financial position. My strong advice would be to progress with an annual 2% rise but engage stakeholders in advance so they can give feedback before a political decision. It is difficult to see that government will have much sympathy for Torbay's financial difficulties if it does not maximise this opportunity.

Given the risks attached to the delivery of some of the other areas in the overall plan, and in particular in relation to Children's Services, there is an attraction to looking at Council Tax increases – they are predictable, certain and almost risk free. As the whole local government system moves towards authorities funding themselves locally from Council Tax and Business Rates, there is a strong case for taking action to grow the tax base by all methods possible.

Torbay does not have high Council Tax. At £1311 for a Band D property it is 45th out of 92 in a ranking of all mets and unitaries. Many of these authorities are likely to raise basic Council Tax and the ASC precept in 2017/18 and beyond.

Whatever the policy decision the assumptions on Council tax do need to be clearly articulated and visible in the MTFP and supporting working papers.

Business Rate Growth

The figure of £50k growth over the plan period seems modest, but I do not have visibility on the local economy. I am concerned that this is backloaded to the final year of the plan – this growth could be lost to Business Rates reform proposals which come in as early as 2019/20, or the 2020 reset.#

Public Health Savings

As advised separately, I think a proportionate saving form public health budgets is a reasonable and widely used approach. £500k is probably at the minimum end of the range – given that the overall MTFP does not balance, this is a possible area for further exploration of savings potential.

Youth Services.

It seems savings of £86k per annum are proposed – I cannot see a figure for the annual budget, so I have little feel for scale. Many authorities are pulling out of universal youth services altogether, and keeping only highly targeted services linked with keeping young people out of care. Depending on Torbay's current position, £86k may be a modest figure?

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Chris West

August 2016.



Finance Review Torbay Council

9-10 November 2016

Summary Feedback Report

1. Executive Summary

This Finance Review was commissioned as a result of a recommendation in the September 2016 review of progress against the council's original Corporate Peer Challenge (CPC). During the original CPC in November 2015 the LGA peer team made a set of recommendations, including several relating to the financial sustainability of the council. The review of progress commented favourably upon the range of actions the council had taken but challenged its 4-year efficiency plan in terms of its realism, robustness and deliverability and recommended an external perspective be sought. The fact that the council addressed the recommendation so quickly by undertaking the Finance Review within six weeks of the follow-up review was a very positive response.

At the time of this Finance Review in November 2016 the council was out to consultation on a proposed budget for 2017/18, from our review the short term savings proposals within it appear to be deliverable and robust. We found a high level of confidence in the deliverability of the overall budget proposals amongst the Mayor, the members we met with, senior managers and the council's own finance team. There are, as one might expect, differences of opinion amongst stakeholders about some of the proposals, but this is normal and will no doubt be addressed during the consultation. Furthermore, the council is well advanced in planning for its budget proposals for 2018/19 and making plans for 2019/20. In the view of the LGA peer team this is very encouraging, compares favourably with the position in a number of similar authorities.

This is not to say that the delivery of the budget will not be challenging. There are of course a whole range of issues to tackle and address that will require political and managerial leadership and will to see through. In some areas it will require different or additional capacity and most importantly pace. These will be themes that we will return to in this report but importantly we found that the majority of stakeholders are now aware of this, intent on addressing it. Through the setting up a Transformation Team and taking further steps to resource it at an appropriate level, the council is demonstrating that it is tackling these key issues. This was in contrast to the awareness at the time of the original CPC and as such is a strong sign of progress and positive intent.

In terms of that awareness, the LGA team through discussions with both officers and members, found concerns about the council's low level of reserve balances which they and we believe should not diminish further. The proposal in the review of reserves report is to maintain a balance in the Comprehensive Spending Review reserve of at least £2m, we consider that this is prudent and appropriate given the range of potential uncertainties and risks we shall refer to. Furthermore the LGA Team would also suggest that the current proposal to use up to £1.3m of reserves in the 2017/18 budget could and should be avoided – we believe the council has the financial capacity to do so and it sends out a far more positive message about effective financial leadership and stewardship.

Torbay's Children's Services is in intervention. This is well documented and impacts negatively upon the outcomes for children within Torbay. It also impacts upon the performance and costs of the service. The council has appointed a new interim Director of Children's Services who is in the process of developing the council's plan to improve the service and deliver financial savings over the medium term. We found a high level of confidence amongst the council's senior management team in the emerging plan. Again this is refreshing and a marked difference a year on from the original CPC. However, Torbay's financial stability hangs crucially on the successful implementation of the plan, and progress needs to be monitored closely as this is one of the key risk areas.

The council was an early adopter of health and social care integration and has rightly received national acclaim. In terms of financial sustainability and risk it is well documented that the health economy across Devon is under severe pressure and also subject to intervention. In such a context the council (along with the CCG) has placed nearly all of its social care resource - staff and finances within an Independent Care Organisation (ICO) which includes a financial risk share agreement. There is significant and increasing risk in the ICO arising from pressure across the social care and health economy, in addition to the risk in respect of children's services, this is a key financial risk for the council. In the view of the LGA team the council should seek to maximise its financial security by renegotiating and possibly capping its financial exposure under the risk share agreement. If the current trajectory of spend continues it will fundamentally undermine the sustainability of the council.

A key recommendation of the CPC a year ago was to implement a transformation programme. We are pleased to report that a plan is in place and we concur with the council's decision to increase strategic financial and commercial leadership expertise and capacity. Having a deliverable plan of course is not the same as delivering it and the council needs to focus on this in the period ahead. The need for an adequately resourced and trained dedicated programme management presence and for additional knowledge and capacity in areas such as finance and commercial skills has been recognised and now needs to be followed through.

A theme emerging from the CPC was the fact that the council needs to more effectively manage its arrangements with partners and/or providers of services where its financial resources are tied up so that it ensures best value from its investment. The council has significant funding assigned to such bodies; the ICO has already been mentioned, but there is also TOR2, the TDA and others besides. We know that the council is beginning to revisit these arrangements. In our view the council would be wise to review its arrangements and commercial benefits derived from the whole range of its arms-length bodies in order to optimise the benefits for the council, and ensure that effective governance arrangements, performance and financial monitoring is in place. In

particular, the council should push ahead urgently in reviewing its relationship with TOR2 now and seek to reduce costs, improve customer satisfaction and drive dividends. The council should then follow suit with all of the others.

We know that the council is aware of the need to improve its commercial acumen and capacity to drive efficiencies - this will clearly have benefits in terms of financial sustainability. It is in the midst of addressing this more systematically and in the view of the team this should become 'business as usual' not just a separate and distinct programme as it currently exists within the transformation plan. As such the council should look to drive income, and where appropriate achieve commercial market rates, right across its services and asset portfolio, for example beach huts, car parks etc.

Finally, we began to form a view that both across the council and its partners there may be the potential to review and centralise its commissioning, procurement and contract management functions. This could further help drive efficiencies and in line with the comments above improve, streamline and gain better intelligence and control over contracts.

2. Key recommendations

There are a range of suggestions and observations within the main section of the report that will inform some 'quick wins' and practical actions, in addition to the conversations onsite, many of which provided ideas and examples of practice from other organisations. The following are the LGA team's key recommendations to the council:

- Review the proposals within the 2017/18 budget to use £1.3m of reserves in order to achieve a balanced budget by taking into account the technical advice offered by the LGA team
- The council has improved its financial documentation significantly through the production of the "Fit for the Future Document" and it is good that the budget consultation share the whole budget, rather than focusing in incremental changes. There are 2 points the team would suggest for further improvement:
 - Ensuring greater consistency and "read across" between the various documents so the overall position is clear and can be tracked
 - Summarising the proposed savings, possibly in an appendix "Fit for the Future" to make the proposals more accessible.
- Monitor the children's improvement plan and ensure that through its delivery it achieves the financial targets necessary to help ensure the council's financial stability in the medium term
- Review the risk share agreement in respect of the ICO with a view to capping the existing and potential future financial burdens falling to the council in respect of this

- Review the arrangements for each of the council's arm's length organisations and specifically ensure that:
 - the governance arrangements the council has in place are effective and appropriate and its representatives on the respective boards are 'job competent'
 - each of the contractual/partnership arrangement is systematically reviewed (prioritised and done at pace) and the targets in the council's MTFP is helped to be delivered through this
- Ensure an effective business case and framework for decisions is in place in respect of the Investment fund plans to ensure it exploits all benefits
- Prioritise the Transformation Plans programmes and projects and ensure there is sufficient capacity to deliver these – focus hard on benefits realisation
- Look to drive income, and where appropriate achieve commercial market rates, right across the council's services and asset portfolio
- Consider reviewing (and centralising) commissioning, procurement and contract management functions to help drive efficiencies and improve, streamline and gain better intelligence and control over contracts

3. Summary of the LGA Finance Review approach

Scope, focus and the team

The team was specifically assembled to help the council address the recommendation from the review in September which suggested an external perspective be sought in respect of the council's 4-year efficiency plan and to specifically focus on:

- testing the robustness of the proposals to achieve a balanced budget in 2017/18
- providing challenge and testing the realism and robustness of the council's medium terms financial plans i.e. 2018 -20 and beyond

The make-up of the team reflected the council's requirements and the focus of the review. It included the lead finance peer and LGA programme manager from the original CPC as well as the lead regional LGA officer and its national advisor on finance and productivity. They were:

- Chris West – Executive Director of Resources, Coventry City Council
- Alan Finch – Principal Advisor (Finance & Productivity) Local Government Association (LGA)
- Andy Bates – Principal Advisor (South West) LGA

- Paul Clarke – Programme Manager, LGA

The purpose of peer review

It is important to stress that this was not an inspection. Peer reviews and challenges are improvement-focussed and tailored to meet individual councils' needs. They are designed to complement and add value to a council's own performance and improvement focus. The peer team used their experience and knowledge of local government to reflect on the information presented to them by people they met, things they saw and material that they read.

The process is not designed to provide a technical assessment or due diligence on financial matters. Neither is it intended to provide prescriptive recommendations. The peer review process intends to provide feedback, observations and insights from experienced practitioners that will help validate, reality check and further develop the council's current plans, proposals and evolving thinking about the future.

The peer review process

The LGA team prepared for the review by considering a range of documents and information in order to ensure they were familiar with the council and the challenges it is facing. The team then spent two days onsite at the council, during which they:

- Spoke to more than 35 people including a range of council staff, the Mayor and councillors
- Gathered information and views from more than 14 meetings and additional research and reading.
- Collectively spent more than 70 hours to determine their findings.

This report provides a summary of the team's findings. It builds on the initial feedback provided by the peer team at the end of their on-site visit (9-10 November 2016). In presenting feedback to the council, they have done so as fellow local government officers, not as professional consultants, auditors or inspectors.

By its nature, the review is a snapshot in time. We appreciate that some of the feedback may be about areas the council is already addressing and progressing.

4. Main Feedback

In November 2015 Torbay's Corporate Peer Challenge made a range of recommendations with the aim of helping the council to improve. The main focus of the recommendations related to leadership, change and transformation, capacity and financial sustainability. In November 2015 the peer team felt the council had a tendency for introspection, were somewhat at a loss in determining a plan for its longer term financial sustainability, lacked capacity, had some serious performance issues most especially in children's services, had begun to believe that it was not financially viable and that it was in a worse position than most other councils. As such it was very important that the council responded proactively to the recommendations.

In the follow up review we undertook in September 2016 we reported that the council had indeed attended to the recommendations from the original CPC but that it still needed to improve the prioritisation and pace of doing so and the same is true in terms of this review too. However, they had clearly begun to address issues, could demonstrate some positive results and further demonstrated intent to build capacity and through this improve the pace of delivery - it will be vitally important it does so.

One of the residual concerns in terms of finances from the September review was the then apparent disconnect between the savings required and the projected budget position for 2017/18 and into the medium term. As a consequence we recommended an urgent review of this. Again the council responded positively to this challenge and this report, arising from our on-site activity in November 2016, plus other work the council has commissioned through CIPFA in relation to their financial resilience will provide useful feedback and recommendations to inform the council as it prepares and agrees its 2017/18 budget and revises its medium term financial plans.

In preparation for this Financial Review we read a range of papers including the impressive budget consultation document for 2017/18, which clearly reflects the council's corporate plan and we are pleased to report that all stakeholders we spoke to have confidence in respect of the overall budget proposals and we do too. Indeed it was refreshing to see this and in particular noteworthy was the positivity from within the finance team themselves about how they worked proactively with spending departments – it creates the impression of a collective will to address issues. Leading politicians also expressed their satisfaction with this. Clearly there are and will be political differences of opinion about proposals and priorities, but this is normal and not as significant as it could be at this stage. As such we believe the 2017/18 budget proposals are robust. We did feel though that the summary financial information provided could be more easily understood if a straightforward summary of savings was appended, which we understand was immediately addressed by the Council. Indeed we did not always find it an easy read across between the 2017/18 budget proposals, the council's adopted 4-year efficiency plan and its rolling MTFP. This was a message from the original CPC and one we repeat here - present the information in a more straightforward and consistent way.

In the short term we were encouraged to see that the council is intent on ensuring that its level of reserves available to support its bottom line (the so called "Comprehensive Spending Review Reserve") remains above at least £2m. This is prudent and appropriate and we would endorse this. Of late and for various reasons the council has relied on reserves to fund the consequences of poor performance, most notably within children's services. It is now rightly intent on moving away from such a culture and to reflect this a clear message from the LGA team is to seek to ensure the £1.3m of reserves it is proposing to use to fund the 2017/18 budget is avoided. We have offered suggestions to the council about various ways this might be done, including the way the council's capital programme is potentially funded, by not purely relying on revenue to do so.

Overall we felt that there was more optimism and perspective about the council's long term financial position than at the time of the CPC, although this was not universally the case. Indeed given the range of issues that are raised in this report that could, as one

stakeholder told us 'potentially blow our budget off course', it will be an important acid test for the council going forward to be both proactive and firm in its financial stewardship and to manage spend within agreed budgets and not relying on reserves to balance revenue budgets. Furthermore the council, in the view of the LGA team, is well on its way to addressing the forecasted £5m savings required for 2018/19 and, providing the transformation plan savings are fully delivered, is equally in a relatively strong position for the period of the MTFP. There are clearly a number of caveats to this assertion not least of which is the likelihood of achieving all of the savings in the transformation plan and we comment on this and other areas the council may wish to address later in the body of this report.

Shortly after we completed the desk review of the council's 4-year efficiency plan in August 2016 we were made aware that planned for savings of circa £2m from children services could not be relied upon. What we know from our discussions with the new interim Director of Children's services that an improvement plan is in development which will primarily focus upon improving the outcomes for children in Torbay and in turn this should drive financial savings. It is too early to be categorically positive about the new arrangements - they are fledgling. However, the tone, language and energy is materially different now and as we understand following our latest visit the plan has now materialised and there will be new saving targets in place for children's services. However, as highlighted in the executive summary of this report, the council's financial stability is highly dependent upon this plan being delivered upon and the financial benefits realised – so progress needs to be monitored closely at a corporate level.

The council was ground breaking in its approach to health and social care integration. Conceptually the arrangement for positioning health and social care provision within the ICO is very positive and progressive. However at the time of writing the level of deficit that the health economy across Devon was carrying was, as one stakeholder described it, 'frightening'. Under the existing arrangement the council is carrying a 9% risk share arrangement with a health system that is massively overspent. If the trajectory of overspending in health was to continue and the risk share agreement to remain intact, it would have a catastrophic impact upon the financial sustainability of the council. As such the level of existing risk being carried by the council in the view of the LGA team requires urgent attention. We would urge the council to have a focussed conversation with its partners and central government in respect of the balance of risk financially being carried by Torbay Council viewed against the opportunities (potentially of national significance) in respect of health outcomes derived from the ICO arrangement. At this stage the best advice from the LGA team is that the council should seek to maximise its financial security by renegotiating and possibly capping its financial exposure under the risk share agreement.

In terms of integration the council needs to continue to embed public health as a core council function. This means further maximising its potential to support other council and ICO initiatives, and recognising that it cannot be protected artificially from the financial challenges facing Torbay.

The council has responded very positively to the CPC's recommendations in respect of transformation. It has appointed a senior officer with their own team to lead this, has developed a programme and built resources around this to enable delivery. All of this is

significant progress compared to a year ago. The projects that the council is now developing, including the development of a housing company and setting up an investment fund, are evidence of the authority's desire to be innovative in addressing its challenges, albeit that in some of these areas there is still a sense that the council is not always clear about exactly what it seeks to achieve from these initiatives. It is therefore important that clear business cases are presented to members which reduce the scope for misunderstanding.

Systemically therefore the council is on a journey of improvement and the LGA's follow up report a year on from the original CPC highlights the many achievements as well as the remaining challenges the council faces. Specifically in terms of this report and the Torbay's Transformation Programme the LGA team feel that by reprioritising the projects in the plan, in terms of their significance and by bringing some of these forward more quickly than currently scheduled this will 'flush out' what is realistic and deliverable. Aligned to this is the notion of matching this prioritisation and pace with the skills and experience to further ensure delivery. The programme will benefit from additional financial and commercial know-how and we know that the council is intent on addressing this.

We have made the council aware of a range of projects and approaches that other councils across the country are adopting in terms of commercialisation so it can learn from good practice adopted elsewhere.

To ensure the delivery of its transformation programme the council utilises a RAG rating system to monitor progress. The council is content with this and will need to continue to ensure that this accurately reflects the risks of project delivery so that undeliverable projects are not retained in the programme.

In the executive summary we made reference to governance. We have previously questioned the council's own governance arrangements in respect of pace and to an extent prioritisation. The change in focus of the Policy Development Groups to allow for executive decision making appears a step in the right direction in terms of pace and the political will of the executive lead for housing to push for the council's housing company likewise in terms of prioritisation. That same approach and rigour needs to be applied to the various external arrangements the council has in place. We felt strongly that several of the arrangements the council has entered into would benefit from three things;

- Firstly, ensuring for the present that those representing the council on various external bodies are appropriately skilled to do so. We are agnostic about whether these are councillors, officers or nominated experts. However, we are clear they must have the necessary skills and competence to represent the council as effectively as possible given these are multi million pound ventures – it would be wise for the council to revisit the criteria it adopts and base this on competence to undertake the role.
- Secondly, the council's finances are heavily tied up in TOR2, TDA, ICO and soon potentially the housing company – it is crucial that the council reviews the benefits and outcomes it is getting from these various arrangements. We have

identified reviewing the risk share for the ICO, we also suggested at the original CPC that the VFM the council was gaining from TOR2 was insufficient and this requires dedicated time now to ensure significant improvement is made to the current arrangement. The same too will be true of the other arrangements including the TDA.

- Thirdly, the Council needs to ensure that it has effective financial and performance monitoring in place for all such relationships.

The council has decided to develop an Investment fund - at this stage it is £50m and we think that is sensible. It will be very important going forward to be clear about the council's ambitions for the fund – for example is this about a simple investment or is it about investment in Torbay the place and regeneration? In either case, the council must accept and manage the attendant risks. It will also be very important, since the intention is to finance the fund by prudential borrowing, to reflect upon the council's overall indebtedness. The council would be wise to give due consideration to the focus and benefits it seeks from the investment fund and ensure it understands the risks of various options before taking a final decision. We strongly recommend that the council review its investment fund arrangements to reflect that balance between debt and income and establish very clear investment criteria and consider separating the investment fund into different categories e.g. investment for revenue return and investment for regeneration, jobs etc.

Through the transformation programme we are aware that the council is seeking to develop its commercial income across elements of its assets base. This is consistent with what other councils are doing and we know that the council is also enlisting the external support of the LGA's Productivity Expert to specifically look at how they might do this across their entire asset base. There will clearly be a balance between what is or should be fundamentally public services and what are opportunities that could or should be explored to drive commercial income, examples of this might be beach huts, car parks etc.

We know that through the transformation programme the council is looking at how it might best apply digital solutions. Again this is positive but we felt that the council would benefit from adopting a more fundamental digital strategy which considers digital technology as an enabler of better, more efficient outcomes rather than simply a consequence of change. We felt that a more holistic approach to service re-design with 'digital' at its heart as a way of more effectively reforming services around a better customer offer and streamlining and managing demand should be looked at. The LGA is aware of a range of places that have made such changes and our advice to the council is to look at how others have sought to address this and apply what is most useful.

As highlighted in the Headline section we only spent 2 days on site and this wasn't a core area of our focus but we did pick up a sense that there might be the potential for the council and its partners to review its commissioning, procurement and contract management functions. These are currently scattered around the council and having relatively little impact on some areas of spend. Centralising these arrangements, and

improving governance and control over procurement costs (e.g. through a procurement board) may bring significant savings and efficiencies.

The council has and continues to make significant strides to address its financial sustainability. Importantly it is seeking to achieve that 'end game' through designing and delivering better services for its communities, seeking efficiencies and becoming more commercially aware. Its MTFP appears relatively sound and should the programmes within the transformation programme deliver in full then this will both ensure sustainability and give greater opportunity for political choices around spend. A lot can change in the world of local government finances, notably planned changes in terms of business rates but at present we feel that the council's current assumptions are sensible ones. We have highlighted the main risks and the ways that they might be mitigated - essentially by driving things at pace, improving capacity and focusing on benefits realisation - will create clarity about finances. Overall though in the view of the LGA team at present Torbay Council has a clear plan for 2017/18, a credible plan for 2018/19 and a developing plan to manage the year (s) beyond this.

5. Next steps

We appreciate the council will want to reflect on these findings and suggestions with the senior managerial and political leadership in order to determine how the organisation wishes to take things forward.

As part of the peer review/challenge process, there is an offer of further activity to support this. The Local Government Association (LGA) is well placed to provide additional support, advice and guidance on a number of the areas for development and improvement and we would be happy to discuss this. Please liaise via Paul Clarke paul.clake@local.gov.uk or Andy Bates andy.bates@local.gov.uk

We will endeavour to provide additional information and signposting about the issues we have raised in this report to help inform ongoing consideration.

Financial Resilience Review

Torbay Council

November 2016



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Appendices

CIPFA Diagnostics, Comparison to Statistical Neighbours

Appendix One – Revenue Spend

Appendix Two – Income

Appendix Three - Balance Sheet



1. Executive Summary

Torbay is no different to other councils, especially upper tier councils with social care responsibilities, in that it is faced with increasing cost pressures, reducing grants and therefore a challenging financial future. It has to deliver savings of approximately £21m in the three years to 2019/20 on a net budget of £109m. It has ambitious plans, but which on some significant areas are only at an early planning stage. In order to cover the gap production of quality execution plans will be crucial. In that context, it is likely that some of the ambitious headline plan will slip and/or not deliver over the planning period to 2020. Consequently it will need to identify in the order of £5m of additional savings through to 2019/20.

Delivering genuine efficiencies must be a the main aim, but for many working in local government, including members, the inevitable requirements to have to go further and cut and ration services in response to austerity is an anathema to their original personal motivations in joining the sector. However, that is the reality facing the sector and Torbay is no different. In narrow financial terms, the council is financially viable but crucially must focus on credible plans to ensure balance in an ordered way as well as ensuring that it gains control of the spending of children's and adults services over the next 12 to 24 months.

The council have proposed a number of innovative, income earning schemes to help them solve their financial problems; a £50m investment fund, a housing company and a series of regeneration schemes. All are at the relatively early idea stage and although have merit are likely to slip and/or not deliver the scale of hoped for savings over the planning period. The schemes should not be abandoned but the focus of limited management resources needs to be on Adults and the ICO, reducing spend in children's safeguarding, reducing costs in other services, using IT as an enabler and increasing income from council services.

This report sets out a number of observations and recommendations across all of its major areas. The key recommendations are:

- Focus on producing quality execution plans, including resourcing and specialist support, for all the key saving areas
- Undertake an options appraisal for the ICO in order to mitigate the cost of the current risk share agreement and establish a realistic contribution to the council's financial balance over the medium term.
- A rigorous focus on all comparatively higher cost services and/or lower local income areas
- Accepting that greater commercialisation meant more 'savvy' due diligence.
- More savings options need to be identified, particularly for 2018/19 and 2019/20



- Review the logic that suggests transferring children services to the ICO equates to as the best option in terms of gaining a grip on social care practice and financial balance for the council over the medium to longer term.

We would like to thank the management team, those we interviewed and the staff who supported us for their welcome, openness and cooperation in carrying out this work in such a short timeframe.



2. Methodology and Terms of Reference

The Chief Executive of Torbay council commissioned CIPFA to undertake a tailored financial resilience review informed by the insights of a team of experienced Finance Directors/Chief Financial Officers. Its primary focus was its medium and longer-term viability. Following several years of stringent budgetary discipline, including five years of freezing its council tax the council felt it had exhausted the more usual income, savings and efficiency options. It had recently embarked on a number of higher risk strategies, such as establishing a £50m Capital Investment Plan and £60m Housing Development Company funded from Prudential Borrowing (both with the express goal to generate revenue), together with a number of ambitious transformation projects. The Council considers it will need to utilise 'one off' reserves in 2017/18 to underpin the revenue budget, which is obviously not a sustainable situation

The review was agreed to include:

- An extensive cost and income benchmarking exercise using CIPFA's access to sector comparative data.
- Meet, initially, chief officers to discuss perspective views on medium term planning.
- Use an experienced CFO to peer review the budget position and strategy to give insight to complement the above analytical approach.
- Benchmark costs, income and use of the balance sheet as well as comment on how the budget strategy compares with many we see.
- Give a specific focus to commercialism in terms of opportunities, approaches and risks.
- Identify potential gaps in opportunities to help achieve medium term balance

The team worked extremely closely with the Council Management team (SLT) and in particular the Head of Finance and his team in carrying out this review. The Head of Finance is undoubtedly able, and appears to have the confidence of the Council's management team. However a number of suggestions are made in the report to enhance his strategic contribution into particular keys agendas across the council, eg children's services recovery planning.

The report in some areas may appear critical, this is not intended, and there are a number of areas that would represent good practice that clearly have not been commented on as is the nature of the piece of work. The council in some areas is at the vanguard, particularly in respect of Adult Care integration. To be at the front of change requires risk taking, which clearly may not always result in positive outcomes. It must also be recognised that the review was carried out in just three days by three people and given more time different views may have been made. Furthermore, that timeframe does not allow an audit or comprehensive review of documents. Rather, it does allow an intensive



process relying on the insights and experience of the time. Given this the report is felt to be a fair reflection of where the council is in terms of overall financial resilience and if it takes on board the recommendations will be well equipped to produce a balanced budget going forward.



3. Diagnostics Headlines

- Overall net spend per head mid-range
- Children's Social Care spend second highest in group
- Adult Care spend mid-range
- Public Health spend 5th highest
- Reserves low, 3.7% of net revenue compared to an 11.3% average
- Waste Management 4th highest
- Planning 5th highest
- Council tax collection costs 5th highest
- Collection rate low Income low
- Concessionary fares highest in group

The full diagnostics reports have been provided to the Council



4. Medium Term Resource Plan

4.1. Summary

The council needs to deliver £21m of savings or increased income in the three years to 2019/20 from its £110m net budget. It is well advanced in identifying many proposals, especially for 2017/18 but some significant proposals for the later years are at an early stage and the CIPFA team feel are likely to slip and/or not deliver the scale in the planning period as a result.

4.2. Review

A high-level review was carried out with the Head of Finance (s151 Officer) to ascertain if key assumptions around inflation, loss of grant and demographics changes were appropriate. Although the assumptions were reasonable and the overall position reported to members appeared correct it did require face to face discussions with the Head of Finance to verify the position. Some pressures and loss of grants, for example New Homes Bonus were consolidated into single lines and not particularly articulated more widely as a funding change. For example, the loss of income from pooled business rates is included as a pressure in 2019/20 but not explained in the budget report. It would be more helpful to expand some of the tables and include some narrative to explain the changes to increase overall understanding.

4.3. Clarity over presentation

There seems a lack of consistent understanding across the organisation about the overall level and source of savings required to balance the budget over the medium term and in particular there needs to be a clearer link between transformation and departmental savings

A consolidated document, recognising savings agreed and published, those not agreed and ideas needs to be kept. The status of each proposal needs to be clearer. In some areas large savings targets had been included as working targets, they are simply ideas but have the same status as more realistic targets. This gave the impression of more advanced plans than first appears and a protocol for signing off figures with the Head of Finance at least outline business cases, needs to be established.

Each authority is different and ways of presenting information evolve, a number of examples of alternative budget reports to use for ideas have been provided to the Head of Finance while on site to improve clarity and CIPFA is able to provide additional resource if required to help with this.



4.4. Level of Borrowing

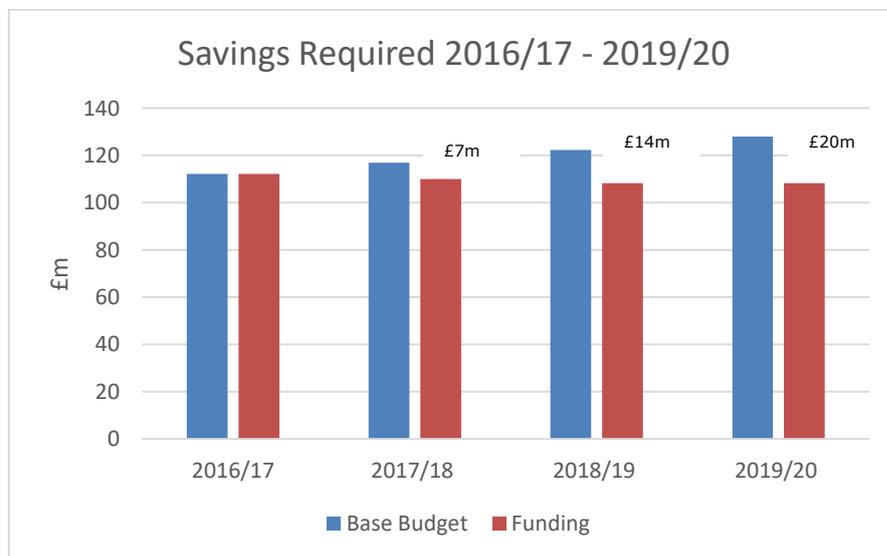
At 31st March 2016 Torbay’s external debt was £138m, a reasonable level for the size of the authority and its asset base and in line with its net revenue budget of £110m. It does have proposals to increase this by approximately £100m, a housing company and an investment fund to help provide an income stream. Both would be backed by the value of equivalent assets but clearly increase the level of risk to the authority. The due diligence required to be undertaken before embarking on these projects is commented on further in this report. The higher overall debt levels, although slightly larger than for a similar sized authority would not be unusual, or put Torbay as an outlier.

4.5. Capital Financing

There needs to be a much closer link between the revenue and the capital report. There is a lack of detail and shared understanding of which capital schemes are financed through grants, which ones are self-financing and those that require revenue contributions. These should be set out in the capital report and the cost of borrowing clearly identified in the revenue report.

4.6. Reformatted Medium term resource plan 2017/18 – 2019/2020

4.6.1. The council needs to deliver around £21m of savings or increased income in the three years to 2019/20 from its £109m net budget.as set out below, the difference between the cumulative gap of £19,739k and £21,000k allows an element of reasonable contingency.



Revenue Budget	2017/18	2018/19	2019/20
	£'000	£'000	£'000
Estimated Sources of Finance			
Revenue Support	14,190	10,310	6,420
Education Grant	295	295	295
Business Rate Retention 49% Share	14,641	15,051	15,532
NNDR Top Up Grant	15,078	15,386	15,878
New Homes Bonus	3,100	1,900	1,800
Section 31 – New Burdens Grant	1,399	1,438	1,484
Council Tax	<u>61,342</u>	<u>63,917</u>	<u>66,876</u>
	110,045	108,297	108,285
	£'000	£'000	£'000
Net Expenditure budget prior to growth and savings	112,156	110,045	108,297
Pressures, investments and funding changes, including Adults	7,103	5,389	5,666
Less 2015/16 One Off expenditure	(2,290)	0	0
Net Expenditure budget	116,969	115,434	113,963
Annual Budget Gap	(6,924)	(7,137)	(5,678)
Cumulative Budget Gap	(6,924)	(14,061)	(19,739)



5. Transformation Plan Process

5.1. The Transformation Vision

The transformation plan is perhaps a misnomer in it is the process for monitoring the overall progress of savings plans that require significant project management input. It does not appear to have an overall stated vision to change or transform the way the council overall operates or is structured. For example a consolidated digital, customer relationship and accommodation strategy that together will change the way the council operates in the future as well as deliver savings

The consolidated approach should not be abandoned but should be refined and more rigour applied. As mentioned above in section five on the MTRP there is no narrative linking the transformation programme with the MTRP. Prioritisation is a good step but still not clear enough. There is a lack of detail on a large number of the savings proposed. Some of the projects should be consolidated into single delivery boards.

While the recent strengthening of support at the Transformation Board level must be a positive, that contrasts with the relative lack of support for the production of key delivery plans. The latter is more critical as in governance terms, the Transformation Board as an extended version of the Council Management Team meeting, can only act as overall programme oversight role in practice.

5.2. Potential Project Delivery Boards

The CIPFA team focussed primarily on the identified eight key priority projects, a critique on each of these is set out in the following sections of this report. These could and should be consolidated into project delivery boards which as a first stage would identify dedicated project resources to produce quality execution plans which would be the boards main focus. The team felt this was the most apparent weakness and recipe for failure – a lack of focus on execution and what that entailed. Part of this was due to lack of planning and there was limited mention of project management discipline or knowledge and an expectation of delivering within existing resources. Clearly current staff need to be involved and own the projects but without dedicated, specialist resources the projects will fail and the slippage in savings cost more than the apparent saving in project resources. In some cases there was a mismatch between responsibility for delivering the project and organisational accountability. For example; clear client, provider and executive responsibilities need to be established for each board.

Boards could be established as follows under themes, with names customised by Torbay to aid understanding:



- Procurement/Recommissioning - TOR2 and public toilets, Libraries, Sports and Leisure, Culture – Board Executive Fran Hughes
- Investment/Regeneration – Housing Company, Investment Portfolio, Maximising Council Assets, Town Centre Regeneration, Use of Oldway Mansion – Board Executive: Steve Parrock
- Children’s Improvement – Board Executive: Andy Dempsey
- Income Opportunities - RIO project, Car Parking Strategy, Council Tax Collection, Council Tax Reduction Scheme, Board Executive: Anne Marie Bond
- Adults Social Care Integrated Care Options Appraisal, Board Executive: Caroline Taylor

Each board to have its own project management and finance support as well as required specialist input reporting to the overall transformation board with consistent highlight reports.



6. Adult Care and the Integrated Care Organisation

6.1. Observations

The agreement signed for an Integrated Care Organisation (ICO) in October 2015 is the direction of travel nationally for Adult Social Care and the Health service intended by government, having a whole system approach. The difficulty for Torbay is that the risk share agreement means they are subject to the overall financial pressures from the NHS in the whole of the Torbay and South Devon area with no ability to control or influence them. The team did not examine the agreement in detail or provide comments on whether the agreement should have been entered into. Its concern is that the council's largest budget is actually not delivering the agreed savings it requires and in practice is adding to the financial gap. The council needs to be in a position to change this as soon as possible. It cannot be correct that Torbay council tax residents are having to fund the cost of the NHS just because they are pathfinders in integration. In short, the involvement in the ICO has to be a 'win-win' for the service user and for Torbay's Council taxpayers. The impact of the risk share agreement itself greatly risks undermining this essential equation.

The team were concerned about the transparency of management information to the Council from the ICO in respect of adult social care. In fairness this was challenged by the responsible Director but in wider discussions, there were different and conflicting views within the senior leadership of the Council on this point. This needs to be settled in an objective way within SLT.

6.2. Public Health

The team were unable to meet the Director of Public Health but examined the overall contracts and breakdown of the public health budget. It was unable to understand the strategic logic behind the public health commissioning team. It was not part of the ICO nor of the adults or children's social care team within the council. To coin a phrase, it appeared to be in the position of neither "fish nor fowl". All of the public health delivery contracts were with the ICO and from a strategic perspective that may make sense in accord with the one system approach. However, it was difficult to establish how value for money had been achieved as they appeared to be with the same inherited provider within the ICO. The public health team is set up to a level and in a format that would suggest the intention is different with a large commissioning team. Other councils have integrated public health within their Adults Care Directorate to encourage integration, however for a council at the vanguard of health integration this has not been done.

As part of any further agreement with the ICO, and in particular the risk share agreement, the council needs to decide its strategic approach to integrating Public Health either within the ICO or the Council.



6.3. Recommendations

- It is recommended that the council start a rigorous options appraisal on the impact of the risk share agreement on the medium term financial balance of the council to ensure a proper 'win-win' balance between service users and council taxpayers, is maintained..
- The council should make clear its strategic approach to integrating public health especially in relation to commissioning within either the ICO or the council and evidencing value for money.



7.Children’s Safeguarding

7.1. Observations

Judged as failing by Ofsted and now subject to intervention via an externally appointed commissioner, the leadership culture and social care practice on the ground were key reasons for that overall judgement. As part of the intervention process there is an expectation that the service will be removed from direct local authority control and placed within:

- 1) an independent trust,
- 2),the ICO or
- 3), some other configuration led a by a ‘good’ service.

What follows are the opinions of the CIPFA team on that debate but on an intuitive ,albeit experienced CFO, basis. The appointed commissioner will come to an authoritative view himself.

The CIPFA team feel that both of the first two of options listed above could represent significant financial risk to the council. Major capacity issues would not be resolved under a trust (option 1) and the required focus on the interests of social care practice must be a major risk under the ICO (option 2). For both option 1 and 2 in particular, Torbay would bear the financial budgetary consequence of management actions but with limited ability to influence. All three options appeared to be at an early stage of consideration. Much of the council’s focus in that regard was in developing the case for option 2, the ICO, that was work in hand at the time of the CIPFA visit. In fairness to all little work has been done on a possible option 3 but intuitively it does feel like an alignment of strategic interests namely solid and modern social care practice and the council taxpayer impacts. That said, it does not eliminate the financial risks to Torbay but could well reduce them if it proved to be a viable option. That will be more a function of finding a willing and able local authority partner.

In terms of the current position, the diagnostics show that not only are Looked after Children numbers exceptionally high, unit costs and the number of residential placements for those children are also high. Spending on 28 children in residential placements costs £5.3m pa, ranging up to £377k pa for one child, £190k pa on average. The council if



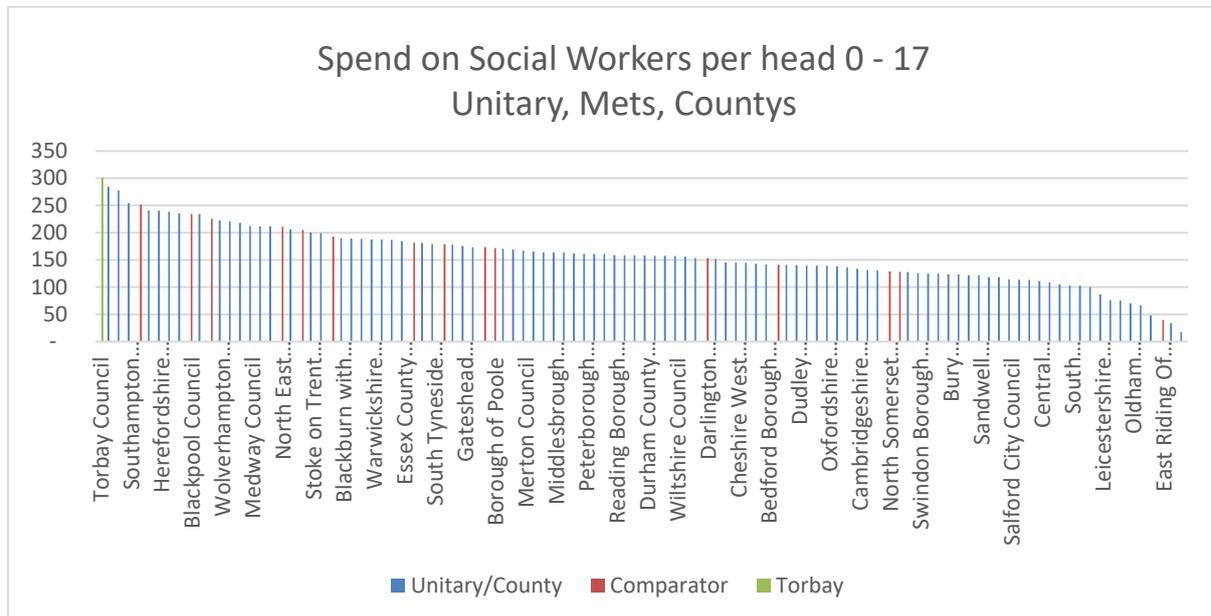
caring for a child for 10 years could spend nearly £4m with not necessarily the best outcome.

Compared to the average spend per head of population 0 - 17 of its comparator group it is spending £8m pa more on children’s looked after.

Considering that such a low risk threshold is in place the number of social workers and support staff are also high. This results in the highest spend on social work per head 0-17 years outside of London, £3.2m more than the council would be spending if it were at average spend based on the 2014/15 outturn. Proportionately four times more than Hampshire, its improvement partner.

A proportionate number of residential placements compared to Hampshire would be four rather than 28. The nervousness of challenging the resources of a poor service are understood but a lean review of the service and integration with a larger, established good council, thus improving processes could yield significant savings.

The table below shows the spend on social workers per head of population aged 0 – 17 in 2014/15 is the highest in the country outside of London. This is latest actual data available for comparative purposes with all Unitary, Metropolitan and Counties (excludes London Boroughs). Torbay is represented in green, its comparators in red.



Focusing on social care practice, reducing placement, social work and administration support spend will be fundamental to the council balancing its budget going forward.

The CIPFA team were very encouraged by their meetings with the new interim director of children's services, the interim head of safeguarding and head of children's finance. The team felt new, credible leadership was now in place to drive the required service improvements and budgetary savings forward. They were all clear about the size of the challenge, were aware of the high unit costs and had plans to deliver reductions both next year and in future years.

Specifically

- The focus on practice in the short term
- Alternative provision challenge at first stage – gatekeeping, including reviewing the current panel approval process to ensure that this is carried out in the right areas
- Market management- reviewing placement unit costs
- Reviewing current cases, particularly those in residential care

7.2. Recommendations

7.2.1. Revised Savings Plan

The Head of Finance to work with the new interim Director of Children's, at a strategic financial level, to develop and agree a medium term financial plan for 2016/17 – 2019/20 for the service that accords with operational delivery plans. In effect a 'co-owned' plan appropriate for the department but also one that can drop into corporate financial plans in a consistent transparent way.

It was felt that the £2m in the further corporate savings plan could be delivered to 2019/20 given the scope for savings and the new leadership. Indeed in total savings over a longer period of between £3m - £5m also being hoped for but not yet formally targeted in the longer term seemed reasonable albeit requiring significant management action to deliver and realism on phasing.

7.2.2. Market Management

The establishment of a new commissioning team with support from Hampshire who will challenge independent foster agencies and residential providers on a systematic basis to



reduce costs is the right strategy in the view of the CIPFA team. In planning for this work the council should, if it is not already, liaise with neighbouring authorities who use the same providers:

- What are they paying for the same services?
- What approach have they taken to reducing costs?
- Is it worth having a joint approach to market management?
- What proportion of children looked after are in residential care in statistical neighbours?



8. £50m Investment Fund

8.1. Observations

The team examined the proposed fund agreed by Council in September 2016. It was noted that the proposal was at a very early stage and roles and responsibilities needed to be established. There are a number of different interpretations as to what the fund can be used for. The CIPFA team refer to this as "mission drift". Members clearly want the fund to be used in Torbay but the schemes may not deliver the required financial return. The opportunities brochure "Invest in Torbay" produced by the Torbay Development Agency in the council's name to attract inward investment quotes the investment fund as supporting local investment and development opportunities and that the council is willing to co-invest. This may well be the case but any investment in these schemes will not produce a revenue return within the medium term to 2019/20. There is therefore a real risk of "mission drift".

The team were concerned about the scale and type of due diligence proposed, essentially Members would act as the review process based on recommendations from a new investment manager and the TDA in order to produce a balanced property fund. CIPFA's opinion is not a reflection on any individual within the Council or TDA but in short, while supporting the exploration of commercial opportunities, CIPFA is clear that the more commercial the council becomes the more 'savvy' its due diligence has to become as a result. In this case CIPFA would advise the council retain an external advisor to support the process and specifically provide an additional level of critique for each case for the benefit of members and the three statutory officers.

8.2. Recommendations

- 8.2.1. Employ a firm or recognised external expert on a retained basis to provide a critique to all investment proposals that would make recommendations to the investment committee to balance TDA recommendations.
- 8.2.2. The role of committee is to decide on the investment after receiving both sets of advice.
- 8.2.3. Definitive legal advice in respect of Torbay's intended approach needed for safe execution; relying for due diligence assurance on the opinions secured by other councils for such a new initiative is not sufficient in this case.



9. Housing Company

9.1. Observations

A number of local authorities are setting up housing companies to fill gaps in the market, especially in providing low cost housing to avoid homelessness costs and making a financial return.

The Saville's report showed a number of scenarios such as buying off plan which would possibly cost more but an income stream would quickly follow. The team were well aware of their lack of expertise and expressed concerns about feasibility. The five year land supply data would enable the council to assess what was coming forward and therefore indicate whether there was a market or not for any particular site. There needs to be a further appraisals once sites are identified and a viability appraisal made for each.

Before embarking on a similar course of action key officers need proof of concept, visiting local authorities and seeking specialist advice before embarking on a plan. They need to determine what motivated the authorities to set the companies up, the pitfalls, costs and returns. Such a scheme only works if supplying a gap in demand. It needs to be established that there is a significant gap in the market to build and buy enough houses for rental. Without scale, the set-up and running costs of the scheme could well mean the arrangement losing money. Given the status of current plans the scheme is unlikely to give a revenue return before 2019/20. The Saville's report used as a basis for the scheme is fairly generic and includes capital appreciation as a benefit. Care needs to be taken not to assume capital growth as a revenue benefit.

There appears to be a lack of expertise in those involved in the project and officers you would expect to be involved are not. For example the homelessness team, filling gaps in demand here would avoid costs, and the planning team who produced the local plan and, five year land supply. Are there available sites for sale with planning? Schemes such as this take years to come to fruition even from experienced house-builders. If there is a gap in the market they generally fill it.

9.2. Recommendations

9.2.1. Employ a specialist to prepare an options appraisal, this would include who would manage the properties for example using an established landlord or setting up an in-house team, what the costs of set-up would be and the timescale for delivery.

9.2.2. Set up a multi-disciplinary project team including homelessness, planning, finance and legal to determine what is the market need.

9.2.3. Commit appropriate resources to produce a quality and credible execution plan.



10. TOR2 partnership between Torbay Council and the Kier Group

10.1. Observations

The council is a 19.9% shareholder in TOR2, a partnership agreement of approximately £10m pa covering Waste Collection, Public Toilets and Highways that expires in May 2020. The contract allows either an extension at this point or it needs to be retendered.

In the opinion of the CIPFA team, the council is not a true partner in that it does not have key financial information on an open book basis and does not benefit from any efficiencies in the form of dividends. Kier have been unable to gain other work from neighbouring authorities and given the size of the contract and time to expiry are unlikely to put any significant investment financially or managerially to do so before May 2020.

There is a lack of client side expertise or contract management both from a service and a financial perspective. Costs of public toilets and waste collection are comparatively high and discussions with Kier do not seem to give options to reduce them.

A tender process would take at least 18 months so it is important that the council are clear what their future needs and options are over the next few months. The strategy for engagement with Kier to deliver savings in the medium term but with the contract expiry date shortly after, needs to be clear articulated and organisationally understood. In particular, given that juxtaposition of nearer term contract saving but with the natural expiry date shortly after, there must be a risk the intended savings will not arrive in the planning period to 2020.

The council needs to ensure it gets the right expertise.

10.2. Options to be explored

10.2.1. Splitting Waste Collection from other elements of the contract. A decision was taken to increase the size of the contract by putting different elements in it. This has not led to the efficiencies expected and an opaqueness about costs and overheads. Merging waste collection with neighbouring authorities. Seems a logical step but an expert procurement view needs to be taken about whether reducing the size of TOR2 configuration as a result would reduce savings possibilities.

10.2.2. In respect waste and other waste partners, the council would need to be flexible about its requirements, eg neighbouring councils co-mingle waste, one method would need to be agreed on. When does the neighbouring council contract expire? If before a decision needs to be taken quickly, eg if 1st April 2019 the council could



be part of the contract but come into it from May 2020. If it's April 2021 they could extend the Keir contract by a year or the other council could join the contract later.

10.2.3. If a decision is taken to split options need to be agreed on highways and public toilets. A wider highways contract could be a feasible option, sharing client costs. Public toilets could be run by a smaller company with nil subsidy, charging for the toilets or by the council.

10.3. Recommendations

10.3.1. TOR2 options needs to be one project with its own board and project management resource. Appropriate in-house specialists need to be used to determine options and external specialists used minimally for determining what the market will offer to assess what savings could be delivered.



11. Income from council buildings/town centre regeneration

11.1. Observations

The council have produced an exciting, ambitious vision of how it could regenerate the bay and its major towns and attract investors. Once delivered the improvements could not only give the council a return as a land owner but an ongoing return as an investor. It will also increase business rate and council tax income.

It was unclear what the overall business case and strategy was for the improvements. The council have no development finance expertise and could learn from other councils, eg Bournemouth or Flintshire about potential financial models.

There is a lack of clarity in the plan about capital receipts against revenue receipts. Some capital receipts could be used to reduce borrowing costs or in lieu of borrowing for other investments. There is a judgement to be made around gaining short-term capital receipts against longer term returns for each site.

The strategy is the right one but is unlikely to give the revenue return anticipated in the planning period to 2019/20.

11.2. Recommendations

11.2.1. The council needs its own board to determine its future development strategy with the TDA as an advisor to it. This would need to include using development finance and legal expertise in addition to that provided by the TDA. This would determine whether it set up a JV with a single developer or developed on a site by site basis.



12. Income Generation

12.1. Observations

The council is an outlier in respect of income levels, some of this is due to how income has been treated in returns where services such as adults have been out-sourced with income netted against expenditure. Further work would be needed to determine what income levels are in these contracts to determine whether there are opportunities.

Compared to comparator group

- Cultural and Heritage £1.37 average £5.35
- Recreation and sport £0.35 average £12.60
- Open spaces £0 average £0.86
- Tourism £0 average £0.86
- Library £0.59 average £0.90
- Theatres and public entertainment £0.41 average £4.17
- Foreshore £0.19 average £2.21
- Sport and recreation £0.19 average £9.75
- Community Safety £0.15 average £1.24
- Waste management £0.32 average £4.67 Possible increased income through garden waste collection to increase recycling rates and generate income?
- Economic Development £0.14 average £3.02

12.2. Recommendations

12.2.1. In some areas the council have not taken income for premises in exchange for services provided. These areas need to be separated out, income coming to the council on a commercial basis and choices over the level and cost of services provided made.

12.2.2. The diagnostics need to be examined by the finance team to determine the reasons for differences to determine opportunities.

12.2.3. Parking income appears low, political choice being exercised. These decisions need to be revisited and comparisons made to others. A 20% increase, moving from £1.00 to £1.20 per hour would not seem high compared to others that would assist the council achieve its financial target.



13. New staff holding company

13.1. Observations

The council is considering setting up a new Teckal company and closing the pension scheme to new entrants. It needs to consider how this would work from an operating perspective and the potential demotivating effects on staff aside to the potential cost savings. The council already has a Teckal company, the TDA, would it use this as the host? Would new holding company staff work side by side with council staff and be managed by them? If the council is downsizing what level of new staff will it employ? Would the new scheme be for all staff and would this be a disincentive to senior staff joining Torbay or would they want a higher salary to compensate not being in the LGPS. Would hard to recruit staff prefer to join neighbouring authorities to gain pension scheme membership, eg Social Workers?

In fairness, the Council recognise the plan is at a very early stage and the target savings of £300k by 2021 is broad brush as a result. However it is not clear how it has been arrived at and there is a particular concern that the focus has been on the future differential savings in headline employer rate of a new scheme compared to the LGPS with insufficient thought to the impact on the remaining LGPS rate.

In particular, the fact that past service deficits would still have be found but on shrinking numbers with the LGPS and even more importantly that the employer rate on the 'residual' LGPS would rise significantly as effectively it becomes a closed scheme. This in the sense the actuary can no longer rely on natural turnover bringing in typically young staff. In short, the actuary will have to assume the scheme as matured very significantly with a significant knock impact on employer contribution rates as a result.

An alternative maybe to delete posts through other efficiencies.

13.2. Recommendations

13.2.1 Before embarking on expensive legal fees on potential new company models the council should seek the specific advice of the Scheme Actuary for the LGPS. The scheme is administered by Devon County Council but Torbay is a scheduled body and entitled and expected to seek the actuary's advice direct. The consultancy fee involved fee will represent value for money in how this overall concept develops or not.



14. Other Areas of Potential Saving to Explore

14.1. Observations

The team were only with the council three days and focussed on the eight key transformation projects. There are a number of options that hadn't been explored and there may be more that would in some cases represent better options than those planned.

14.2. Potential Savings

14.2.1. Council Wide Digital Strategy

The ICT Strategy expired in 2014. The Council has invested in technology such as VOIP telephony which enables more agile working but are not using it to its full advantage. If fully utilised the authority could reduce its office base requirements.

The abandoned calls in some instances are redirecting customers to the council website and self-service. There could be advantages in assessing customer demand, taking actions to remove failure demand and encourage more self-service to achieve further staffing efficiencies. This could in turn mean needing less office space.

14.2.2. More ambitious council tax collection rate

The councils in-year collection performance is low, 96% and appeared that a more ambitious level could be targeted. The council though separately budget for a surplus and plans are in place to improve this further. However no clear execution plan was available and responsibility for delivery was not aligned to those responsible for the service either. The council tax team are proportionately larger than average with a collection costs per head of £10.11 compared to £7.89 within the comparative group. The team would benefit from a lean review and improved processes. Efficiencies re-invested in improved collection performance.

Work has been introduced on single person discounts, other discounts and sanctions. Payments by direct debit needs to be driven, saving costs and improving collection rates.

14.2.3. Riviera Subsidy.

The CIPFA team are not recommending it per se but in the context of those savings choices it faces it must be right to leave no are unchallenged or off limits from the outset. This subsidy could be an example. The council could plan to aim to move to a nil subsidy over the plan, ensuring that it works closely with the Riviera to avoid closure. An open book review of the organisation should be commissioned with recommendations as to how the service could break-even or even return funds to the council.



14.2.4. Sports Contract subsidy saving

The market is small and with some soft market testing it maybe possible to determine whether the council could consider contract extension at nil subsidy before the expiry of the contract. Clearly legal advice would be required. Most leisure contracts now are at nil cost to councils.

14.2.5. Christmas Leave and leave purchase

Both are relatively easy to implement and if both used would seem to give a saving of approximately £300k pa. This would be easier to implement than wage freezes outside of national conditions or a staff holding company.

14.2.6. Revised Treasury Management Strategy,

If the authority is to make substantial borrowings we would recommend some specialist TM advice to make the most of current market conditions and its own internal funds as well as borrowing from the PWLB. Options have been explained to the Head of Finance. In addition it is possible to adopt a little more risk, and more returns , while still remaining comfortable within the average type strategy of the sector.

14.2.7. Concessionary Fares

The council spend £4.4m on concessionary fares, savings of £250k are planned but this would still mean the council are comparatively expensive. Visits to other statistical neighbours, certainly coastal ones with similar demographics such as Bournemouth and Poole with much lower subsidies should be explored to understand whether there is more scope to reduce costs.



15. Risks/Concerns/Issues

15.1. Observations

The council has a number of areas that present financial risk to its future, both in respect of controlling costs and some of its potential savings option. It needs to ensure it is prioritising the management of these risks and is using the right level of resources to do so. Some have been referred to in the report already, this section consolidates the major ones. The CIPFA team examined the eight major savings options, the majority were either deemed unrealistic in terms of the savings anticipated or undeliverable in the proposed timescale. In total they are intended to deliver approximately £4m of the savings required, mostly in 2018/19 and 2019/20 alternatives will therefore need to be identified as soon as possible.

15.2. Adults – ICO Options Appraisal – Risk Share

Outlined in section 7 the current risk share agreement means the councils largest budget is adding to rather than reducing the gap. An options appraisal to bring the financial management of this area back into control needs to be prioritised.

15.3. Children’s Safeguarding – Trust/ICO/Partner

Outlined in section 8 the council needs to ensure that any future options do not leave it financially vulnerable. It is extremely high cost in this area and certain scenarios proposed; an independent trust or transfer to the ICO may mean it has no scope to reduce its costs.

15.4. Council Tax Reduction Scheme

The council currently give a maximum discount of 75% to working families, charging them a minimum of 25% of their council tax bill. There are already difficulties collecting this and a high write-off rate. There is a lack of data on the impact the charge is having on vulnerable families. Both staff and members are concerned about the proposal to increase the charge. Reducing the discount to between 65% and 45%. This would leave the council as very much an outlier in terms of charging, a neighbouring council for example charges nothing to this group.

It is unlikely that increasing the charge will give anything like the additional income the council envisages. It should certainly delay any implementation to later years, considering the wider implications and what the scheme could deliver. Being such an outlier without clear equalities impact data would risk legal challenge, adding to the councils costs and taking its scarce management resources.



15.5. New staff holding company

The new staff holding company, to be set-up to reduce pension costs needs to be considered in more depth against potential savings. With just this as its purpose could be extremely demotivating and counter-productive for the staff employed, be a costly exercise in both scarce funds and limited management resources and not deliver its objectives.

15.6. Capacity in Finance – transformation/regeneration/children’s

The council have a very small finance team, 10 with just four qualified accountants. The CIPFA team were impressed by the finance staff they met. However, there is a lack of capacity and knowledge in the team that the council requires to help support its plans going forward. Specifically some of the transformation projects, development finance, children’s safeguarding and adult care.

15.7. Lack of focus on execution

There are a large number of savings projects that have been usefully consolidated into one prioritised programme. There is however in most cases no detailed plan and a lack of focus or resources to execute the plans.



16. The CIPFA Team

Sean Nolan CPFA, Director of Local Government & Policing CIPFA. Overall Director for this assignment.

Sean Nolan, formerly Chief Finance Officer in the Office of Kent’s Police and Crime Commissioner (OPCC), is CIPFA’s Director of Local Government having previously spent 6 months working closely with CIPFA as Senior Local Government Advisor, during which time he has been central to the shaping of the organisation’s policy in areas such as 100% retention of business rates. Before joining CIPFA, Sean spent four years with OPCC, where he oversaw a period of financial transition and was a central part of the team that garnered praise from Her Majesty’s Inspectorate of Constabulary (HMIC), which last year pronounced Kent Police’s financial sustainability as ‘outstanding’.

Sean has 30 years’ experience in public finance roles and prior to the OPCC, he spent over 16 years as treasurer for Buckinghamshire and East Sussex County Councils respectively. At East Sussex he also served as Deputy Chief Executive with the wider responsible for the broader resource portfolio covering ICT, procurement and property. Sean is a former President of the Society of County Treasurers, (SCT), The Police and Crime Commissioners Treasurers Society (PACCTS) and the Association of local Authority Treasurer Societies (ALATS). Sean has also served as Financial Advisor to Parliament’s Communities and Local Government Select Committee and been a core advisor to the Local Government Association. Sean will provide oversight of all aspects of this project.

Peter Robinson CPFA, MBA, independent consultant and experienced s151 officer

Peter has worked in local government for over 30 years, the last eight as a director and s151 officer of two unitary authorities, Bristol and Herefordshire. He has a track-record of making an immediate impact, both in respect of delivering change, reducing costs and improving services. As well as finance Peter has also had responsibility for property, IT, HR and procurement and has managed a local authority trading company as MD.

Of particular reliance to this assignment is his work in Herefordshire where on appointment they had a projected £4.5m overspend on £150m budget which he helped to reduce to zero in six months through leading implementation of cost-recovery actions with the management team. He also led the development and achieved management and political support for a three year budget, 14/15 – 16/17 with £33m savings that is on target to be delivered in full and agreed a medium term financial strategy and savings plan to 2019/20. He has significant development finance expertise, including finance lead on a £250m transport scheme in Bristol and both finance and property lead on major regeneration in Herefordshire.



Donna Parham, ACMA, CGMA, Assistant Director – Finance and Corporate Services (s151 Officer), South Somerset District Council

Donna has a wealth of experience in local government and has been the S151 Officer at South Somerset District Council for 10 years. The authority has a £4.8m savings target over the next four years and she is a member of the boards that have been set up to achieve this through transformation, income generation, and joint working with a neighbouring authority. She also oversees asset management, procurement, risk management, ICT, customer services, and revenues and benefits. She is the lead officer for the Audit Committee and a Director for the South West Audit Partnership. She has held a number of technical roles during her career including treasury management, capital accounting and auditing.

Quality standards and controls

CIPFA is BS EN ISO 9001:2000 and 14001:2004 Quality Management and Environmental systems standard accredited. The ISO 9001:2000 standards are based around the principles of customer satisfaction, continual improvement and the development of a process based quality management system.

All CIPFA report-based projects are subject to a peer review process as part of our commitment to Quality Assurance. We apply a range of project controls, quality assurance, toolkits, best practice, programme and project management including best practice as embodied in OGC’s programme management, PRINCE2 and the management consultancy statement of best practice.



17. Meetings Held

- Steven Parrock, Chief Executive
- Martin Phillips, Head of Finance
- Andy Dempsey, Interim Director of Children’s Services
- Anne-Marie Bond, Assistant Director of Corporate and Business Services
- Fran Hughes, Assistant Director of Community and Customer Services (Assets and Investments)
- Caroline Taylor, two meetings, as Director Transformation and Director of Adult Social Care
- Lisa Chittenden, Transformation Programme Manager
- Lisa Finn, Transformation Programme Finance Manager
- Rob Parr, Principal, Accountant, Children’s
- Who: Lin Ferguson, Assistant Director for Children’s Safeguarding
- Bob Clark, Executive Head of Customer Services
- Ian Davey, Principal Accountant, calculates the Council Tax Base
- Fran Hughes, Assistant Director of Community and Customer Services (Assets and Investments)
- Fran Mason, Head of Partnerships People, and Housing
- Kevin Mowat, Executive Head of Business Services (Assets and Investments)





LGA Corporate Peer Challenge – December 2015

ORIGINAL ACTION PLAN – Position Statement

Purpose:

The Council undertook a corporate peer challenge with the Local Government Association (LGA) in December 2015. The main focus of the challenge was to review the strength of Torbay's financial planning and viability, along with governance, leadership and organisational capacity. The LGA Peer Team explored the core components underpinning the features of good performance, including how well the Council has:

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1. Understanding of the local place and priority setting
2. Leadership of place
3. Financial planning and viability
4. Organisational leadership and governance
5. Capacity to deliver

Note: this action plan has now been superseded by revised/reprioritized action plan arising from the LGA Corporate Peer Challenge Team's follow up visit in September 2016.

Agenda Item 10
Appendix 5

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, <i>plus position for new action plan shown in italics</i>
	Understanding of the local place and priority setting/ Leadership of Place						
1.	Facilitate an effective Strategic Partnership Forum	Work with stakeholders to develop proposals	<p>Explore different models, learning from best practice elsewhere, which will bring partners and communities together to get ownership for the future of Torbay as a place.</p> <p>In establishing such a Forum, ensure a review of existing partnership bodies is undertaken, establish clear aims and objectives, avoid duplication, and ensure membership is appropriate.</p> <p>Establish governance for the Forum to include transparency of decision-making and clear communication paths.</p> <p>A Strategic Partnership Forum Working Party to be established to take forward these actions in</p>	End of May 2016, with first meeting of Strategic Partnership Forum meeting at the beginning of June 2016	Anne-Marie Bond	<p>Signpost to others who have undertaken this with positive results – look for conservative led unitary authorities.</p> <p>Explore potential support/facilitation of initial sessions.</p>	<p>Following exploration of arrangements elsewhere, Strategic Partnership Working Party have concluded upon an initial invite list for initial meeting and a ‘visioning’ session with partners.</p> <p>Meeting held on 6 September 2016, supported by Matt Nichols, LGA. Meeting demonstrated significant partner enthusiasm and support. Agreed actions as to further meeting in October, partners working on draft structure for next meeting and LGA undertaking place survey.</p> <p>Further meeting of Strategic Partnership Working Party on 29 September 2016.</p> <p><i>Partly completed and ongoing work – transferred to revised action plan</i></p>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, <i>plus position for new action plan shown in italics</i>
			consultation with key strategic partners.				
2	<p>Work with the Strategic Partnership Forum to develop a clear long term, high level plan for Torbay, with a compelling narrative which articulates ambitions and is agreed with key stakeholders.</p> <p>Develop a clear communication and engagement strategy for the plan to embed it with partners and the community</p>	<p>Creation of a plan for Torbay (what Torbay will look like in the future)</p> <p>Created, owned and promoted by political and managerial leadership and key partners.</p> <p>Underpinned by robust evidence base and community/business buy-in.</p> <p>Creation of communication and engagement strategy</p>	<p>The Strategic Forum as detailed in 1 above, to formulate the Plan, to be adopted as a single agreed plan with partners, providing a consistent message as to Torbay's aspirations for the future.</p> <p>Build on work already in place with a focus on bringing outcomes/actions across partners closer together.</p> <p>Leaders on Forum to agree the plan and be responsible for embedding it within their organisations and within the community.</p> <p>Engagement strategy to include enabling environment so people can start making a proactive contribution.</p>	No later than end August 2016, with report to Council in September (to coincide with Efficiency and Transformation Plan)	Steve Parrock	<p>Involvement of peers in supporting process and challenge</p> <p>LGA communications team (Matt Nichols) to help advise and signpost (3 days)</p>	<p>Discussion commenced with Strategic partners at meeting on 6 September 2016, with support from Matt Nichols, LGA. Next meeting. Next meeting in October to progress and hopefully receive presentation from another authority as to their work in this respect.</p> <p>Matt Nichols visited Torbay on 15 August 2016 for specific support and was involved in session with partners on 6 September. Support continuing.</p>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
							<i>Partly completed and ongoing work – transferred to revised action plan</i>
3.	Develop and understand Torbay's place in the national and regional context, and then champion Torbay.	Understand what Torbay's USP(s) are. Identify where we sit regionally and develop proposal/plan for championing Torbay, regionally and nationally.	Council to identify appropriate resources to promote Torbay, regionally and nationally. Strategic Forum to use links to champion Torbay.	Resources to be identified by November 2016. On-going once plan has been created.	Steve Parrock	LGA to help facilitate and organise regional/national discussion group	Resources to be identified through budget process. Work with Matt Nichols (LGA) and Strategic Partnership putting in place the basis for this area to progress from here. <i>Ongoing work transferred to revised action plan</i>
Financial Planning and Viability							
4.	Urgently develop a Medium Term Financial Plan, covering period of Corporate Plan (four year). The MTFP to demonstrate how Torbay will meet the budget	Develop four year plan for saving and investment. Develop efficiency plan.	Develop Efficiency Plan, for approval by October 2016. Efficiency Plan to include how the Council will meet the financial challenges over the following three years, so as to inform normal	Efficiency Plan to be presented to Full Council meeting in September 2016.	SLT	Review of draft plan together with desktop review of finances in late June/July 2016 by Chris West	Transformation programme established to feed into Efficiency Plan. Desktop review of finances undertaken by Chris West – brief report prepared to input into review on 27 September

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, <i>plus position for new action plan shown in italics</i>
	<p>challenges it faces, including;</p> <ul style="list-style-type: none"> - Asset sales and associated developments - Working with partners - Solutions inside and outside of Torbay 		budget setting processes.			LGA to ascertain any information possible as to requirements of Efficiency Plan	<p>2016.</p> <p>Efficiency Plan to be presented to Full Council on 22 September 2016.</p> <p><i>Ongoing work transferred to revised action plan</i></p>
5.	<p>Creation of a single Transformation Programme to deliver savings and change.</p> <p>SLT should be the Programme Board for the Transformation Programme. The Children's 5 year plan should be one key element of the Programme to</p>	<p>Project Mandate and Project Initiation Document to be developed with lead manager and resources to support.</p> <p>Budget to be allocated to deliver transformation projects.</p> <p>Transformation Board to be established.</p>	<p>Establish Transformation Board to meet on a monthly basis with clear objectives as to delivery.</p> <p>Transformation Board objectives and outcomes appended to this action plan for reference.</p>	Transformation Board established from 1 March 2016, now ongoing.	Caroline Taylor	<p>Signposting and provision of information.</p> <p>Ten days of</p>	<p>Transformation Board established.</p> <p>Business Cases being developed.</p> <p>Transformation Board 9 May 2016 – Lisa Annear and Andy Felton attended to provide external support and challenge.</p> <p>11 August - SLT approved creation of Transformation Team to further drive delivery of programme. Initial posts recruited to.</p> <p>Productivity Expert</p>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, <i>plus position for new action plan shown in italics</i>
	ensure it creates a stable financial platform for the future.					productivity expert to assist in developing Assets business case. Alan Finch (LGA) to liaise with Kevin Mowat.	programme application approved – input now awaited. <i>Complete</i>
6.	<p>Children’s budget – need to urgently stabilise spending, but at a sustainable level.</p> <p>Ensure robust due diligence to the decision and timing of the transfer of Children’s Services to the Integrated Care Organisation (ICO)</p>	Sustainable budget to be identified including monitoring of thresholds, gate keeping, care planning and levels of risk.	<p>Children’s Services Five Year Plan to deliver savings, in line with appropriate benchmarking.</p> <p>The 5 year plan to be incorporated into the Transformation Programme (as per 5 above).</p> <p>The proposed transfer of Children’s Services to ICO to be incorporated into Transformation Programme (as per 5 above).</p>	Delivery of Children’s Services Five Year Plan to be presented to Council meeting in July 2016.	Andy Dempsey	<p>Chris West to review draft plan before submission to Council.</p> <p>LGA to assist with identification of appropriate benchmarking.</p> <p>LGA providing Grant funding for dedicated work on this.</p>	<p>A revised Children’s Services Financial Plan will be presented to Council in October/November to feed into the Corporate financial plan.</p> <p>Transformation Programme to oversee spend reducing to benchmark.</p> <p>PeopleToo appointed - initial work completed in August with a further phase commissioned for September to determine comparative costs and support improvement activity.</p> <p>A time banded piece of work will be undertaken</p>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, <i>plus position for new action plan shown in italics</i>
							<p>between September and January to determine the base case for the ICO as an alternative delivery model for Children's Services.</p> <p>Transfer to ICO is designated as a Transformation project</p> <p><i>Ongoing work transferred to revised action plan</i></p>
7.	Review Asset Management and disposal plan	Identify proactive programme to dispose of assets or alternatively maximize future revenue from such, at a greater scale and pace Review Asset Management Strategy	<p>To include working with partners to map other public service assets and to consider a collective approach to asset management.</p> <p>To consider all assets in respect of –</p> <ul style="list-style-type: none"> a) opportunities for future revenue generation b) disposal. <p>Plus linkage to Medium Term Financial Plan and Efficiency Plan (as per 4 above) and Transformation Programme (as per 5 above).</p>	Overarching statement to be presented to Council meeting in September 2016 alongside Efficiency and Transformation Plan, with detailed plan presented through the budget setting process.	Kevin Mowat	Productivity expert to review (as per 5 above).	<p>This is designated as a Transformation project.</p> <p>Initial review of assets being undertaken by TDA with income optimisation opportunities being fast tracked.</p> <p>Include review of office accommodation within project.</p> <p><i>Ongoing work transferred to revised action plan</i></p>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
8.	Develop a coherent economic vision and plan that will drive business rate growth aligned to Housing Strategy to deliver homes for council tax growth and New Homes Bonus	Draft new economic strategy Including housing growth Including Business rate growth	Commission TDA to develop new economic strategy to include emphasis on benefits to the Council as well as the community. Plus linkage to Transformation Programme (link to 5 above).	Overarching position to be presented to Council meeting in September 2016 alongside Efficiency and Transformation Plan. Economic Strategy to be presented to Council once prepared.	Kevin Mowat	Review and challenge	New investment strategy being prepared to present to Council in September 2016. Work on new economic strategy to commence by TDA in October to be submitted to Council in February 2017. <i>Ongoing work transferred to revised action plan</i>
9.	Develop a commercially driven Tourism Strategy	Draft new Tourism Strategy and identify opportunities to drive revenue benefits for the Council	Prepare draft strategy for approval.	To be presented to Council meeting in September 2016.	Kevin Mowat	Review and challenge	This is being presented to December 2016 Council meeting to avoid any confusion with progress of TBID. This is linked to Assets Transformation Project. <i>Ongoing work transferred to revised action plan</i>
10	Ensure portfolio for Finance has sufficient	Mayor to review Executive	For the Mayor to consider his approach.	Annual Council Meeting -	n/a	Peer Support to Mayor	Mayor to advise if he wishes to make any changes to his Executive.

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
	capacity to provide greater focus and capacity for the future	Lead arrangements		May 2016.			<i>Complete</i>
11	Review structures for financial management, to incorporate Children's finance staff and provide sufficient Council financial expertise on key partnership and commissioning bodies	Review structures with Financial Services	Assistant Director of Corporate and Business Services to progress.	To be completed by summer 2016.	Anne-Marie Bond	None required	Restructure to be finalised by end of September 2016. <i>Complete</i>
12	Produce summarised and straight forward document for budget savings to ensure accessibility	Review budget documentation	Benchmark against good practice by other authorities. Evaluate 2016/17 approach with members. Focus on Council spending rather than savings as outlined in LGA recommendation.	New documentation to be in place for 2017/18 budget.	Kate Spencer	Guidance as to what is in place elsewhere and review of proposed documentation Alan Finch identified to review	Initial review undertaken. Proposals to be tested with members and LGA. Kate Spencer and Alan Finch progressing review. Informal session with Audit Committee arranged to review documentation. <i>Complete – documentation due to be</i>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, <i>plus position for new action plan shown in italics</i>
							<i>published on 4 November 2016</i>
Organisational Leadership and Governance							
13	Undertake training on the constitution and the roles and responsibilities of Officers and Members	Delivery of training	<p>To include the commissioning of Devon and Somerset Shared Member Development Service to: undertake a review of development requirements recommended by LGA Peer Challenge; establish clear aims and objectives for development needs and delivering of training; and identify a prioritised programme for delivery. Programme will cover:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Peer mentoring <input type="checkbox"/> Constitutional knowledge <input type="checkbox"/> Member and officer roles and responsibilities <input type="checkbox"/> Member and officer relations <input type="checkbox"/> Leadership practice 	Immediately and on-going.	Anne-Marie Bond	<p>Advice as to approach to delivery of training and development.</p> <p>Support to design and deliver training. (17 days)</p> <p>Academic support to deliver training (up to 8 days)</p>	<p>Training plan developed as a separate document, and dates in diaries to progress.</p> <p><i>Original training plan partly delivered – ongoing work transferred to revised action plan</i></p>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
			<p>The member development programme to identify key training to be mandatory for all members.</p> <p>Devon and Somerset Shared Member Development Service and LGA to assist with identifying appropriate training providers.</p> <p>Evaluate members and officers learning once training has been delivered, and ensure continued development occurs.</p> <p>LGA to identify member peer support.</p>				
14	<p>Undertake a review of the decision making process, including;</p> <ul style="list-style-type: none"> - Review adequacy and effectiveness of the Policy Framework 	<p>Review to be undertaken, and members and officers trained appropriately.</p>	<p>See 13 above for delivery of training/development.</p> <p>Re-establish clear governance practice and procedures with roles and responsibilities mapped out.</p>	<p>Alongside training as per 13 above.</p>	<p>Anne-Marie Bond</p>	<p>As per 13 above</p>	<p>To flow from 13 above</p> <p><i>Ongoing work transferred to revised action plan</i></p>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, <i>plus position for new action plan shown in italics</i>
	<ul style="list-style-type: none"> - The role of Overview and Scrutiny and the CFPS recommendations - Member and Officer roles and responsibilities - Member and officer relations - The presentation of issues to members without fear, favour. or agenda - Transparency - Records of Decision - Consider effective reporting back to full council from members on representative boards. 		Peer support to assist (as per 19 below).				
15	Embed core values adopted	Review work undertaken	Core values to be included on all reports	Alongside training as	Anne-Marie	As per 13 above	On-going

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
	for staff and reinforce them through actions of senior officers Encourage members to demonstrate same values and behaviours	to date and plan programme to ensure values are embedded throughout the Council. Governance Support to work with Members to share staff core values and develop proposals for members.	and documentation. Appraisals and staff supervision to include performance against core values. Staff communications to include best practice examples where staff have met core values. Also links to 13 above for delivery of training/development for members.	per 13 above.	Bond		<i>Ongoing work transferred to revised action plan</i>
16	Plan and prepare for Governance Referendum. Ensure outcome does not impact on functioning of the Council.	Plan for Referendum. Engage with all members and the community post referendum.	Peer support for Mayor and Group Leaders to establish positive response, regardless of the outcome of referendum.	Post 5 May 2016	Steve Parrock	Provision of mentoring support (43 days)	All Peer Mentors in place and providing support. <i>Complete</i>
17	Review approach to managing perceived conflict of interests	Members to individually review their interests and potential for perceived conflicts of	Link to 13 above so as to ensure members have all necessary knowledge. Ensure staff are briefed on requirements for	Ongoing	Anne-Marie Bond	Through mentoring support and provision of training as per 13 above.	Peer Mentors in place. Training plan developed which will further support this. <i>Complete</i>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
		interests.	members interests and including channels to report any concerns.				
18	Risk and Performance framework – ensure it is effectively rolled out, and adding to the ‘business’ of the authority.	Review Framework	SLT and Audit Committee to continue to review and refine.	Ongoing	Jo Beer/ Anne-Marie Bond		SLT and Audit Committee continue to review and refine. <i>Ongoing and incorporated into main stream work of the Council – no longer required in revised action plan</i>
19	Provide peer support and mentoring for chief officers and elected members to support their capacity and provide guidance as the key changes that are required are made. Officers and members to engage in wider peer networks to support and expand knowledge and	Identify members and officers to receive peer support. Identify wider peer networks and opportunities to support and expand knowledge and ideas.	In respect of Members, link to 13 above. LGA to assist in identification of peer support. SLT to review peer networks and provide capacity for staff to actively engage where appropriate. Encourage staff to share best practice gained from peer networks. Utilise SLT and	Ongoing	Anne-Marie Bond	Provision of mentoring support (43 days)	Peer Mentors in place and providing support. SLT reviewing training and support needs - plan approved at September SLT meeting. Managers Forum and Connect Events in place and working well as a channel for feedback from staff to SLT

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
	ideas.		Manager's Forum as a channel for feedback.				<i>Complete – support from Peer Mentors ongoing, plus support through the revised Member Development Programme as required</i>
20	Continue to develop and deliver an Organisational Development and Workforce Plan. Develop and deliver an organisational succession plan	Continue with preparation of Workforce and Organisational Development plan. Succession plan to be formulated following completion of Workforce plan	SLT, supported by Human Resources, to deliver Organisational Development and Workforce Plans. Mayor and Group Leaders to consider approach to member succession planning – also links to 13 above.	Ongoing	Sue Wiltshire	LGA workforce advisor (Martin Denny) to offer support and critical review challenge (5 days)	Workforce plans being developed for consideration by SLT. Martin Denny has reviewed initial documentation and is providing on-going support. <i>Ongoing and incorporated into main stream work of the Council – no longer required in revised action plan</i>
Capacity to Deliver							
21	The Council needs to communicate as to the need to urgently prepare an efficiency plan and make difficult decisions, whilst	Need to ensure appropriate messages are communicated.	Link to 2 and 4 above Communications team to develop communication plan, internally and externally. Include staff and	Ongoing	Michelle Pierce	LGA communications team to help advise and signpost	Action Plan being drafted following Matt Nichols visit on 15 August 2016. <i>Ongoing and incorporated into main stream work of the Council – no longer required in revised action</i>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
	being clear that the Council is sustainable in such circumstances		actively encourage them to present innovative ideas.				<i>plan</i>
22	Invest in capacity to deliver organisational and business transformation at a pace	Review structure	Link to 5 above - Transformation Board to identify need. Head of Paid Service to determine.	Ongoing	Steve Parrock	None required	Transformation Board and Team in place. <i>Ongoing work transferred to revised action plan</i>
23	Review and invest in the training and development needs of members with an emphasis on leadership, practice as well as learning	Review Member Training and Development Programme	Link to 13 above.	Ongoing	Anne-Marie Bond	Support and challenge	Training programme in place. Member Development Programme approved. <i>Ongoing work transferred to revised action plan</i>
24	Review and invest in the training and development needs of senior officers	Review training and development needs of Senior Officers	Head of Paid Service to consider, and plan appropriately. Link to members training and development (see 13 above) and identify joint training where appropriate.	Ongoing	Steve Parrock (supported by Julia Baldie)	Review of training programme once drafted	SLT reviewed training and support needs - plan approved at September SLT meeting. <i>Ongoing and incorporated into main stream work of the Council – no longer required in revised action plan</i>

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
			Also link to 19 above				
25	Appraisals for all staff, Chief Executive down.	Undertake appraisals	Mandatory for all staff. External facilitation for appraisal Chief Executive. Establish performance management for members following trial undertaken in 2009 – link to 13 above	On-going on a rolling programme. Chief Executive's appraisal scheduled.	Anne-Marie Bond	None required	Chief Executive appraisal undertaken, facilitated externally. On-line appraisal system in place to provide data as to appraisals undertaken. Staff survey for Autumn 2016 to test reach compared with previous survey. <i>Complete</i>
26	Ensure HR systems are up-to-date and provide effective reporting on key elements for effective people management	HR system currently being built to ensure it provides effective systems and reporting – review to ensure it will provide necessary reporting	HR system already in development. Review of reporting undertaken.	To be fully operational by summer 2016.	Anne-Marie Bond	None required	New system launched on 6 July 2016. Roll out of additional functionality Autumn 2016. <i>Ongoing and incorporated into main stream work of the Council – no longer required in revised action plan</i>
27	Establish plans with key targets and milestones	Corporate Plan Delivery Plans to be	Corporate Plan Delivery Plans to be considered by Council in May 2016.	Annual Council May 2016	Steve Parrock	None required	Corporate Plan Delivery Plans approved by Full Council on 11 May 2016.

	Recommendation	Overall Response	Detailed Action	Indicative Timescale	Lead Officer	LGA Support	Progress update, plus position for new action plan shown in italics
	for the delivery of the Corporate Plan	approved by Full Council Effective Performance and Risk monitoring against the delivery plans.	Audit Committee to undertake performance and risk monitoring on an ongoing basis – link to 18 above.	Ongoing			<i>Complete</i>

Endorsement by: Council Meeting on 7 April 2016

Implementation monitoring by Audit Committee with six monthly progress reports to full Council.

LGA follow up visit arranged for 27 September 2016. Trevor Holden, Chris West, Stuart Drummond, Andy Bates and Paul Clarke in attendance. Cllr Alan Jarrett to take part remotely.

Desktop review of finances/review of draft Efficiency Plan - August



LGA Corporate Peer Challenge – December 2015/Follow Up Visit – September 2016
LGA Finance Review – November 2016
CIPFA Financial Resilience Review – November 2016

REVISED AND PRIORITISED STRATEGIC ACTION PLAN (including completed actions)
Draft V12 – 24 January 2017

1. Review of Financial Resilience for Sustainable Council			
Actions:	Timeframe	Lead Officer	Progress update
1.1 Prepare Children’s Services Medium Term Financial Strategy that aligns with the Ofsted Improvement Plan, operational delivery plans and can be linked to corporate financial plans in a transparent way. To be presented to Council meeting for approval (Transformation Project)	February 2017	Andy Dempsey and Martin Phillips	A Medium Term Financial Strategy (2017-21) has been developed for Children’s Services. This has benefitted from the work undertaken by Peopletoo (commissioned by the LGA) and CIPFA. The MTFS has been considered by the Corporate Leadership Team and Mayor’s Executive and will be presented to Overview and Scrutiny on 25 th January prior to approval by Council on 2 nd February. A number of specific savings proposals made

1. Review of Financial Resilience for Sustainable Council

Actions:	Timeframe	Lead Officer	Progress update
			within the MTFS have been included within the Council budget proposals for 2017/18
1.2 Agree performance monitoring mechanism for Children's Medium Term Financial Strategy	February 2017	Steve Parrock, Andy Dempsey and Martin Phillips	The MTFS will be subject to regular monitoring by Children's Services and Corporate Senior Leadership Team as part of the Council's ongoing financial monitoring arrangements. A Members' Monitoring Group, with across party representation, has been established as part of the overview and scrutiny arrangements for Children's Services including monitoring MTFS.
1.3 Review and undertake options appraisal of risk share agreement with ICO with a view to capping existing and potential future financial exposure	March 2017	Steve Parrock and Caroline Taylor	Options appraisal to be undertaken.
1.4 Establish effective financial and performance monitoring with ICO	April 2017	Steve Parrock, Caroline Taylor and Martin Phillips	Review of existing arrangements being undertaken as part of ASA.

1. Review of Financial Resilience for Sustainable Council

Actions:	Timeframe	Lead Officer	Progress update
1.5 Consider centralising the Council's commissioning, procurement and contract management functions to provide efficiencies and gain better intelligence and control over procurement costs	March 2017	Steve Parrock	LGA commissioning academy place for officers
1.6 (i) Review extent to which Public Health ring fenced grant is further used to support wider public health determinants (ii) Determine strategic approach to integrating Public Health within the Council or the ICO in relation to commissioning	End March 2017	Steve Parrock and Caroline Dimond	External facilitator required and currently being explored

1. Review of Financial Resilience for Sustainable Council

Actions:	Timeframe	Lead Officer	Progress update
<p>1.7 Maximise income from Council services and asset portfolio (to achieve commercial market rates where appropriate) and/or ensure achieving value for money (using benchmark diagnostics), with a particular focus on:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Children's <input type="checkbox"/> Public Health <input type="checkbox"/> Waste management <input type="checkbox"/> Planning <input type="checkbox"/> Parking (potential 20% increase) <input type="checkbox"/> Council Tax Collection costs <input type="checkbox"/> Collection rate low income <input type="checkbox"/> Concessionary fares <input type="checkbox"/> Rental Income 	<p>March 2017 initial milestone</p>	<p>Caroline Taylor</p>	<p>To progress each separate project through the Transformation Programme</p>
<p>1.8 Prepare framework for Investment Fund decisions to ensure Fund exploits all benefits, including reflecting on balance between debt and income; and different categories e.g. investment for return and investment for regeneration</p>	<p>April 2017</p>	<p>Anne-Marie Bond and Martin Phillips</p>	<p>Investment Committee appointed and Investment Strategy approved by Council.</p> <p>Investment Strategy being reviewed by Investment Committee to be resubmitted to Council for approval.</p>

1. Review of Financial Resilience for Sustainable Council

Actions:	Timeframe	Lead Officer	Progress update
1.9 Review existing and future contract arrangements of Tor2 to ensure the Council is a true partner and has key financial information on an open book basis including split options of the contract	Summer 2017	Kevin Mowat/Fran Hughes	Contract review is already being undertaken with support from independent Consultants Stradia Ltd. Open book accounting and split options of contract will be reviewed in February 2017 onwards with formal recommendations for the future of the partnership being presented in summer 2017.
1.10 Obtain specialist advice and revise Treasury Management Strategy to ensure maximizing current market conditions and internal funds/borrowing	March 2017	Martin Phillips/ Pete Truman	Currently being commissioned and awaiting response from Capita
1.11 Review current risk management and implement any changes	March 2017	Caroline Taylor	Review current risk management approach by Transformation Board

1. Review of Financial Resilience for Sustainable Council

Completed Actions:

Action:	Timeframe	Lead Officer	Progress update
C1.1 Receive external financial review.	November 2016	Martin Phillips/Steve Parrock	LGA financial review completed – resulting actions incorporated above CIPFA Financial Resilience review completed – resulting actions incorporated
C1.2 Maintain balance of £2m within Comprehensive Spending Review reserve	November 2016	Martin Phillips	Recommended reserve levels contained within Review of Reserves Report
C1.3 Prepare summary of proposed savings for 2017/18 budget as an appendix to Fit for the Future documentation	November 2016	Anne-Marie Bond	Completed – updated version published 14 November 2016
C1.4 Establish a Children's Services Placements and Commissioning Team as a key element within improved Permanence Planning approach in order to deliver better outcomes for children, alongside challenge and support to providers on costs and quality, liaising with sub regional partners as necessary.	December 2016	Andy Dempsey and Lin Ferguson	A Children's Services' Placements and Commissioning Team was put in place in December 2016. Over time it will take responsibility for all aspects of placement activity as part of our improved approach towards permanence planning that delivers better outcomes for children looked after and provides value for money.

1. Review of Financial Resilience for Sustainable Council

Completed Actions:

Action:	Timeframe	Lead Officer	Progress update
			Currently some of the resources comprising the team are supported by time limited funding and one of the challenges remaining is to find a sustainable solution as part of a wider review of Children's Social Care staffing and structures.
<p>C1.5 Establish governance arrangements for Investment Fund including:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Appoint external expert to critique investments proposals (to provide balance to TDA recommendations); <input type="checkbox"/> Definite legal advice for safe execution; and <input type="checkbox"/> Appointment of Investment Committee; 	October 2016	Anne-Marie Bond and Martin Phillips	Investment Committee in place. Panel of External advisors appointed to provide advice on investment proposals. Legal advice obtained in respect of Investment Fund strategy.
C1.6 Christmas leave and leave purchase arrangements to identify savings	December 2016	Anne-Marie Bond	Completed as part of the review of Terms and Conditions.

1. Review of Financial Resilience for Sustainable Council

Completed Actions:

Action:	Timeframe	Lead Officer	Progress update
C1.7 Review Council Tax Support Scheme	December 2016	Bob Clark	Revised scheme approved by Full Council in December 2016.

2. Transformation

Actions:	Timeframe	Lead Officer	Progress update
2.1 Develop council-wide digital strategy	February 2017	Bob Clark/Fran Hughes	LGA offer of place on Digital Academy – booked for end February 2017 Review others best practice for presentation to Transformation Board
2.2 Prioritise Transformation Plans with focus on benefits realisation including: <ul style="list-style-type: none"> <li data-bbox="353 746 869 890">□ providing a clearer link between transformation and departmental savings, with details of savings agreed or proposed; and <li data-bbox="353 938 869 1002">□ maintaining a list of projects not agreed/ideas emerging 	March 2017	Caroline Taylor supported by Lisa Chittenden	In progress – report being prepared for February 2017 Transformation Board
2.3 Identify appropriate processes to ensure robust due diligence is applied to all transformation projects	March 2017	Caroline Taylor supported by Lisa Chittenden	In progress – report being prepared for February 2017 Transformation Board.
2.4 Prepare quality execution plans to meet budget gap to ensure delivery of transformation projects, including resourcing and specialist support for key saving areas	March 2017 initial milestone	Caroline Taylor supported by Lisa Chittenden	In progress – report being prepared for February 2017 Transformation Board setting out detail of Project Execution Plans (PEP) for board approval. Once approved PEP's will

2. Transformation

Actions:	Timeframe	Lead Officer	Progress update
			be put into place.
2.5 Identify additional transformation projects/cessation of services so as to ensure budgets remain robust if some projects are ultimately not delivered/slip in terms of delivery	April 2017	Caroline Taylor and Fran Hughes	Ongoing – this will be an ongoing piece of work for the Transformation Team, Programme Delivery Boards and the Transformation Board.
2.6 Transformation Programme to have overall stated vision for change e.g. transforming the way the Council overall operated or is structured and this is communicated	January 2017	Caroline Taylor, supported by Lisa Chittenden and Michelle Pierce	In progress – vision drafted and will be taken to February 2017 Transformation Board for review and approval.
2.7 Review governance arrangements of Transformation Board to ensure appropriate levels of management oversight, including establishment of project delivery boards for key board themes with appropriate project management and finance support	February 2017	Caroline Taylor supported by Lisa Chittenden	In progress – report being prepared for February 2017 Transformation Board outlining a new governance approach.
2.8 Identify best practice and seek specialist advice on establishment of Housing Company and establish if Torbay has a significant gap in the market to build and buy enough houses for rental	February 2017	Caroline Taylor	In progress – Business Case being prepared for 23 February 2017 Council meeting.

2. Transformation

Actions:	Timeframe	Lead Officer	Progress update
2.9 Consider proactive approach to driving town centre regeneration including direct investment, compulsory purchase and appropriation	April 2017	Kevin Mowat	Specialist strategic advice sought in terms of how the Council can pro-actively use compulsory purchase and appropriation.
2.10 Sports activity subsidies – undertake review to identify options for moving to nil subsidies	June 2017	Fran Hughes/Kevin Mowat	Initial assessment complete of income foregone for Council land. Further work required on sports pitches.

2. Transformation

Completed Actions:

Action:	Timeframe	Lead Officer	Progress update
C2.1 Establish multi-disciplinary project team (encompassing homelessness, planning, finance and legal) to determine need for Housing Company	September 2016 and on-going	Caroline Taylor	In progress- proposal to council on 23 February 2017

3. Vision and narrative for Torbay with key stakeholders

Actions:	Timeframe	Lead Officer	Progress update
3.1 Formulate narrative and place brand for long term aspirations for Torbay with key partners	Spring 2017	Anne-Marie Bond and June Gurry	Development of place narrative progressing well, involving partners. LGA providing on-going support from Hackney Council to assist in the delivery of this.
3.2 Finalise governance arrangements for Strategic Partnership	Spring 2017	Anne-Marie Bond and June Gurry	Two informal meetings with partners have been held and it was felt the place narrative should be agreed before the final formalisation of the partnership.
3.3 Communicate and embed place narrative through partners and the community via communication strategy	April 2017	Anne-Marie Bond and June Gurry	Communication strategy in place by April 2017, following finalisation of place narrative. LGA funding to continuing support from Hackney Council to deliver this.

3. Vision and narrative for Torbay with key stakeholders

Completed Actions:

Action:	Timeframe	Lead Officer	Progress update
C3.1 Facilitate effective Partnership Forum	Summer 2016	Anne-Marie Bond supported by June Gurry	LGA support from Matt Nichols. Key partners brought together and work well underway to preparing draft place narrative.

4. Increased Leadership and Capacity for Members and Officers

Actions:	Timeframe	Lead Officer	Progress update
4.1 Review of Council's senior management structure by Head of Paid Service, including increased capacity of commercially based financial expertise to deliver transformation plans	April 2017	Steve Parrock	Review in progress
4.2 Member Development Programme to be reviewed with the following to be delivered as priorities: <ul style="list-style-type: none"> <input type="checkbox"/> Address the Council's leadership challenges through a revised Member and Officer Development Programme, to include all members and SLT. <input type="checkbox"/> Refreshed induction programme for Executive Leads and Senior Politicians. <input type="checkbox"/> Developing Members awareness of need to make commercial decisions/decision making to generate income for the Council. 	March 2017	Anne-Marie Bond supported by June Gurry	LGA grant support and recommended facilitators Current programme partly delivered and reviewed with Mayor and Group Leaders in December 2016 Refreshed induction plan being developed for Executive Leads and Senior Politicians.

4. Increased Leadership and Capacity for Members and Officers

Completed Actions:

Action:	Timeframe	Lead Officer	Progress update
C4.1 Senior Leadership Team Development Programme prepared	September 2016	Steve Parrock	Senior Leadership Team Development Programme agreed on 13 September 2016 and being delivered throughout 2017.

5. Speedier Decision-making and Prioritisation Process

Target end date: March 2017

Actions:	Timeframe	Lead Officer	Progress update
5.1 Produce streamlined and speedier decision-making process to include method of prioritisation to ensure delivery of key issues at pace	In place by end February 2017	June Gurry	Initial draft completed, being considered by SLT.
5.2 Review and make recommendations on delegation levels to officers to increase speed of decision-making	End February 2017	Anne-Marie Bond	Review being undertaken as to levels of delegation in other authorities.

LGA Corporate Peer Challenge – December 2015/Follow Up Visit – September 2016
LGA Finance Review – November 2016
CIPFA Financial Resilience Review – November 2016

OPERATIONAL ACTION PLAN FOR OFFICERS
Draft V6 –January 2017

Action:	Timeframe	Lead Officer	Progress update
Medium Term Resource Plan			
O1 Budget Report – expand tables/add narrative to explain changes to increase overall understanding	April 2017	Martin Philips/Kate Spencer	Mayor’s budget proposals document published - complete
O2 Consider different ways of presenting information after reviewing examples of alternative budget reports provided by CIPFA	March 2017	Martin Philips/Kate Spencer	Mayor’s budget proposals document published - complete
O3 Prepare protocol for sign off of figures by Head of Finance on transformation	February 2017	Caroline Taylor and Lisa Chittenden	In progress
O4 Capital reporting needs closer link to revenue. Lack of detail of which capital schemes are financed through grants, which ones are self-financing and those that require revenue contributions	February 2017	Martin Philips	A summary page of funding will be included as part of the Capital Plan and additional descriptions will be included in both the Revenue Budget and Capital Plan to ensure linkage

Action:	Timeframe	Lead Officer	Progress update
O5 Include New Homes Bonus grant in funding not service	January 2017	Martin Philips	Complete
Income Generation			
O6 Separate out income for premises in exchange for services provided – income coming in to the Council on a commercial basis and choices over the level of costs of services provided made	February 2017 for initial review	Fran Hughes and Kevin Mowat	Initial assessment complete of income foregone for Council land. Further work required on sports pitches.
New staff holding company			
O7 Seek specific advice of the Scheme Actuary for the LGPS before embarking on potential new company models	January 2017	Anne-Marie Bond	Actuary instructed advice awaited.
Other areas of potential savings to explore			
O8 Payments by direct debit needs to be driven, saving costs and improving collection rates	March 2017	Bob Clark	Review in progress
O9 Undertake review of council tax processes to ensure efficiencies and value for money	March 2017	Bob Clark	In progress
O10 Complete implementation of Financial Services restructure	March 2017	Martin Phillips	Completed



Meeting: Council

Date: 19 January 2017

Wards Affected: All Wards

Report Title: Call-in of Mayor's Decision on Potential Helipad and Light Rail System for Torbay

Is the decision a key decision? No

When does the decision need to be implemented? once a decision has been made

Supporting Officer Contact Details: Anne-Marie Bond, Assistant Director Corporate and Business Services, anne-marie.bond@torbay.gov.uk / Martin Phillips, Head of Finance, martin.phillips@torbay.gov.uk

1. Proposal and Introduction

1.1 On 23 November 2016 the Mayor took the following decision:

“Potential Helipad and Light Rail System for Torbay

- (i) that the Assistant Director of Corporate and Business Services be requested to consult the private sector and businesses in the aviation sector for their views on the principle of establishing a helipad facility for Torbay and that this should give the opportunity for the private sector undertaking feasibility work and to put forward proposals;
- (ii) that an informal working group comprising the Mayor and business leaders be established to investigate the economic benefits to Torbay of having a helipad facility;
- (iii) that further discussions be held between the Spatial Planning Department and Devon Air Ambulance in respect of their needs for adequate facilities; and
- (iv) that due to the economic growth in Brixham in the fishing and tourism industry there is a need to improve transport links in and out of Brixham and the surrounding area to cope with this growth and the Assistant Director of Corporate and Business Services be requested to consult with the fishing industry, Brixham Town Council, rail user groups and existing rail owners to establish, in principle, if the formation of a light railway system will benefit the long term economic prospects of Brixham and the surrounding area.”

- 1.2 The Mayor's decision was called in for scrutiny and considered at the meeting of the Overview and Scrutiny Board held on 14 December 2016. An extract of their Minute is set out below:

“48. Potential Helipad and Light Rail System for Torbay

The Board considered the details of a call-in by thirteen Members of the Council of the decision of the Mayor to, amongst other things, request the Assistant Director – Corporate and Business Services to consult on the principle of establishing a helipad facility in Torbay and on the long term economic benefits of a light railway system to Brixham.

In addressing the Board, the Call-in Promoter highlighted that he believed that the Mayor's decision was contrary to the Council's Policy Framework. He made reference to the Corporate Plan which included the principle that the Council's reducing resources should be used to best effect.

Members of the public who were both in favour of the Mayor's decision addressed the Board.

The Deputy Mayor and other members of the Executive were invited to respond to the points in the call-in and to the questions raised by members of the Board.

Members of the Board indicated that they were minded to agree that the decision was contrary to the Council's Budget and Policy Framework and, at that point, the Monitoring Officer and Chief Financial Officer provided advice to the Board.

Resolved: that, having listened to the advice of the Monitoring Officer and the Chief Financial Officer, the Board is of the view that the Mayor's decision is contrary to the Policy Framework as it does not believe that it makes best effect of the Council's reducing resources and therefore the matter is referred to the Council.”

- 1.3 Members are requested to consider this report and determine what action to take.

2. Reason for Proposal

- 2.1 To consider the recommendation of the Overview and Scrutiny Board and further information detailed in the submitted report.

3. Recommendation(s) / Proposed Decision

- 3.1 That the Council considers the contents of this report in determining whether or not the Mayor's decision dated 28 November 2016 in respect of a Potential Helipad and Light Rail System for Torbay is contrary to the Policy Framework or contrary to (or not wholly in accordance with) the Council's budget.

Appendices

- Appendix 1: Reasons for call-in Potential Helipad and Light Rail System for Torbay
 - Appendix 2 Record of Decision Potential Helipad and Light Rail System for Torbay
 - Appendix 3 Report to Policy Development and Decision Group (Joint Operations Team)
-

4. Background Information

4. Background Information

4.1 The following advice was given to the Overview and Scrutiny Board in respect of the Mayor's decision regarding the commissioning of a consultation exercise with the public, partners and the voluntary sector to assess opinion with regards to what further action the Council (and partners where appropriate) should take on the issues raised by the Monitoring Officer and Head of Finance:

4.1.1 Policy Framework – the decision needs to be contrary to the Policy Framework. The definition of contrary by the Oxford Dictionary is 'opposite in nature, direction or meaning'. The fact that something is not explicitly mentioned, does not mean it is contrary.

4.1.2 There are two references within the Council's Corporate Plan, which is a Policy framework document, that relates to the Mayor's decision. The first is targeted action 4 on page 30 - Deliver capital schemes to improve the highways and transport network and be proactive in seeking new funding to improve infrastructure and support the economic growth of Torbay. The second is targeted action 2 on page 22 - Deliver transport improvements (include improving rail and air links throughout Torbay). The Monitoring Officer does not consider that the Mayor's decision for consultation is contrary to either of these targeted actions.

4.1.3 Reference was made by members to one of the principles in the Corporate Plan - 'using resources to best effect'. Consideration as to whether the decision to consult is contrary to this principle, is a political matter for members to decide.

4.1.4 The Chief Finance Office advised that as there is a budget for staffing on consultation, the Mayor's decision was not contrary to the budget, although clearly it would impact upon the current work of the Consultation Team and the work of the Spatial Planning Team and the Assistant Director of Corporate and Business Services - but that does not make it contrary to the budget.

5. Options

5.1 In accordance with the Standing Orders, the Council has to firstly to determine whether or not the decision (if implemented) would be within the Budget and Policy Framework (D10.7).

- 5.2 If the Council determines that the decision would be within the Budget and Policy Framework, the subsequent action is that it may refer any decision to which it objects back to the decision maker together with the Council's views on that decision (D9.4C).
- 5.3 If the Council decides that the decision would be contrary to (or not wholly in accordance with) the Budget and/or Policy Framework, the decision shall be deemed as a recommendation to the Council and the Council itself shall take the final decision on the matter.

Potential Helipad and Light Rail System for Torbay

Reasons for call-in

No debate or questions were allowed at the meeting of the Policy Development and Decision Group on the proposal which was ultimately agreed by the Mayor.

What are the costs (in both financial and officer time terms) of the two consultations which the Assistant Director has been asked to undertake? Is there a budget for this work? What other work will not be undertaken to progress these consultations?

How much officer time is expected to be used in the further discussions between the Spatial Planning team and Devon Air Ambulance? What other work will not be undertaken to allow these discussions to take place?

Can you confirm that the informal working group comprising the Mayor and business leaders will not be supported by any Council or TDA officer?

Record of Decision

Potential Helipad and Light Rail System for Torbay

Decision Taker

Mayor on 23 November 2016

Decision

- (i) that the Assistant Director of Corporate and Business Services be requested to consult the private sector and businesses in the aviation sector for their views on the principle of establishing a helipad facility for Torbay and that this should give the opportunity for the private sector undertaking feasibility work and to put forward proposals;
- (ii) that an informal working group comprising the Mayor and business leaders be established to investigate the economic benefits to Torbay of having a helipad facility;
- (iii) that further discussions be held between the Spatial Planning Department and Devon Air Ambulance in respect of their needs for adequate facilities; and
- (iv) that due to the economic growth in Brixham in the fishing and tourism industry there is a need to improve transport links in and out of Brixham and the surrounding area to cope with this growth and the Assistant Director of Corporate and Business Services be requested to consult with the fishing industry, Brixham Town Council, rail user groups and existing rail owners to establish, in principle, if the formation of a light railway system will benefit the long term economic prospects of Brixham and the surrounding area.

Reason for the Decision

To enable further exploration of options for a potential helipad and light rail system for Brixham.

Implementation

This decision will come into force and may be implemented on Tuesday, 6 December 2016 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report provided an update in respect of two Mayoral pledges, namely a helipad for Torbay and a light rail system to Brixham. The Council does not have any funding to progress either of these projects and the report proposed that no further work be undertaken by the Council on feasibility studies but that the private sector could undertake feasibility work themselves and put forward their own proposals in the future for a helipad or light rail system to Brixham.

The Mayor considered the recommendations of the Policy Development and Decision Group (Joint Operations Team) made on 23 November 2016 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options were set out in the submitted report and were discussed at the meeting.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

None

Published

28 November 2016

Signed: _____
Mayor of Torbay

Date: 28 November 2016



Meeting: Policy Development and Decision Group (Joint Operations Team)

Date: 23 November 2016

Wards Affected: All

Report Title: Potential Helipad and Light Rail system for Torbay

Is the decision a key decision? No

When does the decision need to be implemented?

Executive Lead Contact Details: Mark King, Executive Lead for Planning, Transport and Housing, 07873 254117, mark.king@torbay.gov.uk

Supporting Officer Contact Details: Adam Luscombe, Team Leader Strategy and Project Delivery, Spatial Planning, 01803 207693, adam.luscombe@torbay.gov.uk

1. Proposal and Introduction

- 1.1 This reports seeks to summarise the current position of two Mayoral pledges, namely a Helipad for Torbay and a Light Rail System to Brixham.
- 1.2 Discussions about the potential for a **Helipad** in Torbay started in March 2014. These initial discussions involved the Mayor, officers, and Captain Ian Payne, Flight Operations Director, Devon Air Ambulance. There was a clear desire, by Devon Air Ambulance, for a night time landing facility.
- 1.3 In August 2015, the Mayor's Executive Group asked officers to assess operations for a more formal landing site and potentially a scheduled service. A decision taken by the Mayor on 14 December 2015 to allocate £10,000 towards a feasibility study. This decision was called in and a report was prepared for the Overview and Scrutiny Board on 6 January 2016. At that meeting the Board welcomed the Mayor's decision to rescind his previous decision in relation to funding a feasibility study for a helipad in Torbay. However, the Board could not find any evidence that the allocation of £10,000 to fund such a feasibility study would have been in accordance with the Budget and Policy Framework.
- 1.4 Initial scoping work, on a commercial helipad, was undertaken in November 2014. Whilst this work was in no way exhaustive, it did identify Gallows Gate as a potential location.

- 1.5 Previously the cost of constructing a helipad has been estimated at £100,000 but that is prior to any level of feasibility study being carried out.
- 1.6 It was later suggested that a commercial helicopter service could operate between Torbay, Exeter, Plymouth and London. Whilst this may have gained support from the local businesses and the Local Enterprise Partnership, it was difficult to understand where funding could come from.
- 1.7 The work initiated by spatial planning officers and the Torbay Development Agency (TDA) was not sufficiently detailed in order to make a decision or judgement as to the need or appropriate location for such development.
- 1.8 Currently informal landing sites exist on Walls Hill and Daddyhole Plain. The emergency services also have a landing site at Torbay Hospital as well using a nearby playing pitch for larger aircraft.
- 1.9 No work has been carried out on a business case or to better understand the need, and neither is there a detailed understanding of the suitability of any location.
- 1.10 Neither the provision of a site, or the service, is included within the Devon and Torbay Local Transport Plan Strategy (2011-2026). However, the opportunity was consulted on (at Gallows Gate) as part of the Local Transport Implementation Plan (2016-2021) process. It received very little public support. The adopted version of the Plan does however illustrate some schemes which could be delivered, and this includes "Projects which support Mayoral manifesto commitments".
- 1.11 The Economic Strategy and Local Plan do not specifically set out the need or requirements for a Helipad in Torbay; however it could be determined against existing policies in the Local Plan.
- 1.12 Officers do not have the expertise, resource or capacity to undertake a feasibility study for a Helipad. An estimated cost to complete this is £10,000. This could look at possible locations and construction costs.
- 1.13 The other proposal is for a **Light Rail System** to Brixham.
- 1.14 It is understood that some initial discussions have taken place with the Dartmouth Steam Railway Company but that there was no officer involvement in those discussions.
- 1.15 The proposal is not included in the Local Plan, but any such proposal could be supported by certain existing policies. It was not explicitly included because there are doubts over deliverability within the plan period and that the levels of growth in Brixham would not have supported the need. There are also constraints in the area, particularly landscape designations of national importance.
- 1.16 There is also not reference made in either the Local Transport Plan Strategy or Economic Strategy. However, as with the Helipad, there is the potential to consider the opportunity through the Local Transport Implementation Plan.

- 1.17 Officers do not have the expertise, resource or capacity to undertake a feasibility study for a Light Rail system. An estimated cost to complete this is £30,000. This could look at possible routes and construction costs. This is based on similar work that has been carried out elsewhere.
- 1.18 Major transport funding for Transport is either directed through the Local Enterprise Partnership or direct from a Government competition. The LEP funding is in high demand locally and it is unlikely, depending on the scale, that such a level of resource would be available for this work. Any Government allocation would face competition from very significant, and often nationally important, proposals.
- 1.19 The issues to be considered are the start and end points, the route, the standard of the track facility, other opportunities, and the need would have to be demonstrated.
- 1.20 Alternative options may be more appropriate and cost effective. This could see National Rail services extended beyond Paignton with connections at Churston, or a bus-way scheme which greatly reduced the time to travel by bus. Either alternative solution would also need further work and assessment.
- 1.21 Whilst a capital cost of works at the stage is unknown, it is likely to be very significant. Similar schemes have only been successful where there is a very high demand and often the service would still require an ongoing subsidy.

2. Reason for Proposal

- 2.1 A decision needs to be taken on whether to continue feasibility work on both or either of the schemes and to agree how any such work will be funded.

3. Recommendation(s) / Proposed Decision

- 3.1 It is recommended that, given the level of financial cost necessary and the unlikely prospects of finding suitable capital funding for delivery, no further work is undertaken on a feasibility studies.
- 3.2 This should not rule out the opportunity for the private sector to undertake feasibility work and to put forward a proposal themselves.
- 3.3 Resources may allow for further discussions between the Spatial Planning and Devon Air Ambulance in respect of their needs for adequate facilities.
- 3.4 A reduced level of financial resource may be appropriate when considering alternative options instead of light rail.

Background Documents

<http://www.torbay.gov.uk/DemocraticServices/ieListDocuments.aspx?CId=218&MId=6754&Ver=4>

Overview and Scrutiny Board Minutes

Record of Mayoral Decision

Overview and Scrutiny Board Briefing Note



Meeting: Council

Date: 2 February 2017

Wards Affected: All Wards

Report Title: Call-in of Mayor's Decision on Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas

Is the decision a key decision? No

When does the decision need to be implemented? once a decision has been made

Supporting Officer Contact Details: Anne-Marie Bond, Assistant Director Corporate and Business Services, anne-marie.bond@torbay.gov.uk. Martin Phillips, Head of Finance, martin.phillips@torbay.gov.uk

1. Proposal and Introduction

1.1 On 23 November 2016 the Mayor took the following decision:

“Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas

That the Assistant Director of Community and Customer Services be requested to commission a consultation exercise with the public, partners and the voluntary sector to assess opinion with regards to what further action the Council (and partners where appropriate) should take in response to the issues of:

- introducing bylaws or Public Spaces Protection Orders (PSPOs) to address the problem of rough sleeping on the seafront and town centres;
- providing support to, and safeguarding, individuals with a genuine rough sleeping / street homelessness need; and
- the use of motor homes as permanent accommodation in residential areas/public highways.”

1.2 The Mayor's decision was called in for scrutiny and considered at the meeting of the Overview and Scrutiny Board held on 14 December 2016. An extract of their Minute is set out below:

“47. Bylaws Homeless People and Begging

The Board considered the details of a call-in by five Members of the Council of the decision of the Mayor to request the Assistant Director – Community and Customer Services to commission a consultation exercise to assess opinion on the further actions the Council could take:

- to introduce bylaws or Public Spaces Protection Orders to address the problem of rough sleeping on the seafront and in town centres; and
- to provide support to, and safeguarding of, individuals with a genuine rough sleeping/street homelessness need.

In addressing the Board, the Call-in Promoter highlighted that he believed that the Mayor’s decision was contrary to the Council’s Policy Framework. He made reference to the Corporate Plan which included the principle that the Council’s reducing resources should be used to best effect.

Members of the public who were both in favour of and against the Mayor’s decision addressed the Board. In addition a statement on behalf of Torbay PATH was read out.

The Deputy Mayor and other members of the Executive were invited to respond to the points in the call-in and to the questions raised by members of the Board.

Members of the Board indicated that they were minded to agree that the decision was contrary to the Council’s Budget and Policy Framework and, at that point, the Monitoring Officer and Chief Financial Officer provided advice to the Board.

Resolved: that, having listened to the advice of the Monitoring Officer and the Chief Financial Officer, the Board is of the view that the Mayor’s decision is contrary to the Policy Framework as it does not believe that it makes best effect of the Council’s reducing resources and therefore the matter is referred to the Council.”

1.3 Members are requested to consider this report.

2. Reason for Proposal

2.1 To consider the recommendation of the Overview and Scrutiny Board and further information detailed in the submitted report.

3. Recommendation(s) / Proposed Decision

3.1 That the Council considers the contents of this report in determining whether or not the Mayor’s decision dated 28 November 2016 in respect of Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas is contrary to the Policy Framework or contrary to (or not wholly in accordance with) the Council’s budget.

Appendices

- Appendix 1: Reasons for call-in Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas
 - Appendix 2: Record of Decision Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas
 - Appendix 3: Report to Policy Development and Decision Group (Joint Operations Team)
 - Appendix 4: Report to Policy Development and Decision Group (Joint Operations Team) - Appendix 1
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4. Background Information

- 4.1 The following advice was given to the Overview and Scrutiny Board by the Monitoring Officer and Head of Finance in respect of the Mayor's decision regarding the commissioning of a consultation exercise with the public, partners and the voluntary sector, in order to assess opinion with regards to what further action the Council (and partners where appropriate) should take;
 - 4.1.1 Policy Framework – the decision needs to be contrary to the Policy Framework. The definition of contrary by the Oxford Dictionary is 'opposite in nature, direction or meaning'. The fact that something is not explicitly mentioned within the Policy Framework does not mean it is automatically contrary to the same.
 - 4.1.2 There was nothing within the Homelessness Strategy which the Monitoring Officer considers that the decision for consultation is contrary to. Reference was made by members to one of the principles in the Corporate Plan - 'using resources to best effect'. The Corporate Plan is a policy framework document - however consideration as to whether the decision made by the Mayor to consult is contrary to this principle, is a political matter for members to decide, rather than one which is appropriate for Officers to advise upon.
 - 4.1.3 The decision (2nd bullet point) is much wider in terms of providing support to and safeguarding individuals with a genuine rough sleeping/street homelessness need. This is wholly in accordance with the Homelessness Strategy and with parts of corporate plan e.g. 'identify and protect those people and communities who are the most vulnerable and are at the greatest risk of harm' and 'homelessness prevention plan.'
 - 4.1.4 The Chief Finance Office advised that as there is a budget for staffing on consultation, the Mayor's decision was not contrary to the budget, although clearly it would impact upon their current work - but that does not make it contrary to the budget.

5. Options

- 5.1 In accordance with the Standing Orders, the Council has to firstly to determine whether or not the decision (if implemented) would be within the Budget and Policy Framework (D10.7).

- 5.2 If the Council determines that the decision would be within the Budget and Policy Framework, the subsequent action is that it may refer any decision to which it objects back to the decision maker together with the Council's views on that decision (D9.4C).
- 5.3 If the Council decides that the decision would be contrary to (or not wholly in accordance with) the Budget and/or Policy Framework, the decision shall be deemed as a recommendation to the Council and the Council itself shall take the final decision on the matter.

Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas

Reasons for call-in

The Mayor's decision is willfully blind to the advice within the officer report presented to the Policy Development and Decision Group.

Why was the report to the Policy Development and Decision Group focused solely on enforcement solutions to address the issue of people sleeping rough on the streets of Torquay and Paignton? Can the Mayor guarantee that he will give proper consideration to how support services could be developed alongside enforcement solutions as this was not explored fully at the meeting?

The Police eluded to "wrap around" services that Exeter City Council were developing at the same time as introducing Public Spaces Protection Orders. Why was this not explored at the meeting?

The Chairman of the PDDG gave the impression that other outside bodies beyond those sat at the table had been invited to the meeting. Which agencies had been invited to attend? If an advocate for the homeless had not been invited, why not?

Taking such a hard-line approach to homelessness and rough sleeping in Torbay after removing the Supporting People safety net is likely to result in damage to the reputation of Torbay.

The debate at the meeting did not have due regard to the principles of the Corporate Plan of using our reducing resources to best effect, reducing demand through prevention and innovation, and taking a joined up and integrated approach.

Record of Decision

Bylaws Homeless People and Begging and Traffic Regulation Orders Preventing Motor Homes Parking in Residential Areas

Decision Taker

Mayor on 23 November 2016

Decision

That the Assistant Director of Community and Customer Services be requested to commission a consultation exercise with the public, partners and the voluntary sector to assess opinion with regards to what further action the Council (and partners where appropriate) should take in response to the issues of:

- introducing bylaws or Public Spaces Protection Orders (PSPOs) to address the problem of rough sleeping on the seafront and town centres;
- providing support to, and safeguarding, individuals with a genuine rough sleeping / street homelessness need; and
- the use of motor homes as permanent accommodation in residential areas/public highways.

Reason for the Decision

To explore options to address the concerns of Members raised at the meeting.

Implementation

This decision will come into force and may be implemented on Tuesday, 6 December 2016 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report set out potential sanctions available to address concerns in connection with the increase in the number of rough sleepers, beggars, street drinking and people parking motor homes in residential areas (such as bylaws, Public Spaces Protection Orders (PSPOs) and Traffic Regulation Orders). Fran Hughes, Assistant Director of Community and Customer Services, Dave Parsons, Antisocial Behaviour Manager and Vicky Booty, Community Safety Partnership Lead Manager attended the meeting and presented the submitted report, provided an overview of the work already being undertaken by the Council and Safer Communities Partnership and responded to questions.

Chief Inspector Costin, Inspector Dawe and Sergeant Desborough attended the meeting and outlined the work and operations being carried out by the Police to address issues in connection with rough sleepers, beggars and antisocial behaviour and responded to questions. Inspector Dawe stated that the Police already had sufficient legal powers to deal with the issues raised under current legislation and that bylaws or PSPOs would not solve the problems of rough sleeping, begging and antisocial behaviour unless suitable wrap around support is available to assist the individuals to change their lifestyles.

Steve Bullman (from WBW Solicitors) and Karen Jemmett also made oral representations at the meeting.

The Mayor considered the recommendation of the Policy Development and Decision Group (Joint Operations Team) made on 23 November 2016 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

Alternative options were discussed at the meeting and 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)

None

Published

28 November 2016

Signed: _____
Mayor of Torbay

Date: 28 November 2016



Meeting: Policy Development Group (Joint Operations Team)

Date: 23 November 2016

Wards Affected: Various

Report Title: Byelaws, Homeless People and Begging

Is the decision a key decision? No

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

Executive Lead Contact Details: Councillor Robert Excell, Executive Lead for Community Services, (01803) 212377, Robert.excell@torbay.gov.uk

Supporting Officer Contact Details: David Parsons, Anti-Social Behaviour and Vulnerability Manager, 01803 208037, david.parsons@torbay.gcsx.gov.uk

1. Proposal and Introduction

- 1.1 Complaints regarding rough sleeping, street drinking and begging have increased throughout the summer period, particularly in relation to the harbourside and seafront location of Torquay. It has been proposed to assess the potential use of byelaws or a Public Spaces Protection Order (PSPO) to address these concerns.
- 1.2 Also to consider if the same legal powers may be applicable to reported issues regarding motor homes parked on the highway.

2. Reason for Proposal

- 2.1 To assess if these are viable options to address increases in street based anti-social behaviour (ASB) and rough sleeping.

3. Recommendation(s) / Proposed Decision

- 3.1 The best outcomes can be achieved by delivering a partnership approach building on the best practice work which has already commenced, which does not require a legislative change.
- 3.2 Regarding motor homes, there are sufficient controls in place to enforce the main area of concern. Further consideration of powers would be disproportionate to the levels of complaints that are handled within existing resources.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Background Documents

None

Supporting Information and Impact Assessment

Service / Policy:	Community Safety
Executive Lead:	Robert Excell
Director / Assistant Director:	Fran Hughes

Version:	1	Date:	4/11/2016	Author:	David Parsons
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Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>The Mayor has asked that the Council consider the use of legal powers to address people rough sleeping and or begging, most specifically in the harbourside / seafront area of Torquay. The powers under consideration are byelaws or a Public Spaces Protection Order (PSPO).</p> <p>There is a secondary issue that shall be mentioned in relation to the parking of motor homes on the highway.</p>
2.	<p>What is the current situation?</p> <ul style="list-style-type: none"> • 102% rise in rough sleeping across England since 2010. In the South West there has been an 89% rise and a 41% increase since 2014/15. These increases appear to be a consequence of austerity and as such must be assumed to continue to rise. • Torbay has seen increase in rough sleeping and begging, mostly notably in Torquay and to a lesser degree in Paignton. The most frequently used areas are the harbourside / seafront area of Torquay. • Numbers of rough sleepers fluctuate at any given time and throughout different times of the year. An official count is soon to be undertaken. • Most beggars and street drinkers in Torbay are not rough sleepers, but give the impression of being homeless. This creates an impression that there are more rough sleepers in Torbay than there are and that rough sleepers behave anti-socially, this is inaccurate and the distinction important. The distinction must be clear when talking about rough sleeping or street based ASB. Some rough sleepers may act anti socially but this is not the norm. • Police and Council ASB Team receive very few complaints about the behaviour of rough sleepers – the majority of issues raised appear to be directly to the Mayoral Office. These often detail how the presence of beggars / rough sleepers / street drinkers is seen as an issue, rather than any specific behaviour. Sometimes specific behaviour is complained about, i.e. having been approached for money or witnessed drunken behaviour. Generally these are incidents of low risk. • There are seasonal trends in both the prevalence of rough sleeping and street based ASB (i.e. street drinking, begging), these trends crudely follow the changes in weather. • At present there is a decrease in street based activity following the summer

	<p>season. It is anticipated that the colder winter months will see both reductions in rough sleeping and street based ASB.</p> <ul style="list-style-type: none"> • The majority of rough sleepers and those associated with street based ASB are a transient population, often not staying for long in Torbay. There is also a more static cohort across both areas. • It is hard to support or challenge the behaviour of a transient population as they are not around for long. Neighbouring areas have similar issues. • The Council and Police both have significantly less capacity to resource such issues, either by way of providing supportive intervention or enforcement. Both are necessary as part of a robust strategy. • The harm being caused is primarily reputational and in relation to people's feelings of safety. There is little evidence to suggest that the public are in any way at risk of harm from rough sleepers or indeed perpetrators of street based ASB. • The Council currently does not commission any outreach or floating support provision. Leonard Stocks Centre has an outreach worker. The Council has a Town Centres Street Warden and no other means of pro-active engagement. Police and Council ASB and Vulnerability Team continue to work together closely through regular liaison and partnership Tasking meetings. Street based ASB is recognised as a priority but resources are limited.
<p>3.</p>	<p>What options have been considered?</p> <p>This report considers the merits of using either byelaws or a PSPO to address rough sleeping and or street based ASB and any other alternative means.</p> <p>Byelaws and PSPOs can be introduced by a Local Authority following due process, to address specific areas of concern. As such they can be tailored to address identified issues and become enforceable. Both options are enforceable by way of financial penalty following prosecution or by issuance of a Fixed Penalty Notice. Both require consultation with the public to take place and necessary publicising of the Local Authority's intentions of introducing an order, but a byelaw must be approved by the Secretary of State. A PSPO is therefore considered a swifter and more flexible process as can be reviewed, amended and extended where necessary. Both offer similar outcomes but both rely on enforcement as the remedy. It is for this reason that this report will focus on the suitability of a PSPO rather than a byelaw as the process is more expedient, cheaper and the power itself allows greater proportionality of use in relation to making any necessary changes over its duration.</p> <p>Public Spaces Protection Order - relevant information:</p> <ul style="list-style-type: none"> • Rough sleeping is not an offence, it is regarded as a housing need. Using a PSPO potentially criminalises persons for a housing need and being vulnerable. • An existing byelaw 'in respect of pleasure grounds' exists prohibiting the erecting of tents in many named parks across Torbay. This is utilised as and when necessary to do so. Penalty for failing to comply is a £20 fine following prosecution. • The majority of areas that have gone to public consultation of rough sleeping related PSPO restrictions have faced strong public reactions against such suggestions (see Hackney, Newport, Chester, Chelmsford, Maidstone, Exeter). Public opinion is therefore generally against prohibiting

rough sleeping. These areas have since retracted or dropped any related conditions from PSPOs instigated.

- Dawlish have recently implemented a PSPO that restricted sleeping 'after the hours of dark' in a specific location. It has addressed the behaviour of a core few but otherwise raised expectations beyond what is deliverable. Advice from Dawlish experience is against similar use in Torbay.
- PSPOs only have a financial penalty (as a result of either a Fixed Penalty Notice or result of successful prosecution), which raises practical and ethical issues for use against persons with no money, which is the general situation of rough sleepers and those associated with street based ASB. A financial penalty for those with no money is not a deterrent. Taking prosecutions for breaches of a PSPO is a time consuming and resource intensive process for limited chance of effecting behavioural change, particularly against a transient and vulnerable population of individuals. It is also unlikely that the threshold to prosecute be met as per the Enforcement and Prosecution Policy. Courts currently have a 3-4 month listing time during which it could be assumed multiple other breaches are likely.
- Use of a PSPO to deter rough sleeping is a means of using enforcement to tackle the consequences of austerity, whereby support previously available to this vulnerable group has since been cut.
- Begging is an offence and street drinking restricted by an existing Designated Public Place Order (DPPO). Both are currently enforceable by the Police who have significantly reduced capacity to address such issues.
- Using PSPOs to address street based ASB (not rough sleeping) has attracted more support across Local Authority areas in England and Wales. Many have been used for restricting alcohol consumption in public and several have stipulated no begging.
- The current DPPO automatically becomes a PSPO in October 2017, by restricting alcohol consumption. This will mean authorised Council Officers will be able to enforce, not just Police.
- Utilising a PSPO raises expectations of it being a solution, as such must be properly resourced. There are insufficient resources within the Council or Police teams to enforce such an order.
- A PSPO would be at its most effective with compliance, relying on this as a strategy is unrealistic given that begging and street drinking are already prohibited by other means.
- Police report that sentencing for prosecutions for begging are typically a night in the cells, which consequently acts as no deterrent. Adding another means of prosecution is unlikely therefore to provide any further value in challenging behaviour.

Preferred strategy:

- Use reducing resources to best effect and ensure that our response is robust yet compassionate and appropriately considerate of risk and vulnerability.
- Council and Police teams to continue days of operational activity to target persistent offenders and seek to repeat Operation Falkirk.
- Council to utilise other ASB powers and use Community Protection Notices to tackle persistent beggars at and around the harbourside known to have accommodation.
- Utilise CCTV as a means to monitor begging activity and provide evidence for formal action
- Council's Vulnerability and Complex Needs Officer to work with Leonard Stocks Centre outreach worker and Town Centres Street Warden to

	<p>provide targeted intervention with a view to increase access to accommodation and services and reduce risk / vulnerability.</p> <ul style="list-style-type: none"> • Continue to promote 'Killing With Kindness' campaign. • Coordinate supportive efforts with voluntary sector to address vulnerability of client group and provide alternative options of engagement. • This would enable management of fragile resources in consideration of other areas of service delivery and management of expectations. • Work with the Church-lead winter night shelter programmes to assist persons into accommodation or other relevant services. <p>Actions in respect of motorhomes:</p> <ul style="list-style-type: none"> • Across Torbay sporadic complaints are received regarding motorhomes being parked for such durations as to cause a nuisance to others. There is no evidence of areas particularly prone to such instances apart from a specific area in Brixham. • The highways department instigated a Traffic Management Order in response stipulating no motor homes to be parked overnight. This has alleviated the concerns within this area. • All other reports are dealt with as and when they arise within existing resources. Due to the absence of consistent issues within any specific locality there are no evidenced needs for the consideration of utilising any further legislative interventions. Compliance is typically achieved with co-operation, but could potentially be backed up by following the process around unauthorised encampments if necessary.
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect • Reduce demand through prevention and innovation • Integrated and joined up approach <p>Targeted actions:</p> <ul style="list-style-type: none"> • Working towards a more prosperous Torbay • Ensuring Torbay remains an attractive and safe place to live and visit • Protecting and supporting vulnerable adults
<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>N/A</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>N/A</p>

Section 2: Implications and Impact Assessment

7.	What are the financial and legal implications? <ul style="list-style-type: none">• Cost of running consultation• Resource implications for Council officers enforcing Order, inclusive of frontline staff, managerial overview and legal support.• FPNs unlikely to be paid, no revenue from enforcement• A PSPO may be challenged in the High Court
8.	What are the risks? <p>The main risk of the continued ‘anti-social behaviour’ is of reputation to Torbay and potential impact on tourism. These are however, issues that are not unique to Torbay.</p> <p>The risks of implementing a PSPO in respect of rough sleeping is significant concerning reputation of the Council given the experiences of the majority of other areas that have proposed the same. There can be little doubt that such an act would generate negative publicity and mobilise significant support for rough sleepers amongst the many residents we know who care about them.</p> <p>A PSPO with regard to street based ASB is more likely to be agreeable to the general public but risks further reputational damage to the Council given the lack of resource available to enforce one. The same could be assumed for the use of byelaws.</p>
9.	Public Services Value (Social Value) Act 2012 <p>No procurement or provision of services associated.</p>
10.	What evidence / data / research have you gathered in relation to this proposal? <p>The information contained in this report is based upon consideration of the use of PSPOs in other areas of England and Wales for similar behaviours, knowledge of our local profile of rough sleepers, beggars and street based ASB perpetrators, discussions with the Police, reviewing complaints received by the Council, understanding our available resources and what other powers exist to potentially consider.</p>
11.	What are key findings from the consultation you have carried out? <p>No formal consultation has been undertaken, that is a legal requirement when proposing the use of a PSPO or byelaw.</p>



Meeting: Council

Date: 2 February 2017

Wards Affected: All Wards

Report Title: Community Infrastructure Levy (CIL)

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Mark King, Executive Lead for Planning, Transport and Housing (07873254117 – mark.king@torbay.gov.uk)

Supporting Officer Contact Details: David Pickhaver, Senior Strategy and Project Officer, (01803 208815 – david.pickhaver@torbay.gov.uk)

1. Proposal and Introduction

- 1.1 This report recommends that Torbay Council adopts Community Infrastructure Levy (CIL) in accordance with the Independent Examiner's Report dated 2 December 2016 and agree to the necessary administrative arrangements being put in place. It is brought forward as a general exception under Standing Order 14 (reference 1028278) on the basis that delaying a decision would result in the loss of income opportunities.
- 1.2 The Council's CIL Draft Charging Schedule was submitted for examination by Independent Examiner following consideration by Council on 11 May 2016. An Examination Hearing took place on 9 November 2016 and the Examiner's final report was received on 5 December 2016. It is attached at Appendix 3 to this report.
- 1.3 The Examiner's Report makes four Modifications and one non-binding suggestion. He has supported the Council's broad approach of levying CIL on non-strategic sites and using s106 Agreements to help fund infrastructure needs arising from strategic sites. This accords with the approach proposed in the Planning Contributions and Affordable Housing Supplementary Planning Document (SPD). He has recommended that the Council consider defining strategic sites as those of 15 or more dwellings outside of the built up area.
- 1.4 Whilst the Examiner's Report allows an option of Charging £140 per sqm for sites of 15-29 dwellings in Zone 3 (Outside the Built Up area); he cautioned against this approach because it was in the margins of viability and made the Charging Schedule more complicated. He therefore made a non-binding suggestion that all sites in Zones 3 (outside the built up area) and 4 (Future Growth Areas) of 15 or more dwellings should be zero rated for CIL and infrastructure needs be addressed

through S106 Obligations. This would simplify the CIL charging Schedule and remove an area of concern he had about viability, and is the recommended approach.

- 1.5 The Examiner did not support the Council's proposal to seek CIL on sites of 1-3 dwellings in Zone 2 (i.e. elsewhere in the built up area), and recommended a zero rate of CIL for sites of 1-3 dwellings in Zones 1-2. This is in effect a binding recommendation. The Council can choose to disregard the Examiner's recommendation but would need to withdraw the existing Charging Schedule and start afresh. This would cause significant cost to the Council and delay in implementing CIL. The Examiner's recommendations are evidence led and there is no guarantee that a revised CIL would be supported with a charge on sites of 1-3 dwellings.
- 1.6 Notwithstanding this, the CIL residential Charging Zones were revised over Summer 2016 to include the most affluent areas of Torbay (Ilsham Valley, Watcombe Heights, Torquay and Bascombe Road, Churston) within Zone 3, so that small sites in these high value areas are CIL liable. Accordingly sites of 1-3 dwellings in these areas would be CIL chargeable at £70 per square metre. The Examiner supported these zones.
- 1.7 The Examiner has recommended that a zero charge be levied on Extra Care Units, but CIL may be charged on retirement housing which offers no additional care.
- 1.8 He supported the Council's proposals to seek CIL on out of town centre retail and food and drink uses at £120 per square metre.
- 1.9 With Council's approval, the Charging Authority may start to charge CIL, so long as this decision has been published. (Publication requirements are set out in Regulation 25 of the CIL Regulations). Administrative/technical arrangements will need to be put in place to assess CIL liability, send out relevant notices, monitor commencements and instalment dates, and enforce non-payment. This will require a CIL administration officer, details of which still need to be resolved. It is recommended that Council supports creation of the new post with Spatial Planning.
- 1.10 The Council is able to surcharge persons liable for CIL if they commence development without submitting the required notices. There is therefore a strong case to provide sufficient notice to agents and house builders that CIL will be introduced and it is recommended that Council supports this provision.
- 1.11 Up to 5% of CIL may be retained for administrative purposes.
- 1.12 It is recommended that CIL comes into force as soon as practicable and that the setting of the implementation date is delegated to the Executive Head of Business Services. Given the necessary administrative and notification arrangements that need to be put in place Council should be aware that this is not expected to be before 1 May 2017.
- 1.13 The Council's Validation List for planning applications will need to be updated to set out CIL requirements.

2. Reason for Proposal

- 2.1 CIL is a levy on new floor space created by development. It is regulated by the Community Infrastructure Levy Regulations 2010 (as amended). CIL must be set having regard to viability and cannot be used as a planning tool to influence the location of development. Regulation 14.1 (as amended) of the CIL Regulations requires charging authorities “to strike the appropriate balance between desirability of funding infrastructure through a CIL and the potential effects of imposing a CIL on their area”.
- 2.2 Torbay’s Draft Charging Schedule is supported by various viability studies and has been the subject of four public consultations. Details of these are set out in Appendix 1.
- 2.3 The Draft Charging Schedule (as modified by the Examiner) sets the following rates for residential CIL.

Zone	Site size/ number of dwellings (gross). CIL rate (£ per sq m)		
	1-3 dwellings	4-14 dwellings	15+ Dwellings
1. Built up areas within top 20% deprivation (Community Investment Areas+)*	Zero	£30	£30
2. Elsewhere in the built up area**	£30 Zero	£70	£70
3. Outside the built up area**	£70	£70	£140 Zero- S106 Obligations will be used to secure infrastructure funding***. (See note)
4. Future Growth Areas	£70	£70	Zero- S106 Obligations will be used to secure infrastructure funding.

Direct site impacts of development will be dealt with through planning conditions of S106/S278 agreements where necessary.

* Based on the lower super output areas within the top 20% deprived areas in the Indices of Deprivation 2015.

**The built up area is defined as the area not designated as Countryside area (Local Plan Policy C1) or Undeveloped Coast (Local Plan policy C2). However, Watcombe Heights, Ilsham Valley and Bascombe Road are within Zone 3.

*** The Examiner formally recommended a charge of £140 per square meter for sites of 15-29 dwellings in Zone 3. However he expressed concern at the viability of this rate, and the complexity that it added to the CIL Charging Schedule. In consequence, he made a non-binding recommendation that the Council should consider treating all sites in Zones 3 and 4 of 15+ dwellings as being strategic and thereby zero rated for CIL).

- 2.4 The Revised Draft Charging Schedule charges retail and food and drink developments (i.e. Uses Classes A1, A3, A4, and A5) of more than 300 square metre in out of town centre locations CIL, at the rate of £120 per square metre. This is based on likely viability and in this context The Willows is treated as an out of centre location.

- 2.5 CIL will be used on the South Devon Highway, for which there is a funding gap of £20 million. It is also proposed to use CIL to offset the recreational impact of development upon the South Hams SAC (at Berry Head). The Council is entitled to amend the Reg123 list so long as it publishes it on its website and does not “double dip” i.e. use s106 and CIL for the same item.
- 2.6 A “neighbourhood portion” of 15% of CIL, rising to 25% where Neighbourhood Plans have been made (i.e. adopted), must be spent in the area in which development arises. Further details are set out in Appendix 1.

3 Recommendation(s) / Proposed Decision

- 3.1 That the Community Infrastructure Levy (CIL) Revised Draft Charging Schedule dated September 2016, with Examiner’s Modifications be adopted by the Council as the basis for levying CIL.
- 3.2 That the Council adopts the Examiner’s non-binding recommendation of treating residential developments of 15 or more dwellings in Zones 3 and 4 as being strategic (and thereby zero rated for CIL but subject to a wider range of s106 Obligations).
- 3.3 That the Council seeks CIL from chargeable developments that are granted permission with the implementation date delegated to the Executive Head of Business Services to ensure all operational needs are in place.
- 3.4 That a new CIL administration and monitoring post is created within Spatial Planning to ensure that CIL is charged and administered in accordance with the Regulations.
- 3.5 That a surcharge be imposed on persons liable for CIL if they commence development without submitting the required notices.
- 3.6 That the Validation list for planning applications be updated to set out CIL requirements.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Proposed Adoption Community Infrastructure Levy Charging Schedule (including Examiner’s Modifications).

Appendix 3: CIL Examiner’s Report.

Appendix 4: CIL Stages, actions and deliverables (PAS guidance on implementing CIL)

Background Documents

Torbay Local Plan 2012-30 A landscape for success.
<http://www.torbay.gov.uk/newlocalplan>

Torbay CIL Viability Study –Economic Viability Update. Peter Brett Associates January 2016.

Torbay CIL Viability Update Burrows Hutchinson, August 2016. www.torbay.gov.uk/CIL

Torbay CIL Examiner’s Report. December 2016 www.torbay.gov.uk/CIL

Planning Contributions and Affordable Housing Supplementary Planning Document.
www.torbay.gov.uk/CIL

Community Infrastructure Regulations 2010 (as amended)

(National) Planning Practice Guidance Section ID 25

<http://planningguidance.communities.gov.uk/blog/guidance/community-infrastructure-levy/>

Appendix 1: Supporting Information and Impact Assessment

Service / Policy:	Spatial Planning
Executive Lead:	Mark King, Executive Lead for Planning, Transport and Housing
Director / Assistant Director:	Ann-Marie Bond

Version:	1.0	Date:	9 December 2016	Author:	David Pickhaver
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Section 1: Background Information

1.

What is the proposal / issue?

The report recommends adopting the Council's Community Infrastructure Levy Charging Schedule (DCS) (with Examiner's Modifications).

This will be carried out in accordance with the Community Infrastructure Levy Regulations 2010 (as amended).

Council resolved to submit CIL with proposed modifications for Independent Examination on 11 May 2016. It was submitted to Intelligent Plans and Examinations Limited for Examination on 11 August 2016. A Hearing was held on 9 November 2016.

The Examiner's Report was received on 5 December 2016. It concluded that:

"The draft Torbay Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan as a whole.

Four modifications are necessary to meet the drafting requirements. These can be summarised as follows:

- *Introduce a zero charge for small sites (1 – 3 dwellings) in Zone 2;*
- *Introduce a zero charge for strategic sites (30+ dwellings) in Zone 3;*
- *Introduce a charge of £140 for schemes of 15 – 29 dwellings in Zone 3; and*
- *Introduce a zero charge for Extra Care Homes, and a definition of extra care homes.*

The specified modifications recommended in this report do not alter the basis of the Council's overall approach or the appropriate balance achieved."

A non-binding suggestion was made that sites of 15-29 dwellings in Zone 3 should be considered as strategic sites, i.e. zero rated for CIL. This would remove an area of concern about viability and simplify the Charging Schedule (in practice there would be three charging zones).

	<p>It is proposed to adopt CIL accordingly.</p> <p>This approach retains S106 Obligations as the main way of funding infrastructure needed for developments of 15 or more dwellings within Zones 3 and 4 (i.e. outside of the built up area).</p>
<p>2.</p>	<p>What is the current situation?</p> <p>Currently the Council relies solely on S106 Obligations and S278 Highways Agreements to secure developer contributions. These work relatively well for larger developments, where the need for strategic infrastructure can be identified. However S106 agreements can slow down decision making on smaller applications.</p> <p>The Planning Contributions and Affordable Housing Supplementary Planning Document (SPD) was reported to Council on 8 December 2016.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>Torbay’s proposed CIL has been the subject of several consultations and iterations (see section 11 below). The current approach, as amended by the Examiner’s Modifications, was approved by Council on 11 May 2016.</p> <p>The Examiner’s recommendations must be addressed and are in practice binding. He has also made one non-binding suggestion.</p> <p>The options to the Council are:</p> <ol style="list-style-type: none"> 1) To adopt the CIL Charging Schedule including the Examiner’s non-binding recommendation regarding sites of 15-29 dwellings in Zone 3. This is the preferred approach. 2) To adopt CIL with the Examiner’s Modifications but not his non-binding recommendation. 3) To withdraw the Charging Schedule and rely on s106 Obligations either until a new schedule can be prepared or in perpetuity. <p>Option 1: is recommended as the preferred option. This would allow CIL to be sought imminently and simplifies the charging schedule.</p> <p>Option 2: This Could be adopted. It would result in a charge of £140 per square meter for sites of between 15-29 in Zone 3 (outside the built up area), but zero for similar sites in Future Growth Areas. This would be complicated and the Examiner expressed the need for caution with this approach.</p> <p>Option 3: This would result in a delay of at least 2 years before CIL could be realistically implemented, with the accompanying expenses. The expense of developing CIL thus far would be wasted. The Government has proscribed the use of “tariff style” s106 contributions from sites of less than 11 dwellings (6 in the AONB), so there would be a significant loss of s106 contributions.</p> <p>The Examiner supported the Council on most issues. He did not agree with the Council that it would be viable to seek Contributions for sites of 1-3</p>

	<p>dwelling in Zone 2 (elsewhere in the built up area). This is a binding recommendation on the Council.</p> <p>However the Council has excluded the most affluent parts of Torbay (Watcombe Heights, Ilsham Valley and Bascombe Road from Zone 2, to ensure that small sites in the highest value areas are CIL liable.</p> <p>It is estimated that the scheme of CIL will raise between around £150,000 per year when CIL is implemented, based on past completions of CIL Chargeable development and likely future development on smaller sites.</p> <p>The proposed “hybrid” approach is considered to offer the best solution for Torbay in securing contributions from smaller developments, whilst allowing infrastructure requirements needed by larger developments on strategic sites to be secured through S106/S278 Agreements. This approach is also considered to be the simplest approach for developers.</p> <p>What will CIL Pay for?</p> <p>Charging Authorities are required to identify infrastructure items that they intend to fund in whole or part through CIL on a “Regulation 123 List”. This currently covers the South Devon highway and mitigation of recreation impacts on limestone grassland at Berry Head.</p> <p>It is recommended that The Regulation 123 List should be kept short, as infrastructure items on it cannot be funded through S106 contributions. However CIL is not subject to pooling restrictions so a large infrastructure item such as the South Devon Highway is a suitable project for CIL funding.</p> <p>The Regulation 123 list should be reviewed on an annual basis and may be amended speedily, so long as this is advertised. However making the list longer will not result in more money coming in, and will prevent these additional items from receiving s106 funding.</p> <p>A “neighbourhood portion” of 15% of CIL must be spent in the area where development arises. Where a neighbourhood plan has been made (i.e. adopted following referendum) the portion rises to 25%. In Brixham Town Council area the neighbourhood portion is passed to the Town Council. Elsewhere in the area, the money is held by Torbay Council but spent locally with community engagement on how it is spent. The neighbourhood portion of CIL is stipulated by Regulation 59A of the CIL Regulations.</p>
<p>4.</p>	<p>How does this proposal support the ambitions and principles of the Corporate Plan 2015-19?</p> <p>CIL provides infrastructure funding to support growth in Torbay. The hybrid approach is intended to minimise any negative impacts on the delivery industry and allows for matters such as affordable housing to be sought through S106 Obligations. It thereby uses resources to best effect.</p> <p>It is proposed to use CIL to fund the Council’s expenditure on the South Devon Highway. These costs would otherwise need to be paid for from the Council’s</p>

	budget. It is also proposed to use an element of CIL to alleviate recreational pressure on Berry Head.
5.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The development industry – particularly house builders – will be most affected by CIL. The wider community is also affected as a proportion of CIL (15% rising to 25% when Neighbourhood Plans are made) must be spent in the area in which development arises.</p> <p>CIL was consulted upon on four occasions:</p> <ul style="list-style-type: none"> • The Preliminary Draft Charging Schedule was published for consultation purposes between 9 December 2011 and 6 February 2012 • The Draft Charging Schedule was consulted on between 9 February and 23 March 2015. • The Revised Draft Charging Schedule was consulted on between 18 March – 29 April 2016 • The final Submission Draft Charging Schedule incorporating Revised Proposed Modifications was consulted on between 5 September and 17 October 2016 <p>Whilst these were open to anyone to comment; developers, agents and other organisations on Spatial Planning’s database were specifically notified.</p> <p>Objections were considered by the Independent Examiner, through written representations and a Hearing on 9 November 2016.</p>
6.	<p>How will you propose to consult?</p> <p>Extensive consultation has been carried out as outlined in 5 above.</p> <p>Regulation 23 of the CIL Regulations 2010 (as amended) requires publication of the Examiner’s Report.</p> <p>Regulation 25 requires publication of a charging schedule as soon as practical after the charging authority approves a schedule</p> <ul style="list-style-type: none"> • On its website • In libraries, Connections and principal offices • By local advertisement (i.e. Herald Express) • By notifying persons who requested notification of approval <p>The charging schedule takes effect on the day specified for that purpose in the Charging Schedule. It must be published before it takes effect.</p> <p>Providing advance notice of CIL will give developers and agents time to prepare for the process.</p>

Section 2: Implications and Impact Assessment

7. What are the financial and legal implications?

CIL is governed by the CIL Regulations 2010 (as amended).

When adopted a system of administering CIL will need to be put in place. This includes (but is not limited to):

- Calculation of chargeable floorspace and assessing liability.
- Monitoring commencement of development and liability including instalments.
- Chasing up CIL and initiating CIL enforcement where necessary.
- Monitoring CIL spending and ensuring no “double dipping” with S106.
- Managing the neighbourhood portion of CIL.
- Providing details of CIL receipts and spend in the Authority Monitoring Report (AMR).

These will need to be embedded in the Council’s development management process, and particularly the validation of applications.

Part 9 of the CIL Regulations allows the charging authority to surcharge persons liable to pay CIL where development has been commenced without the requisite notices being submitted.

Regulation 61 of the CIL Regulations allows up to 5% of CIL to be spent on administrative expenses of setting up, examining and managing the Levy. A work programme from the Planning Advisory Service is attached at Appendix 4.

The amount raised by CIL is dependent upon the amount of chargeable floorspace that is commenced through development (principally new housing).

Analysis of the last 3 years’ indicates that if CIL had been in place it would have raised about £1.1 million over three years (about £380k per year) as follows:

- 2013/14: £498,330
- 2014/15: £146,840
- 2015/16: £452,790

To avoid double counting, a figure of £350 per year may be more realistic.

8. What are the risks?

The impact of CIL upon viability is noted below. The more pressing risk to the Council is that if the administrative mechanisms noted above are not put in place, with adequate staff resources, then it will not be possible to implement CIL or adequately monitor or enforce it.

The risk of CIL to the development industry is that it could harm viability and thereby the delivery of new development. This has been tested through

	<p>several viability studies and specifically the CIL Examination.</p> <p>The Examiner’s Report makes a non-binding recommendation of treating sites of 5+ dwellings within Zones 3 and 4 as strategic sites (and therefore subject to S106 rather than CIL). Whilst the Examiner does indicate that a charge of £140 per square meter could be sought on sites of 15-29 dwellings in Zone 3 (outside the built up area); he indicates concerns with this approach and recommends caution. Accordingly, following the informal suggestion will alleviate this risk.</p> <p>Negotiating larger developments in Future Growth Areas through S106 will ensure that the delivery of larger developments (and the Local Plan strategy) is not undermined by viability issues.</p> <p>The Council is proposing to offer discretionary exceptional circumstances relief, which will act as a “safety net” to ensure that CIL does not prejudice the delivery of sustainable development. Note that this is at the Council as Charging Authority’s discretion.</p> <p>CIL is not set in stone and may be reviewed. However there are clearly consultation and examination costs associated with reviewing CIL.</p> <p>There is a temptation to include additional items on the CIL Regulation 123 list. However this would preclude such items being funded through S106 Obligations. South Devon Highway will more than cover expected CIL revenues. It is considered more appropriate to keep most infrastructure directly required by new development as a S106 item. The Regulation 123 List may be amended quickly should the need arise.</p>
9.	<p>Public Services Value (Social Value) Act 2012</p> <p>See above. The Council’s CIL proposals have been supported by an Independent Examiner.</p>
10.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The CIL Examination assessed that Torbay’s CIL proposals were justified in terms of :</p> <ul style="list-style-type: none"> • Being based on an up to date development plan. • An infrastructure funding gap can be demonstrated. • Not set at a level that would undermine development viability.
11.	<p>What are key findings from the consultation you have carried out?</p> <p>See separate schedules of representations on previous stages of the CIL at www.torbay.gov.uk/CIL</p> <p>The Current report is in response to the findings of the Independent examiner, who has considered the consultation responses.</p>

12.	Amendments to Proposal / Mitigating Actions The Examiners Modifications must be addressed by the Charging authority and are, in effect, binding. It is recommended that the Examiner's non-binding suggestion to seek s106 rather than CIL on sites of 15-29 dwellings in Zone 3 is adopted.
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Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	<p>The education needs arising from developments will be sought as S106 Obligations.</p> <p>Affordable housing, and extra care units are zero rated for CIL</p>		
	People with caring Responsibilities			No direct impact. Policy H6 of the Adopted Local Plan seeks S106 obligations from developments that give rise to health care need. This operates separately from CIL.
	People with a disability			Policy H6 of the Local Plan requires 5% of new homes on sites of 50+ dwellings to be built to Building Regulations M4(2) accessibility standard. This operates separately from CIL but will have an impact on development viability. Negotiating larger schemes through planning obligations will allow such costs to be taken into account when negotiating developments.
	Women or men			No direct impact
	People who are black or			It is not proposed to seek CIL

from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			on caravans for travelling people. (See Policy H5 of the Local Plan for criteria that would apply in considering any proposals that may arise).
Religion or belief (including lack of belief)			It is not intended to seek CIL from Class D1 uses, including places of worship.
People who are lesbian, gay or bisexual			No direct impact
People who are transgendered			No direct impact
People who are in a marriage or civil partnership			No direct impact
Women who are pregnant / on maternity leave			No direct impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)	<p>CIL provides funding to support development in Torbay and provides additional benefits to existing communities. The Regulation 123 List proposes to use CIL on the South Devon Highway which will help improve economic prosperity and reduce deprivation in Torbay.</p> <p>It is proposed to seek a zero rate of CIL on developments of 1-3 dwellings</p>	<p>There is a trade off between CIL and affordable housing. Whilst the viability testing of CIL has taken into account the Local Plan's affordable housing requirements, a high rate of CIL would reduce the scope to seek affordable housing in practice.</p>	

		<p>in order to safeguard viability. In addition a lower rate of CIL is sought in the lowest value urban areas.</p>	<p>The Draft Charging Schedule's proposal to negotiate S106 Obligations from larger developments will minimise the conflict between CIL and affordable housing.</p> <p>Offering discretionary relief will also ensure that affordable housing can be prioritised where appropriate.</p>	
	<p>Public Health impacts (How will your proposal impact on the general health of the population of Torbay)</p>	<p>Positive impact. Policy SC1 of the Adopted Local Plan deals with health impacts of developments. These may be dealt with via S106 Obligations if necessary to make developments acceptable in planning terms.</p> <p>It is proposed to use CIL on mitigating the recreation impacts on grassland at Berry Head, thereby helping to support the integrity of green infrastructure.</p>		
14	<p>Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)</p>	<p>CIL is intended to help fund the cumulative impacts of developments upon infrastructure needs. The South Devon Link Road, and cumulative effects of development upon grassland at Berry Head are identified as CIL items. \</p>		

15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	As above.
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Torbay Council

Community Infrastructure Levy

Charging Schedule

Incorporating Examiner's Modifications

December 2016

Community Infrastructure Levy: Charging Schedule

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Figure 5: Commercial and Non-Residential Development

Appendix 1 Charging Zones Maps

Residential Charging Zones Summary Map and Maps 1-39 showing Charging Zones 1-4 . Note that the map boundaries/page numbers correspond to the Adopted Local Plan 2012-30. The maps are designed primarily to be viewed on a screen and may be zoomed into (separate document). Note that Map 31 (showing land at Bascombe Road, Churston) has been amended slightly from the initial Proposed Modifications.

Commercial and Non-Residential Development Charging Zones Map: Zone C1 Town Centres, St Marychurch and Preston District Centres. Zone C2 out- of-town centre, including The Willows District Centre.

Torbay CIL Charging Schedule Accompanying Policies

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Torbay Community Infrastructure Levy: Revised Draft Charging Schedule

1. Introduction and Background

This is Torbay's Charging Schedule for the Community Infrastructure Levy (CIL). It was the subject of Independent Examination in Autumn 2016, with a Hearing on 9th November. The Examiner's Report was published on 5th December 2016.

The Examiner recommended that the Submission Draft Charging Schedule could be adopted subject to four Modifications and consideration of one non-binding suggestion as set out below.

Further details of Torbay's CIL may be found at www.torbay.gov.uk/CIL

Examiner Modification (EM)	Page no./ other reference	Modification
EM1	Page 9 paragraph 26	Amend the Schedule to a charge of zero for schemes of 1-3 dwellings in Zone 2
EM2	Page 10 paragraph 29	Amend the Schedule to a charge of zero for all sites of 30 or more dwellings in Zone 3
EM3	Page 11 paragraph 32	Amend the Schedule to include a charge of £140 for schemes of 15 – 29 dwellings in Zone 3
EM4	Page 11 paragraph 34	Amend the Schedule to include a charge of zero for Extra Care Homes, and provide a definition of Extra Care Homes.
Informal suggestion/advice	Page 11 paragraph 33.	The Council should consider the merit of treating strategic sites in Zones 3 and 4 as being for 15 sites and above.

Community Infrastructure Levy (CIL) is a tax levied on development of more than 100 sq m of floorspace, or new-build dwellings. It is intended to help fund the infrastructure needed to support growth in Torbay. It is regulated by the Community Infrastructure Levy Regulations 2010 (as amended).

The Council is intending to charge CIL on residential developments within four charging zones:

Charging Zone 1: Areas of lower housing value (based on the built-up area within 20% most deprived area as indicated in the Indices of Deprivation 2015).

Charging Zone 2: Elsewhere in the built-up area (excluding Watcombe Heights, Ilsham Valley, and Bascombe Road).

Charging Zone 3: Outside the built-up area (Plus Ilsham Valley and Watcombe Heights, Torquay, and Bascombe Road, Churston).

Charging Zone 4: Future Growth Areas. (Note that the charging rates for Zones 3 and 4 are the same and they may be combined in the final version).

The built-up area is defined by the area outside Policy C1 “Countryside and rural economy” or Policy C2 “Undeveloped coast” areas in the Adopted Torbay Local Plan 2012-30, although some high value urban areas are also included in Zone 3.

The Charging Zones maps have been published on larger scale, OS based maps. These maps are designed primarily to be viewed electronically where they can be zoomed into.

Residential schemes of 15 or more dwellings within Charging Zone 3 and 4 will not be charged CIL. The Council will continue to negotiate Section 106 Obligations (s106) to cover the infrastructure needed to support their development as well as affordable housing. It is considered that s106 and s278 Highways Agreements are a more effective mechanism for providing the infrastructure required by development in these areas.

It is intended to seek CIL on larger out-of-town/district centre retail developments.

All charging zones are based on the viability of development within the zones

2. Where to Find Out More

More detailed advice on CIL and the relevant Regulations (with amendments) can be found on the Planning Advisory Service website:

<http://www.pas.gov.uk/community-infrastructure-levy>

The government’s online Planning Practice Guidance (PPG), Part 25 contains detailed advice on CIL and links to relevant Regulations:

<http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/>

Other details about CIL can be found on the Planning Portal’s CIL page:

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Details of viability evidence and infrastructure requirements are available online at:

www.torbay.gov.uk/CIL

CIL is intended to help provide infrastructure needed to deliver growth and should normally be worked up and tested alongside the Local Plan. The “Torbay Local Plan 2012-30 and beyond: A landscape for success” was adopted by Council on 10th December 2015.

3. Who pays CIL?

CIL applies to developments that create more than 100 sq m gross internal floorspace of new development, minus the floorspace of any demolished buildings (so long as these have been in lawful use for at least 6 months out of the last three years). New-build houses or flats are also liable to CIL even if less than 100 sq m, unless built by a “self-builder” and an exemption is obtained.

CIL only applies to places where people usually go, so does not cover buildings such as electricity sub-stations or plant rooms.

Social housing (as defined in the CIL Regulations) is exempt, as are charities so long as the development is used for charitable purposes. CIL is not collected if it would be less than £50.

Note that CIL is payable on qualifying developments whether they require express planning permission or are permitted under the General Permitted Development Order (as amended), Prior Approval or Local Development Orders (LDOs).

CIL will be used to help fund major infrastructure projects set out in the key infrastructure projects list (“Regulation 123” List). Should other infrastructure needs arise that require CIL funding, the Council will publish a revised Regulation 123 List.

A “neighbourhood portion” of CIL must be spent in the neighbourhood in which CIL arises. When Neighbourhood Plans have been “made” (i.e. adopted following approval at a local referendum), this will be 25%. The proportion will be 15% until Neighbourhood Plans are approved at referendum.

In the case of Brixham, the money will be passed directly to the Town Council. For the “unparished” parts of Torbay (i.e. everywhere except Brixham Town Council area), the Council will hold the money and spend it on matters agreed with the local communities. This will be used to support the infrastructure priorities identified by Community Partnerships and Neighbourhood Forums.

4. Social housing and Self-Build Housing Exemptions

Social housing as defined in Regulation 49 of the CIL Regulations (as amended) and self-build/custom-build housing have a mandatory exemption from CIL.

Self-build/custom-build housing is defined in the CIL Regulations (as inserted in 2014). Section 54 of the CIL Regulations (Amendment) 2014 sets out procedures that must be followed in order for self-build exemption to apply. ***Exemption can only be claimed before development is commenced.***

Torbay CIL Charging Schedule

Residential Development

The Charging Schedule sets out four residential Charging Zones:

- 1) **“Inner Urban” Built-up areas with lower development viability.**
Residential developments of 1-3 dwellings within areas of deprivation (Charging Zone 1) will not be charged CIL (i.e. they will be zero rated). Larger sites will be charged CIL. This zone is based on Lower Super Output Areas (LSOAs) within the built-up area which are within the 20% most deprived LSOAs in England in the Indices of Deprivation 2015. (Note that boundaries have been reviewed (to remove anomalies in land value in the RDCS). Conditions or s106 Obligations will be sought to address site acceptability matters, and to make development legal in terms of its impact on Habitats Regulations matters etc.
- 2) **Elsewhere in the built-up area.** Residential development **of more than 3 dwellings (EM1)** will be charged CIL. The built up area is defined as areas outside the Policy C1 “Countryside and rural economy” area or Policy C2 “Undeveloped coast area” in the Adopted Torbay Local Plan 2012-30, that are not within Zone 1 or a Future Growth Area. In addition Watcombe Heights, Ilisham Valley Torquay and Bascombe Road, Churston are not within Zone 2.
- 3) **Outside the built-up area**, plus Watcombe Heights and Ilisham Valley, Torquay and Bascombe Road, Churston. Residential development **of less than 15 dwellings (IS1)** will be charged CIL. This applies to areas within the Policy C1 “Countryside and rural economy” area or Undeveloped coast area within Policy C2.
- 4) **Future Growth Areas** as defined by Adopted Local Plan Policy SS2 and related Strategic Development Policies. This includes the small parts of Future Growth Areas that are within deprived LSOAs. Sites of 15 or more dwellings will be zero-rated for CIL, but s106/s278 Agreements will be sought to provide infrastructure and affordable housing in these areas. CIL will be sought proposals of 1-14 dwellings at £70 per sq m.

Strategic Development **of 15+ dwellings** within Future Growth Areas and Charging Zone 3 will require strategic infrastructure serving the development. Most applications in **these Future Growth** areas are likely to be larger in scale, so s106 pooling restrictions are less likely to prevent the delivery of key infrastructure. In addition, s106 Obligations are likely to be required for affordable housing on these sites.

The Council's residential charging zones for CIL are summarised below and set out more fully in the following Figures 1- 4 below. Notes to the tables are set out on page xx.

Summary of Residential Charging Zones			
Zone	Site size (£ per sq m)		
	1-3 dwellings	4-14 dwellings	15+ dwellings
1. Built up areas based on top 20% deprivation	Zero	£30	£30
2. Elsewhere in the built up area	£30 Zero (EM1)	£70	£70
3. Outside the built up area	£70	£70	£140 Zero- s106 Obligations will be used to secure infrastructure funding. (IS1)
4. Future Growth Area	£70	£70	Zero- s106 Obligations will be used to secure infrastructure funding.

Note that the Charging Zone boundaries have been reviewed and amended since the Revised Draft Charging Schedule, and have been published on larger scale maps. These maps are intended primarily to be viewed electronically and may be zoomed. If an instance arises that a site falls within two charging zones, the zone that the site is substantially within will apply. If equally between two zones, the lower zone will apply.

Figure 1: Residential Charging Zone 1: Inner Urban Built-up areas based on the 20% most deprived LSOAs (excluding Future Growth Areas).

CIL Charging Schedule and relationship to s106 Obligations: Residential Development (Use Classes C3, C4 and sui generis hostel. See Note 1)

	S106 (for information)	CIL
Developments of 1-3 net new dwellings	Zero, except for direct site acceptability matters. (Including access, direct highway works, flooding and biodiversity, matters to make development acceptable in terms of Habitats Regulations and other legal matters).	Zero
Developments of 4 -14 net new dwellings.	Zero, except for direct site acceptability matters (see above). Note that affordable housing may be sought on greenfield sites of 3 11 or more dwellings (see Note 2).	£30 per sq m of chargeable floorspace.
Developments of 15+ net new dwellings.	Zero, except for direct site acceptability matters (see above). Note that affordable housing is sought on sites of 15+ dwellings (see Note 2)	£30 per sq m of chargeable floorspace

Figure 2: Residential Charging Zone 2: Elsewhere in the built up area, excluding “inner urban” areas and Watcombe Heights and Ilsham Valley, Torquay, and Bascombe Road, Churston.

CIL Charging Schedule and relationship to s106 Obligations: Residential Development (Use Classes C3, C4 and sui generis hostel) (See note 1).

	S106 for information	CIL
Developments of 1-3 net new dwellings	<p>Zero, except for direct site acceptability matters. (Including access, direct highway works, flooding and biodiversity, matters to make development acceptable in terms of Habitats Regulations and other legal matters).</p> <p>Note that affordable housing is sought on greenfield sites of 3-11 or more dwellings (see Note 2).</p>	<p>£30 per sq m of chargeable floor space. Zero (EM1)</p>
Developments of 4-14 net new dwellings.	<p>Zero, except for direct site acceptability matters (see above).</p> <p>Note that affordable housing is sought on greenfield sites of 3-11 or more dwellings (see Note 2).</p>	<p>£70 per sq m of chargeable floor space.</p>
Developments of 15+ net new dwellings (excluding Future Growth Areas)	<p>Zero, except for direct site acceptability matters (see above).</p> <p>Affordable housing is sought on sites of 15+dwellings. (See Note 2).</p>	<p>£70 per sq m of chargeable floor space.</p>

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Figure 3: Residential Charging Zone 3: Outside the Built Up Area (i.e. within the Countryside Area or Undeveloped Coast), plus Watcombe Heights and Ilisham Valley, Torquay and Bascombe Road, Churston.

CIL Charging Schedule and relationship to s106 Obligations: Residential Development (Use Classes C3, C4 and sui generis hostel (see note 1)).

	S106 for information	CIL
Developments of 1-3 net new dwellings	<p>Zero, except for direct site acceptability matters. (Including access, direct highway works, flooding and biodiversity, matters to make development acceptable in terms of Habitats Regulations and other legal matters).</p> <p>Affordable housing on greenfield sites of 3+ dwellings, usually by contribution on sites of fewer than 10 dwellings (see note 2). of 11+ dwellings or 6+ in the AONB.</p>	£70 per sq m of chargeable floor space.
Developments of 4-14 net new dwellings	<p>Zero, except for direct site acceptability matters (see above).</p> <p><u>Affordable housing on greenfield sites, of 3+ dwellings usually by contribution on sites of fewer than 10 dwellings</u> (see note 2); of 11+ dwellings or 6+ in the AONB.</p>	£70 per sq m of chargeable floor space.
Developments of 15+ net new dwellings (excluding Future Growth Areas)	<p>Zero, except for direct site acceptability matters (see above).</p> <p>Affordable housing is sought on sites of 15+ dwellings (see note 2).</p>	<p>£140 per sq m of chargeable floor space.</p> <p>Zero (Subject to IS1) see also EM3 for alternative approach</p>

Figure 4: Residential Charging Zone 4: within Future Growth Areas

CIL Charging Schedule and relationship to S106 Obligations: Residential Development (Use Classes C3, C4 and sui generis hostel) (See note 1).

	S106	CIL
Developments of 1-14 net new dwellings	Zero, except for direct site acceptability matters (see above).	£70 per sq m of chargeable floor space.
Developments within Future Growth Areas (Local Plan Policy SS2)	S106 Contributions to cover infrastructure needed to make development sustainable. Likely to include: <ul style="list-style-type: none"> • Direct site acceptability matters. • Affordable Housing (see Note 2). • Sustainable development contributions necessary to make the development acceptable in planning terms. 	Zero

Notes to Residential Charging Schedule tables

Note 1: Residential includes dwellings within Use Classes C3 and C4 and sui generis Houses in Multiple Occupation (HMOs). It includes sheltered housing, where extra care is **not** provided.

Extra care housing and student halls of residence will be zero rated for CIL, so long as secured for such use through condition or legal agreement.

Extra Care Housing will be taken to mean: Housing designed with the needs of frailer older people in mind and with varying levels of care and support available on site. People who live in Extra Care Housing have their own self contained homes, their own front doors and a legal right to occupy the property. Extra Care Housing is also known as very sheltered housing, assisted living, or simply as 'housing with care'. It comes in many built forms, including blocks of flats, bungalow estates and retirement villages. It can provide an alternative to a care home. In addition to the communal facilities often found in sheltered housing (residents' lounge, guest suite, laundry), Extra Care includes additional flexible care packages that must be purchased as a condition of occupancy, and additional facilities such as restaurant or dining room, health & fitness facilities, hobby rooms and computer rooms.

Domestic support and personal care are available, usually provided by on-site staff. Properties can be rented, owned or part owned/part rented. Occupation is governed by eligibility criteria which prospective residents have to meet". (EM4)

CIL is not sought on extensions to dwelling houses, unless these result in the original house being substantially demolished and replaced.

The schedule refers to gross number of dwellings proposed (although exiting floor space *may* be counted in mitigation).

Social Housing, as defined by Regulation 49-50 of the CIL Regulations, is exempt from CIL where the requirements of the CIL Regulations have been met.

Self-build and custom-build housing are exempt from CIL so long as an exemption is claimed before the commencement of development. See PPG paragraph 25-141-20140612.

Charitable institutions, e.g. churches are exempt from CIL, so long as the development is used primarily for charitable purposes. (See Regulations 43-44 of the CIL Regulations).

Note 2: Affordable housing requirements are set out in Policy H2 of the Adopted Torbay Local Plan 2012-30. The Council has regard to material considerations governing site size thresholds: Namely the Written Ministerial Statement of 28/11/2014, PPG paragraph 23b-031 and the Court of Appeal Ruling of 13 May 2016, that affordable housing should not be sought from sites of fewer than 11 dwellings (6 in designated rural areas as commuted payments paid at the completion of units within the development). However the Local Plan was adopted after the WMS and is the statutory development plan for the area.

An element of affordable housing is sought on greenfield sites of ≥ 11 or more dwellings or 6+ in the AONB, and brownfield sites of 15 or more dwellings. However, this may be reduced to zero in areas of deprivation, where this would encourage investment.

Note 3: Outside the built up area is defined as areas within the Countryside and the rural economy area (Policy C1) or Undeveloped coast (Policy C2) in the Adopted Torbay Local Plan 2012-30. The built up area is defined as areas not so designated. For the purpose of CIL, Watcombe Heights and Ilsham Valley, Torquay and land around Bascombe Road, Churston are within Zone 3.

Note 4: Future growth Areas are designated in the Adopted Torbay Local Plan 2012-30.

Commercial Development

CIL is liable on out-of-town centre retail and food and drink development of more than 300 sq m at £120 per sq m).

Where retail proposals are submitted as part of major mixed use developments, the Council may offer exceptional relief (as set out in Section 16 below) if this would secure a more sustainable and viable development, particularly where it would secure the early delivery of serviced employment land. Local Plan and NPPF Policies to safeguard the vitality and viability of town centres will be taken into account.

The Council's viability evidence indicates that town centre retail would not be viable with CIL. This viability position also applies to St Marychurch and Preston District Centres; but not The Willows District Centre, which operates as an out-of-town retail park.

The viability evidence indicates that other commercial/employment uses would not be viable with a CIL.

Figure 5 sets out a draft CIL for commercial development. The Charging Zones Map included at [Appendix 1](#).

Figure 5: CIL Charging Schedule: Commercial and Non Residential Development		
Type of Development	Development Charging Zone	
	1) Town Centres, St Marychurch and Preston District Centres	2) Everywhere else (including The Willows District Centre).
Class A1 retail less than 300 sq m.	Nil	Nil
Class A1 retail over 300 sq m. (see Note 2).	Nil	£120 per sq m
Food and drink (Class A3, A4, A5) (see note 3).	Nil	£120 per sq m
Class A2 Financial and Professional services.	Nil	Nil
Class B employment uses	Nil	Nil
Class D1 Non-residential institutions (see Note 3).	Nil	Nil
Class D2 Assembly and leisure/non residential institutions (see Note 3).	Nil	Nil
Class C1 Hotels	Nil	Nil
Class C2 and C2A Residential Institutions (see Note 4).	Nil	Nil
Notes to Commercial and non-Residential Charging Zones		
Note 1: Charitable institutions, e.g. churches are exempt from CIL, so long as the development is used primarily for charitable purposes. (See Regulations 43-44 of the CIL Regulations).		
Note 2: Applies to all A1 retail uses including bulky retail and sui generis retail uses..		

Note 3: s106 contributions may be sought where a development has an effect on non-CIL chargeable matters, such as the night time economy; or where site specific mitigation measures are required such as for access.

Note 4: Care Homes are taken to be non-self contained accommodation for persons who, by reason or age or infirmity, are in need of care. Extra care units are also zero-rated for CIL purposes.

Extra Care Housing will be taken to mean: Housing designed with the needs of frailer older people in mind and with varying levels of care and support available on site. People who live in Extra Care Housing have their own self contained homes, their own front doors and a legal right to occupy the property. Extra Care Housing is also known as very sheltered housing, assisted living, or simply as 'housing with care'. It comes in many built forms, including blocks of flats, bungalow estates and retirement villages. It can provide an alternative to a care home. In addition to the communal facilities often found in sheltered housing (residents' lounge, guest suite, laundry), Extra Care includes additional flexible care packages that must be purchased as a condition of occupancy, and additional facilities such as restaurant or dining room, health & fitness facilities, hobby rooms and computer rooms. Domestic support and personal care are available, usually provided by on-site staff. Properties can be rented, owned or part owned/part rented. Occupation is governed by eligibility criteria which prospective residents have to meet". (EM4)

Sheltered or retirement dwellings which have their own bathroom and cooking facilities (i.e. are essentially self-contained), and are not extra care units **as per the above definition**, will be considered to be residential units that are liable to CIL within Use Class C3.

Charging Zones Maps

Residential Charging Zones Summary Map

Residential Charging Zones Maps 1-39 showing Charging Zones 1-4 . Note that the map boundaries/page numbers correspond to the Adopted Local Plan 2012-30. The maps are designed primarily to be viewed on a screen and may be zoomed into (separate document).

Map 2. Commercial Development Charging Zones:

Zone C1 Town Centres, St Marychurch and Preston District Centres.
Zone C2 out-of-town centre and The Willows District Centre.

Torbay CIL Charging Schedule Accompanying Policies

Introduction to Accompanying Policies

Note that the following sections do not form part of Torbay's CIL charging Schedule and may be updated without requiring a further Examination. Particular attention will be paid to possible changes to the Planning Act 2008 or CIL Regulations 2010 (as amended).

The Council will still make use of s106 Obligations alongside CIL in order to secure sustainable development. These must meet all of the following tests. They must be:

- a) Necessary to make development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

From 6th April 2015, no more than five s106 obligations for infrastructure matters can be pooled (i.e. collected for one specific project). This does not apply to non-infrastructure items that are not fundable through CIL, such as affordable housing, training or town centre management.

The Council will keep the ability to pool obligations under review.

S106 Obligations may still be used to secure infrastructure, so long as they meet the above tests, and the Council has indicated that they do not intend to fund that item through CIL.

Full details of s106 Obligations will be set out in the **Planning Contributions and Affordable Housing Supplementary Planning Document (SPD)**.

This sets out how planning obligations will be targeted on delivering the new Local Plan's growth strategy and more details on the implementation of affordable housing and green infrastructure. Particular attention is drawn to the need to alleviate flood risk and combined sewer overflows, and to protect priority species such as greater horseshoe bats and cirl buntings.

2. CIL Chargeable residential developments and s106 Obligations

CIL will be sought on residential developments outside Future Growth Areas (excluding sites of 1-3 dwellings in Charging Zones 1 **and 2 i.e. most of the built up area EM1**). CIL will also be charged on proposals of 1-14 dwellings within Future Growth Areas.

On these sites where CIL is payable, s106 Obligations only will be sought where they are directly necessary to making development acceptable in terms of direct on- and off-site impact (e.g. access, drainage, biodiversity and flooding). Where possible these matters will be addressed through planning conditions rather than S106 Obligations.

Note that an element of affordable housing is sought on greenfield sites of 3 **11**-or more dwellings **(6+ in the AONB)**, and brownfield sites of 15 or more dwellings, as

set out in Policy H2 of the Adopted Torbay Local Plan (as affected by consideration of the Written Ministerial statement of 14 November 2014 and Planning Practice Guidance. ~~and Court of Appeal Ruling~~).

3. Residential development in Future Growth Areas and s106 Obligations

S106 Obligations will be negotiated with developers to secure affordable housing and provide the infrastructure needed for larger residential, commercial and mixed use schemes within Future Growth Areas. This includes but is not necessarily limited to:

- Direct site acceptability matters (biodiversity, flood prevention, access etc). Affordable housing (as per Policy H2 of the Adopted Torbay Local Plan 2012-30).
- Sustainable development contributions (education, lifelong learning, sustainable transport, **waste management**, green infrastructure, recreation, employment etc).

All such contributions will be subject to the tests of lawfulness (see above) and pooling restrictions, on infrastructure items. Where practicable to do so, s278 Highways agreements will be used to carry out improvements to the highway.

Further details are set out in the **Planning Contributions and Affordable Housing SPD**.

4. Non-residential development and s106 Obligations

S106 Obligations may be sought from commercial and other non-residential developments, so long as they meet the tests above and are not items identified in the Regulation 123 List as being funded through CIL.

This includes direct site acceptability matters (access, biodiversity, flooding etc), and dealing with the traffic impacts of proposals through sustainable transport. S106 Obligations will be sought to address other impacts of non-residential proposals.

For example, where a development has an impact on regulating the night time economy, it could be the subject of a s106 Obligation towards CCTV or town centre management.

Further details will be set out in the Planning Contributions and Affordable Housing SPD.

5. Calculating the chargeable amount of CIL

CIL will be calculated by multiplying the CIL rate by chargeable floor area and an inflation measure as follows:

$CIL = CIL \text{ rate} \times \text{gross internal floor area} \times \text{inflation measure}$.

The inflation measure is calculated by the increase in the RICS' Building Cost Information Service all-in tender price index from the base year to the date when permission is granted.

6. “Assumed Liability” and Commencement Notices

Ultimate liability for CIL runs with the land. However, the CIL Regulations encourage someone to assume liability to pay. It is expected that the developer will often “assume liability”. Where developers have assumed liability, they are required to submit a commencement notice to the Council prior to starting development.

CIL becomes payable from the date that chargeable development is commenced. When planning permission is granted, the Council will issue a liability notice setting out the amount payable and the payments procedure, including instalments where the amount payable is more than £5,000 **£20,000** (see Section 16 on Instalments).

Where no one has indicated that they “assume liability”, and/or no commencement notice is submitted by the developer, 100% of CIL is payable within 60 days of commencement of development. This will be identified through the Council’s monitoring process and an inflation measure (as above), and recovery cost will be applied to late payment.

7. Instalments Policy

In order to make CIL more affordable, taking developers’ cash flow into account, CIL may be paid by instalments as set out below. Note that the Council is able to vary its instalments policy in accordance with S69B of the CIL Regulations 2010 (as amended), Any revised instalments policy will be published on the Council’s website.

Instalments only apply where liability for CIL has been assumed and a commencement notice issued before development commences.

Where this is not the case, 100% of CIL becomes payable ~~within 60 days of~~ at commencement.

- ~~• **Where CIL is less than £20,000** 100% within 90 days of commencement of development.~~
- ~~• **Where CIL is more than £20,000:** 50% within 90 days of commencement of development, the remaining 50% within 180 days of commencement of development.~~

(N.B. This was the Instalments policy that was consulted on in the Revised Modifications. It received objections that the time period should be extended. This was not part of the Examination, but the Council indicated in its Consultation Statement (October 2016) that it would consider lengthening the instalment period subject to a maximum period of 2 years).

- **Where CIL is less than £5,000:** 100% within three calendar months of commencement of development.
- **Where CIL is between £5,001- £10,000**
 - 50% within three calendar months of commencement of development
 - 50% within six calendar months of commencement of development
- **Where CIL is between £10,000- £20,000**

- 34% within three calendar months of commencement of development
- 33% within six calendar months of commencement of development
- 33% within 9 calendar months of commencement of development.
- **Where CIL is more than £20,000**
 - 25% within three calendar months of commencement of development
 - 25% within six calendar months of commencement of development
 - 25% within 9 calendar months of commencement of development.
 - 25% within 12 calendar months (1 year) of commencement of development
- **Where CIL is more than £100,000**
 - 25% within six calendar months of commencement of development
 - 25% within twelve calendar months of commencement of development
 - 25% within 18 calendar months of commencement of development.
 - 25% within 24 calendar months (1 year) of commencement of development

CIL payable is linked to inflation using the RICS' Building Cost Information Services all-in tender price index of construction. Therefore, earlier repayment of CIL Instalments is encouraged.

Note that in CIL terms, development is considered to have been commenced when any material operation begins on the land. Developers are required to submit a Commencement Notice before development commences. If they do not do this, the Council will not be able to offer payment by instalments or CIL Relief.

8. Exceptional Circumstances Relief Policy

CIL is not intended to be a negotiated item. The CIL Regulations grants mandatory relief for charities, self-build housing and social housing.

In order to avoid exceptional circumstances rendering development unviable, the Council will consider offering "exceptional circumstances relief" where:

- The chargeable development is being carried out pursuant to a planning permission that is subject to an enforceable s106 Obligation that makes the development acceptable in planning terms; and
- Evidence (in the form of an assessment of viability) is provided to demonstrate that paying the full levy would have an unacceptable impact on the development's economic viability; and
- The relief must not constitute notifiable state aid (see PPG paragraph 25-129), **unless** the development would otherwise be eligible for mandatory charitable relief.

As noted above, the Council will consider granting exceptional relief to retail elements of large mixed use schemes where this would secure a more sustainable and viable development, particularly the early delivery of "Use Class B" employment land (and the criteria are met). Similarly, the Council will consider granting

exceptional relief where developments would assist in the delivery of town centre masterplans or early delivery of (Class B) employment. The criteria noted above must apply (i.e. there must be a s106 Obligation in place and a viability assessment has been carried out to indicated that the impact of CIL would render development unviable.

Before granting discretionary relief, developments must be subject to an independent assessment of viability to be carried out at the applicant's expense. They should indicate that development is not viable with CIL, and that a longer repayment period will not render development viable. Where an extension to the Instalments Policy is agreed, this will need to be published on the Council's website for 28 days.

Further details of the Council's arrangements for assessing viability are set out the Planning Contributions and Affordable Housing SPD.

CIL relief must be sought before the commencement of development. This applies to both mandatory and discretionary relief.

Payments in kind of land or infrastructure may be accepted in lieu of cash payment of CIL where they will assist with the delivery of items on the Regulation 123 list *and* comply with the legal requirements (currently set out in regulation 73A of the CIL Regulations).

9. State Aid

The proposed CIL rates are derived from the supporting viability evidence and strike an appropriate balance between the desirability of funding infrastructure to support development in Torbay while ensuring that the rates do not prevent development from coming forward. The proposed basis for charging CIL in Torbay is based on viability evidence and no competitive advantages are identified for any development type or organisation which would give rise to any implications with regard to State Aid.

10. Review of CIL

The Council will keep CIL rates under review. If there are significant changes to the viability of development, CIL will be revised in accordance with the process set out in the CIL Regulations.

11. "Regulation 123" List of Key Infrastructure Projects proposed to receive CIL

It is intended to use CIL to help fund the following items set out in the Regulation 123 List below. Accordingly, s106 Obligations will not be sought towards these items. The Council will publish a revised Regulation 123 List should other matters arise that need to be funded through CIL.

CIL Critical Infrastructure Item	Total Cost	Funding Shortfall
South Devon Highway	£130m	£20 Million
<p>Impacts on South Hams Special Area of Conservation (Berry Head to Sharkham Point, Brixham) arising from:</p> <ul style="list-style-type: none"> Recreational impacts on limestone grassland between Berry Head and Sharkham Point <p><u>10% of CIL, up to £30,000 per year will be ringfenced to address this.</u></p>	<p>£384,000</p> <p><u>Equal to £29,500 per year over the Local Plan period. Including a need to ring fence 10% of CIL up to £30K per annum to contribute towards addressing recreational impacts upon the grassland.</u></p>	£384,000



Intelligent Plans
and examinations

AN EXAMINATION UNDER SECTION 212
OF THE PLANNING ACT 2008 (AS AMENDED)

**REPORT ON THE DRAFT TORBAY
COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE**

Independent Examiner (appointed by the Council): Keith Holland. BA (Hons) Dip
TP MRTPI ARICS

Charging Schedule Submitted for Examination: 11 August 2016

Date of **Final Report**: 05 December 2016

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Main Findings - Executive Summary

In this report, I have concluded that the draft Torbay Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area.

The Council has provided sufficient evidence that shows the proposed rates would not threaten delivery of the Local Plan as a whole.

Four modifications are necessary to meet the drafting requirements. These can be summarised as follows:

- Introduce a zero charge for small sites (1 – 3 dwellings) in Zone 2;
- Introduce a zero charge for strategic sites (30+ dwellings) in Zone 3;
- Introduce a charge of £140 for schemes of 15 – 29 dwellings in Zone 3; and
- Introduce a zero charge for Extra Care Homes, and a definition of extra care homes.

The specified modifications recommended in this report do not alter the basis of the Council's overall approach or the appropriate balance achieved.

Introduction

1. I have been appointed by Torbay Council, the charging authority, to examine the draft Torbay District Community Infrastructure Levy (CIL) Charging Schedule. I am a chartered town planner and chartered surveyor with more than 20 years' experience inspecting and examining development plans and CIL Charging Schedules as a Government Planning Inspector.
2. This report contains my assessment of the Charging Schedule in terms of compliance with the requirements in Part 11 of the Planning Act 2008 as amended ('the Act') and the Community Infrastructure Regulations 2010 as amended ('the Regulations'). Section 212(4) of the Act terms these collectively as the "drafting requirements". I have also had regard to the National Planning Policy Framework (NPPF), notably paragraphs 173-177, and the CIL section of the Planning Practice Guidance (PPG), which replaced the stand alone CIL Statutory Guidance last published in February 2014.
3. To comply with the relevant legislation, the submitted Charging Schedule must strike what appears to the charging authority to be an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The PPG states that the examiner should establish that:

- the charging authority has complied with the legislative requirements set out in the Act and the Regulations;
 - the draft charging schedule is supported by background documents containing appropriate available evidence;
 - the proposed rate or rates are informed by and consistent with the evidence on economic viability across the charging authority's area; and
 - evidence has been provided that shows the proposed rate or rates would not threaten delivery of the relevant Plan as a whole.
4. The basis for the examination, and on which hearing sessions were held 9 November 2016, is the submitted schedule dated September 2016. The Preliminary Draft Charging Schedule was consulted on in December 2011 – February 2012. The Draft Charging Schedule was consulted on in February 2015 – March 2015. A Revised Draft Schedule was published for public consultation in March - April 2016. A Revised Schedule incorporating Modifications was published for consultation in August 2016 but withdrawn shortly after the consultation period began. The Revised Draft Schedule with Modifications that was examined was subject to consultation between 5 September and 17 October 2016
5. In summary, the Council propose a matrix approach for qualifying development. All rates referred to in the charging schedule and in this report are in pounds per square metre. There are four charging zones proposed for residential development divided in 3 site size categories. For commercial development, there are two charging categories with all other development subject to a nil charge. The boundaries of the zones have been subject to various amendments. They logically relate to the strategy in the Torbay Local Plan and have not been seriously challenged.

Residential Zone	1 - 3 Dwellings	4 – 14 Dwellings	15+ dwellings
1 Built-up areas based on top 20% deprivation	zero	£30	£30
2 Elsewhere in the built-up area	£30	£70	£70
3 Outside the built-up area	£70	£70	£140
4 Future Growth Areas	£70	£70	zero

Commercial development	Town Centres, St Marychurch and Preston	Elsewhere including The Willows District Centre
Class A1 Retail over 300 sqm	Nil	£120
Food and Drink Class A3, A4 and A5	Nil	£120

Has the charging authority complied with the legislative requirements set out in the Act and the Regulations?

6. The Council’s Preliminary Draft Charging Schedule was published for consultation purposes between 9 December 2011 and 6 February 2012 attracting 13 representations. The Draft Charging Schedule was consulted on between 9 February and 23 March 2015 attracting 12 representations. 19 representations were received as a result of the 18 March – 29 April 2016 consultation on the Revised Draft Charging Schedule. The final Submission Draft Charging Schedule incorporating Revised Proposed Modifications was consulted on between 5 September and 17 October 2016 and attracted 12 representations.
7. A Torbay Local Plan viability study to inform the Council’s plan making and CIL was undertaken by Peter Brett Associates (PBA) in February 2014. The Torbay Local Plan was adopted in December 2015. In January 2016, a CIL specific viability study was done by PBA and this was reviewed and updated by Burrows-Hutchinson Ltd (B-H) in August 2016.
8. The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Local Plan and the Infrastructure Delivery Plan, and is supported by an adequate financial appraisal. I also consider it compliant with the national policy and guidance contained in the NPPF and PPG respectively.

Is the draft charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

9. The adopted Torbay Local Plan sets out the main elements of growth that will need to be supported by further infrastructure in Torbay. An Infrastructure Delivery Study undertaken by PBA in 2011 identified a total infrastructure funding gap of £160 million of which £52 million was considered critical to the delivery of the Council’s proposed strategy. The critical infrastructure included flood alleviation measures in Brixham and

Torquay, the South Devon Link Road, improvements to the Torquay Ring Road/Western Corridor, a new trunk sewer between West Paignton and Brokenbury and an upgrading of the Bucklands Sewage Treatment Works. For the years 2016/17 – 2019/20 the proposed capital spending is £128 million of which £47.8 million is currently funded.

10. It is clear that overall there is a significant funding gap. The Council, in its Regulation 123 list, is seeking to only use CIL funds for two infrastructure elements - the South Devon Link Road and measures to protect the limestone grassland at Berry Head for recreational purposes as agreed with Natural England. Some of the representations challenge the Council's Regulation 123 list on the grounds that the Link Road has already been built and funded. The regulations allow the Council to amend the list at any time and the contents of the list are not a matter for this examination. For this examination, the only relevant consideration is whether the list demonstrates a funding gap that justifies a CIL charge. The regulations allow the Council to repay expenditure that has already been incurred but not to pay the interest on money raised through loans.
11. There is no doubt that the Link Road is a critical piece of infrastructure and the Council is required to still pay £20.2 million towards the cost of construction. The Council expects some £18 million of this sum to be funded by borrowing (thus far £12.7 million has been borrowed) but the intention is to use most of the CIL receipts to repay part of the expenditure that has already occurred or will be incurred. Consequently, it is accepted that the Council is able to demonstrate a funding gap in relation to infrastructure expenditure already incurred. In any event if the Council chooses to revise the Regulation 123 list there is a substantial list of other critical pieces of infrastructure that have yet to be funded. In the light of the information provided, there is a specific funding gap in relation to the Link Road and significant funding gaps for other infrastructure. The proposed charge would make an important if modest contribution towards filling the likely funding gap or gaps. The figures demonstrate the justification for a CIL.

Economic viability evidence

12. The CIL Viability Study, dated January 2016 by PBA uses a conventional residual valuation approach. For residential development, the approach taken is to use a list of hypothetical developments that are likely to be brought forward in the area. The study involved twenty-five different types of development located in a variety of locations in Torbay, including the future growth areas as defined in the Local Plan. There has been some criticism of the viability assessment on the grounds that it has not taken into account sufficient local market data. However, it is noted that in many instances there was relatively little market information available at the time when the study was done. Consequently, it is considered that the use of hypothetical examples was justified.
13. Residual valuations depend on a variety of inputs and assumptions. The PBA work takes into account the Council's affordable housing policy, site

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coverage and housing density, saleable floorspace, accessible and adaptable building requirements, sales values, build costs and a range of other standard development costs. The assessments assume a profit of 20% on site Gross Development Value for market housing and 6% for affordable housing on a nil grant basis. To test viability and the scope for a CIL charge the residual values are compared with a benchmark value which reflects a competitive return for the landowner.

14. In August 2016, the PBA viability work was updated in an addendum report prepared by B-H. Working with Novahomes, a local firm, this work took into account the most recent sales on new build sites. There were gaps in the data as some areas within Torbay do not have current residential projects. B-H sought to address this by working with PBA to update the UK Land Registry data used by PBA. PBA were asked to re-run their January 2016 appraisals using the updated market values. An eight dwelling typology was introduced in the 4- 14 category in place of the four dwelling typology used by PBA as it was felt that a more central typology would be more representative. In addition, B-H reviewed the Charging Zone boundaries which resulted in minor changes to the boundaries between Zones 1 and 2. B-H also recommended how the Council should proceed should a development site fall in more than one Charging Zone.
15. There are criticisms from a number of representors to some of the assumptions made. The small sample size for sales values is challenged but it should be noted that the Council is entitled to take a proportionate approach and rely on available evidence. Furthermore, the PBA sales evidence has been supplemented by later work done by B-H. Other criticisms relate to development cost assumptions including the allowance of 10% for external works (rather than 15%) and the absence of an allowance for abnormal costs. B-H for the Council counters these points by noting that PBA took these sorts of factors into account by increasing build costs for brownfield sites by £200,000 per net hectare and by an allowance of between £5,000 and £17,000 per unit depending on the size of the development.
16. Another criticism made by several respondents is the intended relationship between CIL and S106 costs. The Council is in the process of clarifying the position through the production of a Supplementary Planning Document (SPD) dealing with planning obligations and affordable housing. The SPD was published for consultation in September 2016 and is currently being revised in the light of the consultation. The Council's approach is broadly to impose the CIL on smaller developments but to rely solely on S106 payments on large developments in the identified Future Growth Areas. Under the current proposals large sites in Zone 3 would be subject to a £140 charge. However, the Council has stated that it would not object to a modification that strategic sites of more than 30 dwellings outside the Future Growth Areas should be treated in the same way as large sites within the Future Growth Areas.
17. The SPD is to be revised by the Council to rectify an error in the current document which states that CIL will not be sought where affordable housing

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is provided and vice versa. There may be occasions when affordable housing will be sought on developments liable for CIL but the Council believes this will only occur in a limited number of cases. Experience from the recent past indicates that this view can be substantiated. Since 2012 only 17 sites would have been liable for both CIL and S106 had a CIL regime been in place in 2012. Of these, 7 sites would have a zero CIL if they are treated as strategic sites which would only be subject to S106 agreements. The Council is also proposing to revise the SPD to clarify the position with CIL contributions for what it terms "sustainable development". Specifically, the Council will not seek sustainable development contributions where the CIL applies. The SPD is not part of this examination but it is considered that the clarification now proposed by the Council should resolve the uncertainty that has been referred to in several of the representations. It should also provide reassurance for those who feared that the S106 "sustainable development" contributions would amount to a considerable burden – one estimate by a respondent put the figure at some £23,000 per unit on a hypothetical 50 house scheme. The evidence shows that the Council has been reasonable with what it has sought through S106 agreements. Between April 2015 and October 2016 for 1-3 dwelling schemes the average agreed was £3,320 per unit, £3,040 for 4- 14 dwelling schemes and £2,500 for 15+ dwelling schemes.

18. For CIL viability assessments the establishment of a benchmark land value is important as it provides the basis for establishing whether there is "headroom" available to pay a levy. Unfortunately, it is generally acknowledged that establishing a benchmark land value is fraught with difficulty, not least because landowners' expectations and financial circumstances can, and often do, vary greatly. As PBA point out, benchmark land values can only be broad approximations subject to a wide margin of uncertainty.
19. In Torbay PBA studied a cross section of land comparables and discussed the question of benchmark values with developers and agents. After taking into account the likely policy burden, including affordable housing, PBA concluded in 2014 that benchmark values in Torbay ranged from £800,000 per net developable hectare to £400,000 depending on the scale of the development. In their 2016 work PBA increased the benchmark figures by 10% in line with house price inflation and introduced a benchmark land value of £220,000 per net developable hectare for strategic sites. The justification for the figure for strategic sites is not clear from the PBA report. However, that figure is not critical for the purposes on this examination as the Council do not propose to charge CIL on strategic sites within the Future Growth Areas and are content with a recommendation that other strategic sites be subject to a zero CIL charge.
20. For small sites the benchmark value has been challenged on the grounds that it assumes a plot size of .11 ha of land for four dwellings resulting in plot value of £24,200 assuming 35 dwellings to the hectare. This it is argued is unreasonably low compared with the asking prices for single plots in Torbay as at April 2016 which averaged £242,857. This comparison is

not helpful as the sizes of the plots for which there are asking prices is not specified.

21. The question of the benchmark used by PBA was discussed at the hearing session. Significantly all of those attending, including development industry representatives who are familiar with Torbay, accepted that the PBA figures are reasonable for the area.
22. For non-residential development, a set of hypothetical schemes for a wide variety of types of development were tested. Again, a standard residual approach was used. To establish the gross development value PBA took into account local regional and national data relating to rents and yields and build costs were based on the RICS Build Cost Information Service. Establishing a benchmark figure for non-residential development proved to be difficult given that local agents told PBA in 2014 that there had been very few sales of commercial and employment land over the previous five years. Historic evidence indicated a range of values between £500,000 and £750,000 for employment land uses. PBA used the lower end of that range as the starting point for their viability assessment work and then adjusted that on the basis of location and use. Given the weak commercial market in Torbay the PBA approach was logical and justified.

Conclusion

23. The Draft Charging Schedule is supported by evidence of community infrastructure needs and by viability assessments undertaken by two different firms, including a very recent update of the evidence in relation to residential development. Several elements of the viability assessments for residential development have been challenged. However, viability assessments are not precise calculations that can only be done in one way. The approach taken by the Council's advisors and the assumptions they have made are reasonably conventional and no convincing counter evidence has been advanced. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Are the proposed rates informed by and consistent with the evidence on economic viability across the district?

Residential development

24. For convenience, this part of the report deals with the rates proposed on the basis of the scale of development. PBA based their 2016 report on the information that the Council wished to use S106 arrangements rather than CIL for sites of 15 or more dwellings. Taking into account overall development viability in Torbay and the Council's policies, including affordable housing, PBA recommended a single charge of £78 for all conventional residential developments of 4 – 14 units and a zero rate for all other residential development, including retirement housing for older people. B-H concluded that the more complex rates being proposed by the

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Council are acceptable other than developments for 1- 3 dwellings in Zone 2 and Extra Care Homes. B-H recommended that both these categories should be zero rated.

25. Dealing first with sites for 1- 3 dwellings the principal area of dispute is the proposed charge of £30 in Zone 2. The Council justifies this on five grounds. First, the lowest viability is in Zone 1. Second, small sites are not subject to affordable housing or tariff style obligations. Third, exceptional circumstances relief is possible should site-acceptable S106 obligations impact on viability. Fourth, small sites have historically been viable with S106 obligations. Fifth, neighbouring authorities have not excluded small sites from CIL. The Council's points are challenged by a number of respondents including the Brixham Peninsula Neighbourhood Forum and the Collaton St Mary Residents Association who fear that the imposition of a CIL charge on small sites would potentially jeopardise regeneration projects within the urban areas. In this regard, it is important to remember that the NPPF states that CIL should "support and incentivise new development" (paragraph 175).
26. The most up-to-date available viability evidence is provided by B-H. This evidence shows that 2 dwelling schemes in Zone 2 would clearly be unviable if they are required to pay any CIL charge. In both Brixham and Paignton/Torquay 2 dwelling schemes have a negative margin of some £86 to pay for CIL. This contrasts with a positive margin of £353 for larger schemes for 8 dwellings. The Council argues that the S106 payments that it has received on small sites shows that the CIL charge of £30 can be afforded. This may be true in some instances but in others small sites may also require S106 payments to make the developments acceptable. No other specific quantifiable viability evidence that contradicts the B-H figures has been provided by the Council. Bearing in mind the important contribution small urban sites are expected to make to the provision of new housing in Torbay over the local plan period it is considered that imposing a CIL charge on small urban sites could threaten the delivery of the Council's plan. **(EM1)**.
27. Turning to sites for between 4 – 14 dwellings the PBA evidence indicates that for all but one of the hypothetical schemes there is a substantial buffer between the proposed charges and the point at which the viability of development would be threatened. This applies to all of the Zones including Zone 1 which is the zone least able to pay CIL. In recognition of this the proposed charge for Zone 1 is less than half the charge for the other zones.
28. For 15+ dwellings the contentious issues are the proposed charge of £140 for Zone 3 and the proposal to use S106 only in Zone 4. Dealing with the latter, the Council accepts that the viability evidence does not rule out a CIL charge in the Future Growth Areas. However, the Council believes that within the growth areas S106 agreements and S278 Highways Agreements provide the most effective mechanism for providing the infrastructure needed in these areas. This is a judgement for the Council to make. In the Council's view if a CIL charge is levied it would restrict the scale of S106

and S278 contributions that it could seek. Moreover, using S106 rather than CIL for large scale strategic development is not an unusual approach for an authority to take. In Torbay, it is strongly favoured by a number of developers who are promoting development in the Future Growth Areas. Some representors doubt the Council's ability to negotiate appropriate deals with developers and therefore wish to see both CIL and S106 agreements in place. However, there is no evidence before the examination that supports this view and it would not be appropriate to base a recommendation on an assumption about the Council's competence to negotiate with developers. In any event, this examination is concerned with whether the proposed CIL would threaten the viability of development in the area as a whole. Clearly a zero charge as proposed by the Council cannot threaten the viability of development.

29. A number of representations argue that any strategic site should be dealt with in the same way as strategic sites in the Future Growth Areas because the infrastructure needs of all strategic sites are likely to best be dealt with outside of the CIL regime. This is a logical argument in relation to sites outside the urban areas that would, in all probability, have similar infrastructure needs to strategic sites in the Future Growth Areas. The point is accepted by the Council who are content for a recommendation to this effect be made. **(EM2)**. However, the Council in accepting this point notes that in accordance with the local plan strategic sites are defined as sites for 30 or more dwellings. On this basis, the question arises of what to do with sites for between 15 and 29 dwellings. Under the current proposals such sites would be charged at a rate of £30 in Zone 1, £70 in Zone 2, £140 in Zone 3 and zero in Zone 4.
30. The PBA evidence supports the Zone 1 and Zone 2 charge but it is argued by some that the evidence does not support a charge of £140 in Zone 3. PBA did not make any recommendation for 15+ schemes as their brief was that for developments of 15 dwellings and above S106 agreements would be relied on. Looking at their evidence it is noted that the headroom situation with 15+ schemes outside the built-up area is unclear. Their assessment for a 15 dwelling scheme outside Brixham put the available headroom at £311, for a 100 dwelling scheme, outside Paignton/Torquay it was assessed at £262 and for a mixed scheme outside Paignton/Torquay at £192. On the other hand, a 15 dwelling scheme outside Paignton/Torquay was assessed to have headroom of £148 while one for 25 dwellings in the same location was assessed at £150. Given the variation in these figures and the need for a viability buffer a degree of caution is needed in recommending a figure for CIL as high as £140.
31. Another factor possibly pointing to the need for some caution is the fact that PBA's modelled average open market floorspace sales value for new build properties (paragraph 4.4.2) is not very different whether one is inside or outside the built-up areas of Torbay. Against this B-H have sought to update the PBA work and their addendum report at Appendix A shows that for Brixham the average new build value for houses is now significantly higher in Zone 3 compared to Zone 2. Unfortunately, no data

is supplied for up-dated new build values for Zone 3 in Torquay or Paignton. The up-dated viability appraisal done by B-H (Appendix C) based on up-dated market values shows a substantial amount of headroom for schemes of 15 or more dwellings outside the built-up areas of Torbay. For these areas for 15+ dwelling schemes PBA put the headroom at a little over £200 whereas the updated assessment from B-H shows it to be just over £500. A weakness of the B-H work is that it is based on an increase in market values but no increase in costs. For this reason, it is considered that the headroom for 15+ schemes in Zone 3 is likely to be a little lower than the B-H figure. Nevertheless, based on the B-H evidence, even with a slightly smaller headroom figure there would be a very substantial buffer and the viability of development for such schemes would not be seriously threatened.

32. Some respondents challenge the viability work for 15+ dwellings on the basis that the evidence is not robust or comprehensive enough. However, no convincing alternative evidence has been produced. Furthermore, the Government's expectation is that authorities will take a proportionate approach and will largely use available evidence rather than undertake extensive and time consuming survey work. One attempt to challenge the Council's work assessed a hypothetical 50 dwelling scheme based largely on the PBA assumptions. This failed to provide a credible assessment not least because it includes an unusually high figure for S106 costs and erroneously put finance costs at 100% of net costs rather than 6.5% as was intended. Even taking into account the need for caution it is considered that a charge of £140 should not seriously threaten the general viability of development for above 15 but below 30 dwellings in Zone 3. **(EM3)**.
33. In the light of this conclusion it is worth noting that the Council's proposed schedule is relatively complicated and there is merit in the Council considering whether it would be more logical to treat strategic sites in Zones 3 and 4 as being sites for 15 dwellings and above. This would be justified on the grounds that the provision of infrastructure in the Future Growth Areas (Zone 4) and the parts of Torbay that lie outside the built-up areas (Zone 3) is very likely to be based on similar considerations in both zones. However, because a charge of £140 for schemes of 15+ dwellings in Zone 3 can be justified this suggestion is not being made as a formal recommendation.
34. In relation to retirement housing PBA concluded that it was not viable with CIL in place. However, the up-dated assessment by B-H shows that there is a margin available for a CIL charge of just under £190 for retirement housing. No convincing counter evidence was produced. Retirement housing can therefore be included with the general housing category. This category does not however include "Extra Care Homes" which are not viable with a CIL charge in place. **(EM4)**. An area of concern related to defining what is meant by extra care housing but this has now been clarified by the Council following discussions with one of the respondents. It is assumed that the Council will include this clarification in the SPD that it

is currently producing, and inclusion of this definition within the Charging Schedule will add clarity.

Commercial rate

35. None of the B-class commercial uses generate sufficient value to justify a CIL charge. This may not apply to a development designed to cater for a specific user but CIL needs to be based on the general local situation rather than one particular development. For retail uses there is a challenge to the distinction drawn between the Willows Centre and other district centres. However, as the 2014 PBA viability report notes the Willows Centre operates as an out-of-centre retail park. The evidence showed that for out-of-centre comparison retail a charge of £123 would be acceptable without jeopardising the viability of such development. The 2016 PBA viability work endorsed the view that a CIL charge of £120 for retail development of over 300 sqm in out-of-town centres would be acceptable.

Conclusion

36. A realistic view has been taken of the prospects for non-residential development in Torbay. The limited proposals for charging a CIL on commercial development do not threaten the viability of non-residential development in the plan area as a whole.

Has evidence been provided that shows the proposed rates would not threaten delivery of the Local Plan as a whole?

37. The Council's decision to use a matrix approach is based on reasonable assumptions about development values and likely costs.
38. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Torbay. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across Torbay.

Overall Conclusion

39. I conclude that the draft Torbay Community Infrastructure Levy Charging Schedule, subject to the making of the modifications set out in Appendix A, satisfies the drafting requirements and I therefore recommend that the draft Charging Schedule be approved.

Keith Holland

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Examiner

Appendix A

Examiner Modifications (EM) recommended in order that the charging schedule may be approved.

Examiner Modification (EM)	Page no./ other reference	Modification
EM1	Page 9 paragraph 26	Amend the Schedule to a charge of zero for schemes of 1-3 dwellings in Zone 2.
EM2	Page 10 paragraph 29	Amend the Schedule to a charge of zero for all sites of 30 or more dwellings in Zone 3.
EM3	Page 11 paragraph 32	Amend the Schedule to include a charge of £140 for schemes of 15 – 29 dwellings in Zone 3.
EM4	Page 11 paragraph 34	Amend the Schedule to include a charge of zero for Extra Care Homes, and provide a definition of Extra Care Homes.
Informal suggestion/advice	Page 11 paragraph 33	The Council should consider the merit of treating strategic sites in Zones 3 and 4 as being for 15 sites and above.

Stages, actions and deliverables

Assessment of existing systems, procedures policies and people	Define route map to successful CIL implementation	New systems, procedures, policies and people	Trial period and implementation
<p>ACTIONS</p> <ul style="list-style-type: none"> Set-up project implementation group covering all relevant services Define existing systems, procedures, policies and people Conduct initial officer workshop to set objectives, identify challenges and constraints and set initial roles and responsibilities Agree project management, sponsorship and governance 	<p>ACTIONS</p> <ul style="list-style-type: none"> Define future requirements for systems, procedures, policies and people Define how existing systems, procedures, policies and people need to change. Define roles and responsibilities; timescales and dependencies Assess likely numbers of planning applications at go live date 	<p>ACTIONS</p> <ul style="list-style-type: none"> Produce/draft/procure/recruit new systems, procedures, policies and people. Recruit new staff (if required) Redefine staff roles (if required) Conduct internal briefing sessions Conduct briefing sessions with external stakeholders Prepare and issue CIL briefing note for local developers and landowners 	<p>ACTIONS</p> <ul style="list-style-type: none"> Conduct a trial run of the new systems and procedures Refine systems and procedures Refine and update CIL operations manual Clear backlog of s106 agreements as far as possible
<p>DELIVERABLES</p> <ul style="list-style-type: none"> Identified project manager and project sponsor Defined and agreed project objectives and scope 	<p>DELIVERABLES</p> <ul style="list-style-type: none"> Detailed programme Defined project budget Defined roles and responsibilities Defined project governance Captured in a Project Execution Plan Set CIL go-live date 	<p>DELIVERABLES</p> <ul style="list-style-type: none"> New systems, procedures, policies and people CIL operations manual Confirm CIL go-live date 	<p>DELIVERABLES</p> <ul style="list-style-type: none"> Successful trial run(s) Go live with CIL Final systems, procedures and policies



Meeting: Council

Date: 8 December 2016

Wards Affected: All Wards

Report Title: Adoption of Planning Contributions and Affordable Housing Supplementary Planning Document

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Mark King, Executive Lead for Planning, Transport and Housing, 07873254117, mark.king@torbay.gov.uk

Supporting Officer Contact Details: David Pickhaver, Senior Strategy and Project Officer, (01803) 208815, david.pickhaver@torbay.gov.uk

1. Proposal and Introduction

- 1.1 Following adoption of the Torbay Local Plan 2012-30 and submission of Community Infrastructure Levy (CIL), the Council needs to review its Planning Contributions and Affordable Housing Supplementary Planning Guidance (SPD). The existing SPD was adopted in 2008, and has been updated several times (most recently in 2011). It is therefore in need of refreshing to reflect the priorities of the Corporate Plan and Local Plan.
- 1.2 The SPD sets out the Council's approach to developer contributions. The SPD cannot make policy but sets out how the policies in the Adopted Local Plan can be implemented. The SPD covers both residential and commercial development.
- 1.3 The Draft Planning Contributions and Affordable Housing SPD was the subject of public consultation between 19 September and 31 October 2016. This report recommends that the SPD is adopted with a number of modifications. These modifications are relatively minor in nature and do not affect the structure of the SPD.
- 1.4 A consultation statement setting out representations to the SPD, and the Council's response is set out at Appendix 3. The main issue to arise from the development industry is that S106 Obligations must meet the "test of lawfulness" and must not be applied as a roof tax.
- 1.5 The second major issue is whether the Council should adhere to the Local Plan threshold of 3 dwellings for greenfield sites or apply a higher threshold of 11 dwellings as per Government's Written Ministerial Statement of 28 November 2014. There is more information on this below and in Appendix 1.

- 1.6 The Council is proposing to implement CIL primarily on smaller sites. When CIL is implemented s106 Obligations will be scaled back for sites paying CIL. Wider “sustainable development” s106 contributions will not be sought from such sites. However they will still need to address matters necessary to direct site delivery, which may entail s106 Obligations.
- 1.7 The CIL Examination is still underway. Subject to the CIL Examiner’s Report, it is intended to seek infrastructure s106 contributions from large sites (15+ dwellings) within Future Growth Areas, and potentially other strategic sites.
- 1.8 The draft SPD prioritised S106 Obligations into three bands. This retains the broad approach of the existing (2007) SPD. It is recommended that this approach is retained. This respects the Council’s Corporate Priorities as well as the regulations governing the use of S106 Obligations.
- 1.9 **Priority 1: Site Delivery Matters:** (Note that this was formerly called “site acceptability” but it is recommended that it should be renamed “deliverability” following representations). This covers essential site-specific matters to mitigate the impact of development, without which planning permission should not be granted. Site delivery matters apply to all development. They cover matters such as access, flooding, drainage/sewer capacity, direct biodiversity and landscaping. In some instances, improvements to the public realm and urban regeneration will be central to the delivery of a site, particularly in town centres, conservation areas and community investment areas (see Local Plan Policies SS10 and SS11).
- 1.10 Planning conditions will be used for site delivery matters wherever possible. Works to the highway are often achieved through s278 Agreements, which are not subject to all of the restrictions affecting s106 Obligations. If the development is sufficiently viable, then issues in the next priority band are considered.
- 1.11 **Priority 2: Affordable Housing, employment and health infrastructure:** This includes employment provision and healthcare on developments giving rise to additional care needs. Affordable Housing is governed by Policy H2 of the Local Plan, and the SPD provided additional guidance on it. Affordable housing is generally given the highest priority after site delivery matters.
- 1.12 This category applies to housing developments above the threshold for affordable housing. The threshold for affordable housing is set out in Policy H2 of the Local Plan, which is 3 dwellings for greenfield sites and 15 dwellings on brownfield sites. The (previous) government has sought to impose a higher threshold of 11 dwellings. A full discussion of this is set out in Appendix 1. The Draft SPD recommended following a threshold of 11 dwellings, which the Government set in a Written Ministerial Statement (WMS) in November 2014. However representations argued that the Local Plan threshold should be binding and is not overwritten by the WMS. These also point out the high level of affordable housing need in Torbay. Officers agree with this view.
- 1.13 However, there is a legitimate alternative view, expressed by the Mayor, that the Council should apply the higher threshold of 11 dwellings, given that this is the view of Government.

- 1.14 This section of the SPD also seeks contributions to mitigate the loss of employment from applications which entail the loss of jobs. It also promotes local labour agreements to maximise the employment benefit arising from development.
- 1.15 Development giving rise to potential healthcare/social service demands, such as sheltered housing, will be expected to contribute towards the additional care needs arising from the development (although affordable housing will generally be prioritised).
- 1.16 This category has the next highest level of priority after site acceptability matters. If the development is sufficiently viable, then issues in the next priority band 'sustainable development' are considered.
- 1.17 **Priority 3: Sustainable development infrastructure from larger developments.** This applies to developments where CIL is not sought (i.e. larger residential developments in Future Growth Areas) and all commercial developments that have an impact which needs to be mitigated. These matters are still required to make development acceptable in planning terms, but are not essential to render the development physically safe or legal. Examples include education, lifelong learning, open space, recreation, wider environmental/green infrastructure, and waste management. As noted above, it is intended to clarify the SPD to emphasise that they cannot be sought as a "roof tax" but must relate to specific projects.
- 1.18 Where development creates a particular need to monitor its impacts, the SPD seeks a monitoring contribution towards the cost of this. Again this must relate to specific costs borne by the Council and cannot be applied as roof tax.
- 1.19 The approach to s106 Obligations is set out in Figure 1.

Figure 1: S106 Themes and prioritisation. This is the recommended approach.

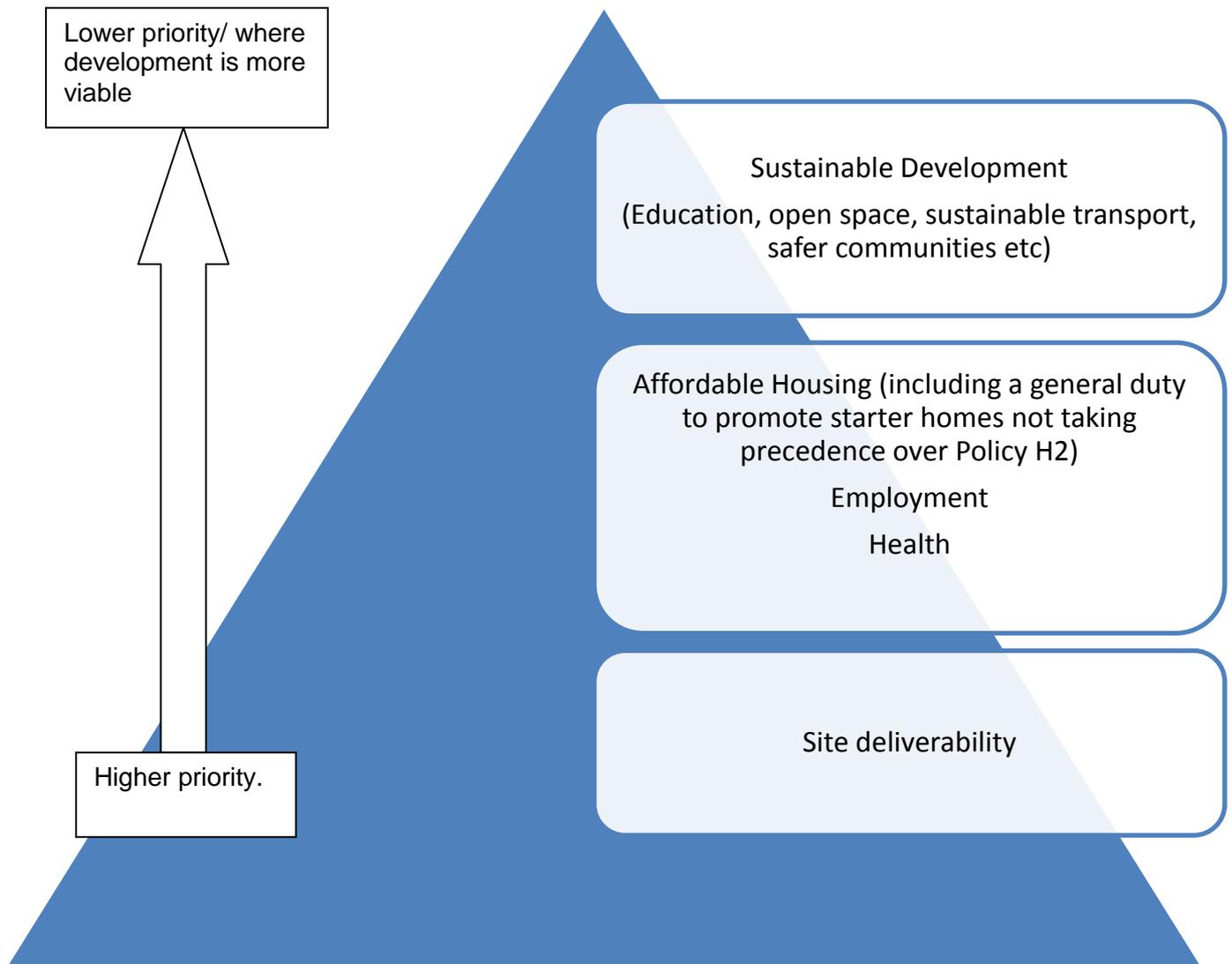


Figure 1

Notes to Figure 1

Note 1 - Affordable Housing. Affordable housing is defined in the National Planning Policy Framework. The Council will have regard to a general duty to promote starter homes but this will not take precedence over Policy H2 unless required to do so by Regulations or other legislation.

Note 2 - Community Investment Areas. Policy H2 and Policy SS11 of the Local Plan indicates that the Council may agree reduced affordable housing provision where this would secure significant benefits to disadvantaged areas, including enhancement of the local natural or built environment.

- 1.20 The SPD also sets out guidance on implementation, including the commissioning of independent viability assessments where developers seek to negotiate reduced s106 contributions to those set out in the SPD. It also sets out instances where mitigation of s106 obligations will be offered, and provides advice on clawback arrangements and timescales for renegotiation of Agreements.
- 1.21 The review of the SPD provides formulas for calculating the impact of development, for example upon the need for school spaces. The current SPD (Update 3, approved in 2011) formulas add up to about £5,800 for a 3-4 bedroom house (excluding affordable housing). The draft SPD indicates that contributions will be higher than this at around £10,000 for a 3-4 bedroom house. However the full range of contributions can only be applied to larger sites where CIL is not being levied. Moreover they must comply with the tests of lawfulness. In practice this means that specific projects must be identified that relate to the development and do not breach pooling limits.

2. Reason for Proposal

- 2.1 S106 Obligations are governed by a number of factors, including legislation, government policy, the Torbay Corporate Plan, the Local Plan, and proposals for CIL.
- 2.2 The structure recommended in Section 1 above sets a priority for seeking S106 Obligations, which follows Local Plan policies and Corporate Plan priorities of a Healthy and Prosperous Torbay.
- 2.3 In practice larger developments usually require independent assessment of viability, and the structure provides guidance on which matters will be prioritised. Site delivery matters will necessarily need to take priority and there is very limited scope to waive these matters for viability reasons. Affordable housing, employment and health items will be given the next highest level of priority, followed by the broader sustainable development contributions.
- 2.4 Each planning application must be determined on its merits and there may be specific material considerations that dictate that a different priority may need to be given to S106 Obligations.
- 2.5 The SPD must be kept up to date with evolving legislation and evidence. It may need adjustments depending on the CIL Examination's outcome.

3 Recommendation(s) / Proposed Decision

Mayoral Recommendation:

- 3.1 That following consideration of representations made on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document (SPD), the SPD be adopted, with minor modifications, as a Supplementary Planning Document as set out in Appendix 3 to the submitted report.
- 3.2 That the Executive Head of Business Services, in consultation with the Executive Lead for Planning, Transport and Housing, be given delegated powers to make minor amendments to the document to ensure legibility and clarity.

Officer Recommendation:

- 3.3 That following Consideration of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document (SPD), the SPD be adopted, with minor modifications, as a Supplementary Planning Document as set out in Appendix 3 to the submitted report except that the threshold for provision of affordable housing in paragraph 3.4 of the SPD, and accompanying text elsewhere, be amended to 3 instead of 11 to ensure that the document adheres to the affordable housing thresholds set out in Policy H2 of the Adopted Torbay Local Plan, i.e. 3 dwellings for greenfield sites and that the Written Ministerial Statement of 28 November 2014 should be noted in the SPD as a material consideration.
- 3.4 That the Executive Head of Business Services, in consultation with the Executive Lead for Planning, Transport and Housing, be given delegated powers to make minor amendments to the document to ensure legibility and clarity.

Appendices

- Appendix 1: Supporting statement and impact assessment
- Appendix 2 Consultation statement setting out representations, recommended response and proposed modifications where appropriate. (Note that this will follow, after the consultation period ends on 31 October 2016. This is likely to entail some modifications to the SPD).
- Appendix 3: Planning Contributions and Affordable Housing SPD. Wording recommended for approval. Note that this will incorporate recommended minor modifications in response to consultation on the SPD

Background Documents

Torbay Local Plan 2012-30 A landscape for success.

<http://www.torbay.gov.uk/newlocalplan>

Torbay CIL Viability Study –Economic Viability Update. Peter Brett Associates January 2016.

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

Community Infrastructure Regulations 2010 (as amended)

National Planning Policy Framework especially paragraphs 153, 173, and 203 to 206

(National) Planning Practice Guidance part 23b (updated 19/05/2016)

Housing and Planning Act 2016.

Starter Homes Regulations, Technical Consultation, DCLG March 2016.

Written Ministerial Statement dated 28/11/2014

Court of Appeal Judgement in the case of Secretary of State CLG verses West Berkshire District Council and Reading Borough Council [2016] EWCA Civ 441

Appeal decision APP/K3605/W/16/3146699, 26 The Avenue, Claygate, Esher, Surrey (The “Elmbridge decision”)

Appeal decision APP/W0530/W/16/3142834. Land south of Kettles Close, Oakington, Cambridgeshire. (“The Cambridgeshire decision”).

Supporting Information and Impact Assessment

Service / Policy:	Supplementary Planning Document
Executive Lead:	Mark King, Executive Lead for Planning , Transport , Housing and Waste
Director / Assistant Director:	Kevin Mowat, Executive Head, Business Services

Version:	2.0	Date:	19 October 2016	Author:	David Pickhaver
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Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>It is proposed to adopt the Planning Contributions and Affordable Housing Supplementary Planning Document (SPD). The draft document has been the subject of consultation between 19 September and 31 October and a number of modifications are proposed in response to issues raised. These modifications are not considered to be major.</p> <p>When adopted, the SPD will provide detailed advice on seeking s106 Planning Obligations. It will seek to ensure that development contributes to the infrastructure etc that the development generates a need for.</p> <p>The SPD cannot make policy but fleshes out policies in the Adopted Torbay Local Plan 2012-30.</p>
2.	<p>What is the current situation?</p> <p>Adopted Torbay Local Plan Policies and existing SPD.</p> <p>The Torbay Local Plan 2012-30 was adopted on 10 December 2015. It contains a number of policies that seek Planning Obligations and affordable housing. A full list of these policies is set out in the SPD.</p> <p>The Council Minute which adopted the Local Plan retained the Planning and Contributions SPD pending its review or replacement.</p> <p>The current SPD was adopted in 2008 and updated in 2011 (Update 3). Whilst the broad approach taken remains appropriate, there has been significant legislative change to planning since 2008. In particular the CIL Regulations place legal restrictions on the use of s106 Obligations.</p> <p>There is a pressing need to review the SPD to ensure that it reflects current circumstances, legislation and Corporate Priorities.</p>
3.	<p>What options have been considered?</p> <p>Relying on the current (2008) SPD is not an option because it is out of date</p>

and does not reflect current legislation or Corporate priorities.

Relying just on the Policies in the Local Plan would result in uncertainty and be likely to result in fewer s106 obligations being negotiated successfully.

The Council has considered moving to a CIL only approach where a minimum use is made of S106 Obligations. This is likely to create uncertainties about funding for infrastructure serving strategic developments.

4.

How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?

The SPD has been drafted to prioritise the Council's Corporate goals of a Prosperous and Healthy Torbay. This is summarised in the nested table below.

How S106 Obligations Deliver Corporate Plan Ambitions of a health and Prosperous Torbay	
Corporate Plan Action	How reflected in S106
Protecting all children and giving them the best start in life	Affordable housing, education contributions
Working towards a more prosperous Torbay	Affordable housing, employment contributions to mitigate loss of employment. The SPD includes mechanisms to ensure that s106 obligations do not harm development viability.
Promoting healthy lifestyles across Torbay	Open space contributions, sustainable transport. Some site acceptability matters. Note that separate SPD is also being prepared on Health.
Ensuring Torbay remains an attractive and safe place to live and visit	Site acceptability matters e.g. biodiversity. Employment contributions. The SPD also promotes public realm improvements.
Protecting and supporting vulnerable adults	Health contributions where applications give rise to particular health issues e.g. Sheltered housing or care homes. The SPD aids the provision of affordable housing.

The s106 SPD places a high priority on affordable housing, health and employment. Urban regeneration of the least prosperous areas is also promoted.

S106 contributions help to meet infrastructure and other costs arising from development, which would otherwise need to be funded from the Council's budget.

The SPD promotes healthy lifestyles in terms of the provision of open space, community facilities and decent affordable housing.

	<p>Amendments to the consultation draft SPD are recommended to strengthen the delivery of affordable housing. These include adhering to the lower threshold for affordable on greenfield sites of 3 dwellings, inclusion of additional text encouraging the provision of affordable houses suitable for children.</p> <p>The SPD also seeks contributions towards education and lifelong learning.</p>
<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>S106 Obligations will affect the development industry, as well as the recipients of s106 funding. Departments within the Council and the Torbay Development Agency (TDA) who receive s106 funding will need to identify specific projects and ensure that no more than 5 Obligations are pooled where they are used for infrastructure.</p> <p>Internal officer consultation has taken place in late 2015 and throughout 2016. The draft document was approved by the Mayor at a meeting of the Policy Development and Decision Group as the basis for consultation, on 14 September 2016.</p> <p>The Draft SPD was the subject of public consultation between 19 September and 31 October 2016. Stakeholders who had asked to be consulted on planning documents received a specific notification. A wider newsflash was sent out to all planning agents. The draft documents are posted on the Council's consultations webpage and at www.torbay.gov.uk/CIL and advertised in the Herald Express.</p> <p>Note that the preparation of SPDs are governed by Part 5 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Section 11 and 13 of the Regulations set out public participation arrangements for SPDs.</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>The SPD has been the subject of consultation as outlined in section 5 above.</p>

Section 2: Implications and Impact Assessment

7. What are the financial and legal implications?

Section 106 obligations collect money for a range of services including affordable housing, education, open space, etc.

S106 Obligations are governed by Regulation, especially reg 122 of the Community Infrastructure Levy Regulations 2010 (as amended). These require s106 obligations to CIL Regulations 2010 and NPPF paragraph 204). They must be

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- Fairly and reasonably related in scale and kind to the development.

Where S106 Obligations are collected for infrastructure that could be funded through CIL, no more than five obligations may be pooled for a single item of infrastructure. It is possible that pooling restrictions may be relaxed in the future. This would greatly help the Council in its use of s106 obligations.

Pooling restrictions do not apply where s278 Highways agreements are used to secure highways works or where the s106 Obligation is not infrastructure (e.g. for land management).

Where s106 Obligations are not spent within time (usually 5 years) or on the item they were collected for, there is a danger that the Council will be required to pay the money back.

Thresholds for Affordable Housing

The (former) Government had a long stated intention of limiting the use of “tariff style” S106 Obligations and affordable housing for smaller housing sites. This is set out in a Written Ministerial Statement of 28 November 2014 and in the Planning Practice Guide. The right of Ministers to set a threshold has recently been upheld by the Court of Appeal. Since the Court of Appeal Ruling, two Inspectors have ruled that (lower) affordable housing requirements in Local Plans should be applied (in Elmbridge, Surrey and Cambridgeshire).

On this basis, the Local Plan remains the starting point for the determination of planning applications; however, the Written Ministerial Statement is also a material consideration.

The weight attached to the Local Plan versus the Written Ministerial Statement/PPG was the subject of representations on the SPD. Policy H2 of the Local Plan sets a threshold of 3 dwellings for greenfield sites (and 15 dwellings for brownfield sites). The Local plan is up to date and reflects significant local need for affordable housing in Torbay.

On this basis it is recommended by Officers that the draft SPD is amended to adhere to the threshold for affordable housing set out in Policy H2 (i.e. 3 dwellings for greenfield sites). Reference will also be made to the Written Ministerial statement as

a material consideration.

However, the Mayor considers that greater weight should be given to the WMS and that a threshold of 11 dwellings should apply.

It is recommended that a threshold of 11+ dwellings (6 in the AONB), or commercial developments of 1000 sq m or less, is adhered to for “tariff style” contributions that are set out in the “Sustainable development” section of the SPD.

General Duty on Starter Homes

The Planning and Housing Act 2016 introduces a duty for LPAs to have regard to the delivery of starter homes. Further Regulations are expected to be published in 2016, and the Government has consulted upon a requirement of 20% of sites above 10 dwellings to be delivered as starter homes. There is scope to negotiate starter homes on the basis of viability, but it is likely that regulations will give starter homes priority over other affordable housing tenures. This could have profound implications for the provision of affordable housing. On this basis the SPD takes the approach that the SPD treats the provision of starter homes as a general duty, but does not require the provision of starter homes in place of more conventional types of affordable housing.

The relationship between s106 and CIL

Community Infrastructure Levy (CIL). The CIL Examination is currently open, with a Hearing session taking place on 9 November 2016. When CIL is in place it will largely replace “sustainable development” contributions for sites upon which CIL is sought.

It is proposed that CIL will apply to most residential development outside of Future Growth Areas (as designated in Policy SS2 of the Adopted Local Plan). However all sites will need to have regard to site acceptability matters and affordable housing.

For larger developments within the Future Growth Areas, it is proposed to set a zero rate of CIL and seek S106 Obligations to cover infrastructure. It is anticipated that the overall infrastructure cost of delivering these sites is likely to exceed the amount of money that CIL would have raised. In addition S106 Obligations are more flexible in terms of allowing for the up-front provision of infrastructure.

The development industry has argued that s106 obligations should be used for all strategic sites and this matter will be considered by the CIL Examination.

The use of S106 Obligations is not intended to provide a perverse incentive to greenfield developments in Future Growth areas. Where such developments seek to negotiate a reduced rate of planning obligations, an independent assessment of viability will be sought. The amount of CIL that would have been paid if it was levied will be taken into account in such negotiations, although it is stressed that s106 Obligations must not be used to tax developer profit per se.

The relationship to S106 Obligations and CIL for residential development is set out in the nested table below. This reflects the situation submitted for Examination and may need to change as a result of the Independent Examiner’s recommendations.

The relationship between S106 Obligations and CIL.			
CIL Charging Zone	Site size (£ per sq m)		
	1-3 dwellings	4-14 dwellings (Note that regulations may introduce a 10 dwelling threshold for starter homes).	15+ Dwellings
1. Built up areas within top 20% deprivation (Community Investment Areas+)*	Zero rate of CIL S106 to address site acceptability matters only.	£30 per sq m CIL S106 to address site acceptability matters only.	£30 per sq m CIL S106 to address site acceptability matters and affordable housing (subject to Policy SS11) Sustainable Communities).
2. Elsewhere in the built up area**	£30 per sq m CIL S106 to address site acceptability matters only.	£70 per sq m CIL S106 to address site acceptability matters and Affordable housing sought from greenfield sites of 3 dwellings	£70 per sq m CIL S106 to address site acceptability matters and affordable housing.
3. Outside the built up area**	£70 per sq m CIL S106 to address site acceptability matters only.	£70 per sq m CIL S106 to address site acceptability matters and affordable housing sought from greenfield sites of 3 dwellings.	£140 per sq m CIL S106 to address site acceptability matters and affordable housing.
4. Future Growth Area	£70 per sq m CIL S106 to address site acceptability matters only.	£70 per sq m CIL S106 to address site acceptability matters and affordable housing sought from greenfield sites of 3 dwellings	Zero- S106 to address site acceptability matters, affordable housing.

8. What are the risks?

S106 requests are unlawful if they do not meet the tests identified in Section 7 above.

If the Council is unable to demonstrate that s106 obligations will be used for a specific project which has not previously received more than 5 Obligations, then s106 Obligations cannot be collected.

Where s106 Obligations are not spent within time (usually 5 years) or on the item they were collected for, there is a danger that the Council will be required to pay the money back.

There is a need to ensure that Council departments are properly resourced to identify, deliver and monitor s106 projects.

9.	<p>Public Services Value (Social Value) Act 2012</p> <p>No impact</p>
10.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>A wide amount of evidence informed the Adopted Torbay Local Plan. It includes but is not limited to demographic projections, Exeter and Torbay Housing Market Assessment (2007 refreshed 2011), Torbay Housing Requirements Report, 2013,</p> <p>The main SPD indicates a range of evidence that has been used to indicate where development impacts upon the need for infrastructure, and the sources used.</p>
11.	<p>What are key findings from the consultation you have carried out?</p> <p>See schedule of representations received at Appendix 2</p> <p>A number of amendments have been made to the SPD to address representations received and other issues arising. These do not affect the overall approach taken in the SPD.</p> <p>Affordable Housing Several comments and Member concerns were raised about the status given to affordable housing.</p> <p>Tests of Lawfulness. Planning Obligations must adhere to CIL Regulation tests of lawfulness and must not set roof tax style contributions.</p>
12.	<p>Amendments to Proposal / Mitigating Actions</p> <p>See 11 above. On the basis of representations and discussions with colleagues, a number of minor amendments have been made to the SPD to address some concerns raised.</p> <p>The SPD has been amended to strengthen the Tests of Lawfulness set out in Regulations 122 and 123 of the CIL Regs. This emphasises that S106 Obligations cannot be sought on a roof tax basis, but must be necessary to making the development in planning terms.</p> <p>In particular the relationship between affordable housing and other matters (including urban realm matters) has been amended. The officer recommendation is that the text should be revised to reduce the threshold for affordable housing on greenfield sites to 3 dwellings.</p> <p>The text on affordable housing has also been strengthened in discussion with the TDA.</p> <p>A number of minor changes have also been made to biodiversity in response to representations from Natural England and the RSPB.</p> <p>These changes are not considered to substantially change the SPD.</p>

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact	
Older or younger people	<p>The SPD promotes the provision of affordable housing, which will support a range of people with housing needs, including children and older people</p> <p>The SPD seeks education contributions as well as lifelong learning contributions.</p>			
People with caring Responsibilities	Where development generates a likely need for additional care facilities, a s106 contribution may be sought for the provision of social care through the Integrated Social Care Organisation. This would apply to applications for care homes, sheltered housing etc that are likely to encourage inwards migration of older people.			
People with a disability	An element of affordable housing provision should be capable of adaptation for older people (see Policy H6 of the Local Plan).			
Women or men			No direct impact. S1106 Obligations should benefit both genders.	
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No direct impact.	

Religion or belief (including lack of belief)	S106 Obligations can be used to secure or improve community facilities if need for these is generated by development. These can provide meeting facilities etc for faith and non-faith groups.		
People who are lesbian, gay or bisexual			No direct impact other than the provision of community facilities (i.e. minor positive)
People who are transgendered			No direct impact other than the provision of community facilities (i.e. minor positive)
People who are in a marriage or civil partnership			No direct impact other than the provision of community facilities (i.e. minor positive)
Women who are pregnant / on maternity leave	The SPD promotes healthy lifestyles and may in some circumstances support the provision of health facilities etc as part of major developments.		
Socio-economic impacts (Including impact on child poverty issues and deprivation)	Major positive impact. The SPD promotes the provision of affordable housing and has been amended to encourage an increased level of child friendly affordable homes (3 bed 5 person dwellings). The SPD provides a framework to seek contributions to mitigate the loss of employment and for the promotion of job crating schemes, and use of local labour and urban regeneration.		
Public Health	The SPD makes public		

	impacts (How will your proposal impact on the general health of the population of Torbay)	health a site deliverability matter in terms of promoting opportunities for active lifestyles.		
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	No. The SPD seeks contributions that can help support Council spending on infrastructure etc. S106 Obligations may not be used to overcome existing defects or shortages; however existing communities will benefit from infrastructure provided. Moreover, in the absence of s106 Obligations the cost of providing such items would be entirely borne by the public purse.		
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	No		

Appendix 2

Torbay Local Plan 2012-30. Draft Planning Contributions and Affordable Housing Supplementary Planning Document.

Consultation Statement and schedule of representations received on the Draft SPD with Recommended response by Torbay Council.

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Torbay Council, November 2016

Agenda Item 14
Appendix 2

Introduction

This paper summarises representation made to the Planning Contributions and Affordable Housing Supplementary Planning Document. This was the subject of public consultation between 19th September 2016 and 31st October 2016. There were 15 responses to the consultation broken down as follows:

- 4 letters from national bodies (NB) and environmental charities. These were generally supportive but request minor amendments.
- 2 Objections from Neighbourhood Forums (Community Bodies CB), generally requesting amendments.
- 2 representations from affordable housing (Social Enterprise /Registered Providers SE) representatives.
- 4 Objections and 1 support from general housebuilders (Developers-Residential DR) or their planning agents.
- 2 Objections from specialist retirement sector housing providers (Developers Retirement Sector)

In response to representations and discussions within the Council and its partner organisations (Torbay Development Agency and Torbay Coast and Countryside Trust), it is recommended that several amendments are made to the Draft SPD. These are not considered fundamental to the SDP but clarify its scope and intent. In addition to responding to representations made, additional work has also taken place on formulas set out in the draft SPD to seek to ensure that they are a fair approximation of the effect of development upon wider environmental, economy or community infrastructure. These are tempered by the main issue raised by the development industry, that all S106 Obligations must meet the Tests of Lawfulness and limits to pooling of infrastructure, and cannot be sought as a “tariff style” contribution.

Notwithstanding that some objections are pitched as fundamental objections, it is considered that the vast majority of objections can be dealt with through amendment to the SPD.

In summary the main issues arising are considered to be:

- 1) Relationship between Community Infrastructure Levy (CIL) and S106.
- 2) The SPD must conform to the CIL Regulations limitations on s106 Obligations, and objections that some elements of the SPD do not accord with this.
- 3) Affordable housing thresholds are set by Policy H2 of the Local Plan, not the SPD. The stance on affordable housing should be strengthened.
- 4) Various environmental bodies have asked for minor amendments on biodiversity matters.
- 5) Concern about the impact of healthcare contributions and need to prioritise between these and affordable housing.

A detailed response to specific representations is set out in the table below. However, in summary, it is recommended that the Council respond to the issues raised as follows:

- 1) Relationship between CIL and S106**

This is set out at page 6 and in the table on page 8 of the SPD. It is noted that the CIL Examination is currently underway, with a Hearing having taken place on 9th November 2016.

However it is recommended that the SPD may be adopted prior to the outcome of CIL being known (subject to the amendments recommended below, and it being noted that adjustments may be required in relation to CIL as set out below). The SPD provides guidance to the Adopted Local Plan and does not set policy in its own right. It is possible that the SPD may need amendment to ensure that it works smoothly with the SPD as outlined below.

All developments must meet site deliverability requirements (called “site acceptability matters” in the consultation draft SPD, and the former SPD). The SPD is clear that planning conditions and direct provision will be used wherever possible.

It is noted that there must not be blurring of what is a site deliverability matter- i.e. directly required to ensure that development is safe or meets legal requirements, and wider sustainable development contributions i.e. matters that are still necessary to make development acceptable in planning terms but are not essential to the safe or lawful carrying out of the development.

The Council’s preferred position on a “narrow” CIL and S106. The Council is proposing a “narrow” approach CIL whereby larger developments in Future Growth Areas will not pay CIL. The Council will seek to fund sustainable development infrastructure serving strategic developments through s106 Obligations, rather than CIL. It is noted that some developers have argued that all developments of a strategic scale (broadly over 30 dwellings) should be dealt with through S106 rather than CIL, and the Council has indicated that it would not object to this approach if the Examiner recommended it.

It is not proposed to seek “sustainable development contributions” from smaller developments for which CIL is levied, or sites of fewer than 11 dwellings (6 in the AONB). Such sites would only be liable for “site deliverability” matters and in a small number of cases affordable housing, loss of employment mitigation or healthcare.

A small number of developments will be greenfield sites of 3+ dwellings outside of Future Growth Areas or brownfield sites with new floorspace of 15+ dwellings. These are potentially liable for CIL and affordable housing.

Impact of a “wider” CIL. Paignton and Brixham Neighbourhood Forums and some house builders expressed a preference for CIL to be applied more widely across all sites. The Council has advised that this is not the most effective way of delivering strategic sites, but the decision now lies with the CIL Examiner.

Should the Examiner recommend that a wider approach to CIL be taken and applied to all sites (in line with Neighbourhood Forums’ and some housebuilders’ representations); then the “Sustainable Development” section of the SPD will need to be reduced and the CIL Regulation 123 list expanded.

2) The SPD must conform to the CIL Regulations limitations on s106 Obligations.

This appears to be the main concern raised by the development industry. The Draft SPD is clear at pages 7 and page 39 that the CIL Regulations 122 and 123 Tests of Lawfulness should be applied. However, given the concern raised by the development industry it is recommended that this point should be reiterated. On this basis financial contributions will only be sought where a specific project is identified that meets the Tests of Lawfulness. Where the matter is infrastructure, the Council will need to ensure that no more than 5 Obligations are pooled towards it.

As a matter of Development Management operation, this will require recipient departments to identify specific deliverable projects at the application stage. This has resource implications for the Council.

The SPD sets out a significant level of background evidence seeking to assess the cost of mitigating the wider impacts of development. This is considered to be a legitimate exercise in terms of assessing the impact of development. The SPD clearly indicates that mitigation will be provided where development provides an identifiable social benefit or where seeking s106 Obligations would jeopardize viability. The draft SPD also allows for in-kind provision where appropriate, particularly on larger sites. On this basis it is considered legitimate and an aid to certainty to set out the likely financial sum that may be sought, subject to the reiteration of the Tests of Lawfulness noted above.

It is noted that some objections from the development industry seek to exclude some areas from s106 Obligations, such as waste management. However Policy W2 (and W1) of the Local Plan indicates that waste management contributions may be sought from developments that generate significant waste.

The SPD is a fairly long document at 56 pages. To increase legibility it is recommended that much of the background text is placed in text boxes. This will help emphasise that they should not be treated as a “roof tax”.

3) Affordable housing thresholds are set by Policy H2 of the Local Plan, not the SPD. The stance on affordable housing should be strengthened.

Appendix 1 to the Council Report considers the legal position relating to affordable housing thresholds in detail. The Planning Practice Guidance and Written Ministerial Statement are material considerations. However Policy H2 of the Local Plan is the adopted policy and there is a high need for affordable housing in Torbay. On this basis it is recommended by Officers that the SPD is amended to reflect this with a caveat that the WMS and PPG advise a higher threshold.

Note that the mayor has recommended that the SPD should retain a de facto threshold of 11 dwellings in the light of the Written Ministerial Statement and PPG advice.

This is likely to affect only a small number of sites, and the viability of such sites to pay CIL may be an issue. However, the Council has indicated that it will consider such viability matters through independent viability assessments. It is noted that the Council’s high level Viability Assessment (PBA 2016) indicates that sites of 4+ units can viably accommodate CIL and affordable housing.

A number of relatively minor amendments to the text on affordable housing are also recommended regarding cluster sizes, the need for suitable family homes and to clarify that on-site provision is the preferred option.

4) Various environmental bodies have asked for minor amendments on biodiversity matters.

A number of relatively minor amendments are recommended in response to comments by Natural England, RSPB and the Woodland Trust. These have been the subject of discussion with Torbay Coast and Countryside Trust. The major change of approach is to set out that recreation impacts on Berry head, Brixham will be a CIL matter, whilst developments need to mitigate biodiversity impacts through on-site measures or s106 Obligations.

5) Concern about the impact of healthcare contributions and need to prioritise between these and affordable housing.

The Local Plan and SPD indicate that healthcare contributions are sought where a development generates the need for additional healthcare/integrated social care (Policy SC1 and Policy H6). Torbay's demography is clearly driven by inwards migration of older persons, and the SPD seeks to assess the degree to which residents of specialist housing are likely to be inwards migrants. No clear evidence to counter the SPD's assumptions has been submitted.

It is recognised that there are blurred lines between Use Class C2 and C3 accommodation. Some specialist housing may provide care and fall within Class C2 but helps people live independently (and within the "household" population). On this basis it is recommended that the SPD sets out that the S106 Obligations are only sought to mitigate additional impacts arising from development on the Integrated Social Care budget. On this basis the provision of additional facilities and care provided by the accommodation is likely to count as "mitigation" against S106 obligations.

It is agreed that the SPD should prioritise between affordable housing and healthcare contributions. However it is recommended that affordable housing should usually take the higher priority, since meeting housing needs is a central part of the planning system.

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
National Bodies					
NB1	Martyn Dunn	<i>South West Water</i>	Support	Support the document's approach to flooding, drainage and sewerage.	Support noted. The SPD promotes sustainable drainage measures where they are possible.
NB2	Kathryn Davies	<i>Natural England</i>	No objection.	No objection. Advise that SEA/EIA unlikely to be required for the SPD	<p>Advice that SEA in unlikely to be required is noted. This has been confirmed by the Council's own SA Officer.</p> <p>Note that negotiations have been underway with Natural England (Corine Dyke), RSPB, and Torbay Coast and Countryside Trust over the wording of the SPD and avoiding unlawful overlap between s106 and CIL matters.</p> <p>It has been agreed with these organisations to seek to mitigate the biodiversity aspects of planning applications. CIL will be used to address the impacts of recreation upon limestone grassland at Berry Head.</p> <p>Agree: Amend the SPD section on Biodiversity (pages 17-20 to reflect this approach).</p>
NB3	Helene Jessop	<i>RSPB</i>	Suggested amendments	<ul style="list-style-type: none"> • Support no net loss of biodiversity • Support full compensation of circl bunting habitat loss • Support monitoring and management as a CIL or s106 item. • Textural Change 	<p>Policy NC1 and SS8 relate.</p> <p>Agree: Clarify text regarding GHBs</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
				<ul style="list-style-type: none"> • GHBs more likely to be found in unlit areas and less likely in urban areas Re-draft to clarify. • Identify suitable habitat for areas of enhancement if possible. 	
NB4	Justin Milward	Woodland Trust	Suggested amendments	<p>General observations requesting that role of woodland should be strengthened in s106 negotiations. Should not just relate to designated sites. Refer to Natural England and Forestry commission standing advice on ancient woodland and veteran trees. Refer to role of woodland in flood protection and alleviation.</p>	<p>Issues noted. The SPD cannot change Local Plan policy, but agree that the SPD should mention the role of trees in biodiversity and flood alleviation. (Policy NC1 and C4 includes consideration of ancient woodlands and veteran Trees). The SPD is not intended only to relate to designates sites. Amend to require proportionate mitigation of non-designated sites.</p> <p>Add text to include trees and woodlands in the biodiversity and landscape aspects of Table 6.1</p>
Neighbourhood Planning/ Community Bodies					
CB1	Leon Butler	Torquay Neighbourhood Forum	Objections	<p>Object that the SPD makes provision to reduce affordable housing where development would not be viable. Policy H7 of the emerging Torquay neighbourhood Plan states that viability will not be taken into account.</p>	<p>Paragraph 205 of the NPPF indicates that planning obligations should take market conditions into account and policies should be sufficiently flexible to prevent planned developments being stalled. Policy H2 of the Local Plan indicates that affordable housing will be negotiated where it could render development unviable.</p> <p>Policy H7 of the Neighbourhood Plan is likely to require amending before it can be “made” (adopted) as it is not in conformity with the Strategic Local Plan Policy H2. However if it does come into force it will carry more weight than the SPD.</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
					<p>In response to the general comment it is proposed to strengthen the wording to require onsite provision of affordable housing (as agreed with the TDA's Housing and Planning Manager) and Policy SS2.1 - Future Growth Areas which expects delivery of a mix and range of housing types within the FGA. The SPD also indicates that the price paid for land will not normally be a material consideration.</p> <p>Minor amendments to strengthen the requirement for onsite provision of affordable housing.</p>
CB2	David Watts	Paignton Neighbourhood Forum	Objections	<p>1) S106 SPD should not be adopted until outcome of CIL examination is known as the two matters are closely connected.</p> <p>2) Rename "site acceptability" contributions "site deliverability" All obligations are necessary for sites to be acceptable – but the "inner circle" matters are necessary for site deliverability.</p> <p>3) Thresholds for affordable housing should be as per Policy H2 of the Local Plan i.e 3 dwellings for greenfield sites. The Court of Appeal ruling on the Written Ministerial Statement of 28/11/14 does not override local circumstances and need for</p>	<p>1) Partly agree. The SPD and CIL are connected but it is not considered necessary to wait for the outcome of the CIL Examination before proceeding with the SPD. However the SPD may need to be amended if the CIL Examiners Report recommends Modifications to CIL.</p> <p>Should the Examiner require CIL to be levied on sites within Future Growth Areas, this may reduce the scope for "sustainable development" contributions and the Reg123 List will need to be expanded. However there will still need to be guidance on s106/s278 Agreements.</p> <p>Chapter 4 (Sustainable Development Contributions) will need to be considered in the light of the CIL Examination in Relation to FGAs</p> <p>2) Agree. Rename site acceptability contributions "site deliverability" contributions.</p> <p>3) Mayoral Recommendation: Mayoral recommendation to</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
				<p>affordable housing.</p> <p>4) Development impacts on biodiversity should refer to mitigation and not compensation. Remove reference to Grampian conditions (p20) and ensure that off site mitigation is secured through deliverable binding agreement.</p> <p>5) Loss of Employment contributions should reflect the full cost of a job in Torbay- i.e £19,000 rather than £8,000 per FTE. The importance of creating jobs sits at the heart of the Local Plan's growth strategy.</p> <p>6) Object to seeking health care contributions from development in the Care sector. There is a miss match between the SPD and the CCG strategy of stimulating the private care market. Reduce or remove the requirement in table 3.6</p> <p>7) Request site of Kay Elliot report on public realm improvements.</p> <p>8) Viability assessments may need to be published</p> <p>9) The summary of contributions is</p>	<p>retain the Draft SPD threshold of 11 dwellings (6 in the AONB).</p> <p>Officer recommendation: Remove "de facto" changes to Policy H2 in the Local Plan to adhere to the 3 dwelling threshold for greenfield sites. This approach has been agreed with the TDA.</p> <p>4) In part agree. Mitigation is a preferable option to compensation, and is a requirement in the case of Habitats Regulations matters. However compensation is acceptable in some cases not relating to HRA issues. (Policies SS8 and NC1 refer) Agree that off-site requirements must be deliverable and may often require a legal agreement, particularly where additional monitoring burdens arise . However there may be instances where a condition will suffice. Review SPD text to ensure that it correctly reflects legal framework and –for safety's sake- remove the term "Grampian style conditions"</p> <p>5) Whilst the sentiments of Paignton Neighbourhood Forum's arguments on the importance of employment are supported; the SPD puts forward a range of methods to assess the cost of creating new jobs. The £8,000 figure relates to both the Local Enterprise Partnerships figure and the per capita cost of funding the Torbay economic Strategy. The figure is about twice the figure in the 2008 SPD. A higher figure (i.e. £19,000 per FTE) would have a greater impact on viability. It is also noted that this figure will be used to provide mitigation for job creating developments against "sustainable development" obligations. On the basis of the above, it is recommended that on balance the figure of £8,000 per FTE job should be used.</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
				<p>useful. It should make clear that the SPD also relates to commercial development.</p>	<p>6) Health Care Contribution; Disagree for reasons set out below: See also Representations by Pegasus below. The SPD has been agreed with the South Devon Clinical Commissioning Group/ Integrated Social Care provider, via the Council’s Planning and Public Health officer. The CCG seeks to encourage people to live independently at home for as long as possible. There is a need to provide better facilities in some care homes, but there is not a general need to provide more care homes per se. The strategy is to keep people out of the pure class C2 care home sector, and to live in their own homes for as long as possible. On this basis, there is no conflict between Policy H6 of the Local Plan and the SPD and the PCT’s approach.</p> <p>On the one hand the provision of specialist accommodation for the elderly can provide a valuable form of accommodation that helps people retain a degree of independence. They can also help people “downsize” to free up other housing stock.</p> <p>On the other hand, Torbay’s population growth is driven by domestic inwards migration of older people, which places a strain on overstretched Integrated Care Budgets (as set out in the SPD).</p> <p>It is noted that the cost relates to <i>additional</i> burdens placed by new development upon Torbay’s integrated care provision. On this basis the SPD seeks to assess the proportion of residents are likely to be moving into the area, rather than being local moves.</p> <p>It is also recommended that the SPD be amended to provide mitigation against health care contributions where</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
					<p>developments can demonstrate that there will be no additional burden on the Integrated Care budget because sufficient care will be provided in house or where the C2/C3 proposals have a local occupancy condition. This should be clarified in the supporting text. (See also response to Pegasus below).</p> <p>7) Noted. The report will be published by the TDA when complete. The £700k figure in the draft SPD is based on an early draft and is likely to be a significant under estimate. Add text to clarify where Public Realm may be given more weight</p> <p>8) Noted. Whilst the Council note that viability assessments may need to be published, it considers that it is reasonable to respect commercial confidentiality, e.g. by redacting sensitive information. Amend SPD to indicate that open book accounting with appropriate redaction will be expected.</p> <p>9) Agree. Add text to make it clear that the SPD applies to commercial developments as well as residential. It is, however, not so easy to suggest "tariff style" figures for commercial development.</p>
Social Enterprise / Registered Providers etc					
SE1	Elaine Elstone	Tetlow King for South West Housing Associations and Registered	Objections	<p>1) Where affordable housing is required through planning obligations and the council has full nomination rights, it is not appropriate to seek additional contributions.</p> <p>2) Note that 'Starter Homes' are separate from intermediate</p>	<p>1) Noted. Recommend that "sustainable development" contributions should not be sought from affordable housing, where the Council has nomination rights, or if occupation is otherwise restricted to existing Torbay residents.</p> <p>This will put s106 obligations on a par with the approach that would be taken should the Council seek CIL on these sites.</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
		Providers (SW HARP)		<p>affordable housing.</p> <p>3) Object to raising the threshold for affordable housing. The 3 dwelling threshold in Policy H2 should be retained.</p>	<p>2) Agree. Await further information from the Starter Homes Regulations and change to the NPPF. However starter homes are not affordable housing as currently defined in the NPPF, as they have no mechanism for recycling the subsidy into providing further affordable housing.</p> <p>3) Mayoral Recommendation: Mayoral recommendation to retain the Draft SPD threshold of 11 dwellings (6 in the AONB).</p> <p>Officer recommendation: Remove “de facto” changes to Policy H2 in the Local Plan to adhere to the 3 dwelling threshold for greenfield sites. This approach has been agreed with the TDA.</p>
SE2	Meghan Rossiter	Tetlow King for Rent Plus	General comment	Rent Plus model should be considered as affordable housing and should be referenced by the SPD.	Partly agree. It is considered appropriate to mention “affordable rent to buy” products in the SPD. However such a tenure would <i>currently</i> only qualify as affordable housing if a mechanism exists for the subsidy below market rate is recycled for alternative affordable housing provision, as per the NPPF definition.
Developers- Residential					
DR1	Ed Brown	<i>Cavanna Homes</i>	Objections/ amendments requested	<p>1) Page 7. The council cannot require a developer to pay fees towards the administering and monitoring of s106 Obligations. Oxfordshire case has been quoted.</p> <p>2) Reg122 tests are statutory and cannot be departed from.</p> <p>3) P30. The SPD should provide guidance on pepper potting. Suggest clusters of 12 affordable</p>	<p>1) Partly Agree. The Council is unable to charge a blanket administration fee. However it is able to charge for additional costs incurred with collection and monitoring of Obligations.</p> <p>2) Agree. The need to adhere to Reg 122 of the CIL Regulations is a major issue raised by the development industry. Amend SPD accordingly.</p> <p>3) Agree. Add guidance on pepper potting. Advice from the Housing Manager TDA indicates that there should be more than one cluster. On smaller sites of up to 100 dwellings</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
				<p>homes on sites of up to 100 dwellings and 24 affordable homes on larger schemes.</p> <p>4) Legal costs of drafting SPDs. Amend to say “reviewing” rather than drafting.</p> <p>5) P 53. Where reduced Obligations have been agreed following assessment of viability, longer build-out times should be allowed before requiring a reassessment of viability. Suggest 3 years for sites of up to 50 dwellings, and 6 years for developments of 50-150 dwellings.</p> <p>6) Viability assessments should remain valid for 12 months following grant of permission, not the date of the assessment.</p>	<p>clusters of 10-12 dwellings are appropriate: on larger sites clusters of about 20-24 dwellings are appropriate.</p> <p>4) Agree. Amend to read “drafting or reviewing”</p> <p>5) Partly agree. Based on TDA advice, there is some scope to allow for longer build out times before requiring re-assessment of viability. Cavanna Homes suggest allowing 12 months from permission to allow for reserved matters, discharge of conditions, contracts etc. TDA advise that developers require 6 months from the start time on site to the sale of the first house, with a completion/sales rate of 3 dwellings per month thereafter. Thus from date of planning consent: 50 dwellings would take 34 months (18 months to first completion and 16 months to complete 50 dwellings (at 3 per month). 100 dwellings would take 51 months (18 months to first completion plus 33 months).</p> <p>It is prudent to provide sufficient time to allow sites to be built out. However viability can change significantly over 5 years and there is a need to incentivise the completion of development. In addition, affordable housing can often be delivered more speedily than market housing where registered Provider can provide funding up front.</p> <p>Amend timescales for renegotiation in line with assessed build out times above.</p> <p>6) Agree. This section relates to where developers have sought to renegotiate S106 Obligations. The context of renegotiating s106 Obligations it would be reasonable to grant 12 months’ extension from the date of revised obligation being agreed.</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
DR2	Dan Trundle	Origin3 for Taylor Wimpey	Objection	<p>Support flexibility on self build housing.</p> <p>S106 tariff style contributions must be specific to sites and identify specific infrastructure for which no more than 5 Obligations have been pooled.</p>	<p>Support for the flexible wording on self build affordable housing is noted.</p> <p>Agree that CIL Regulations Tests must be met. See comments from other house builders below. The Council confirms that s106 Obligations will adhere to the CIL Reg122 tests of lawfulness. On this basis Obligations will be required to identify specific projects and to ensure that no more than 5 obligations have been pooled for a specific item of infrastructure.</p>
DR3	Mike Harris	Stride Treglown for Abacus/Deeley Freed		<p>Support general approach in SPD, including emphasis on on-site design to deal before resorting to a financial contribution.</p> <p>Support approach of using s106 for large sites.</p> <p>Support the SPD offering viability testing. Critical to ensure that sites are deliverable and that viability is based on realistic assumptions.</p>	<p>Support noted. See general amendments suggested in response to house builders' comments re the tests of lawfulness.</p> <p>Issue that viability assumptions should be realistic is noted. Strengthen undertaking to ensure that CIL Regulation122 tests are met when seeking obligations. This means that specific projects will need to be identified, which have not already received 5 obligations.</p>
DR4	Eliot Jones	Boyer Planning for Bloor Homes		<p>1) S106 requirements must accord with Tests of Lawfulness.</p> <p>Contributions should relate to specific items of infrastructure and no more than 5 items should be pooled.</p>	<p>1) Noted. See comments by other planning agents/housebuilders. Clarify that S106 items will be used for identified projects that are directly related to development and no more than five obligations will be pooled for a specific infrastructure item.</p> <p>As per comments by Paignton Neighbourhood Forum</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
				<p>The definition of “site acceptability” and “sustainable development” contributions should be clarified.</p> <p>Tariff style contributions need to relate to specific infrastructure requirements. E.g sustainable transport cannot simply rely on TRICS based approach.</p> <p>2) Address what is meant by “cumulative impacts” at p40</p> <p>3) Greenspace etc contributions are based on 2007</p> <p>4) Greenspace is potentially a CIL chargeable item and clarity is needed that developers will not be charged twice for S106 items.</p> <p>5) Object to waste management contributions. Clarify what matters can be dealt with through Council’s revenue and what needs to be raised through S106. Approach will breach pooling restrictions.</p>	<p>amend description of ‘site acceptability’ matters to ‘site deliverability’</p> <p>2) Transport impacts are by definition cumulative, and specific mention of them at p40 adds little to the meaning of the section. However it is considered reasonable to seek obligations to address additional impacts on the road network arising from development.</p> <p>3) Noted. Provide a proportionate in-house review of the Greenspace standards and amend s106 charge as above.</p> <p>4) This relates to item 1 above i.e. ensuring that Tests of Lawfulness are adhered to. It is not clear whether Boyer’s comments indicate that they would prefer an expanded CIL approach, and they have not made this argument in relation to CIL. Housebuilders have previously preferred a S106 route.</p> <p>5) Clarify scope of waste management contributions. They should only relate to capital costs and will need to respect pooling limits. Policy W2 indicates that waste management contributions may be sought from developments that generate significant waste. Policy W1 requires all developments to make provision for appropriate waste storage, recycling, (treatment and removal).</p> <p>Where developers pay for bins/boxes, no more than five obligations will be pooled. The Council will seek to require</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
					provision of appropriate bins and boxes prior to occupation via planning condition. However, Tor2 will need to ensure that developers pay the cost of providing bins/boxes.
DR5	David Seaton	PCL Planning (for Cavanna Homes, Taylor Wimpey and Waddeton Park Ltd)	Objection	<ol style="list-style-type: none"> 1) There appears to be double dipping of s106 and CIL on Berry Head. 2) Maintenance of greenspace must not be separated from the capital cost of providing it and is therefore an infrastructure item. Legal judgement is attached. 3) Object to "unlawful approach". Appears to have written from the perspective of a 'nil impact nirvana' rather than balancing priorities. 4) In the context of general objection above, object to loss of employment contributions as "the loss of employment space is either acceptable in planning terms or it is not". Figures in the SPD are "not proportionate to anything quantifiable". 5) Object to sustainable transport contributions. There is double counting between site access matters and sustainable development matters. 6) Object to waste management contributions- the provision of bins is not a reasonable planning demand. New waste management 	<p>1) Noted. This is because of the evolution of CIL and s106 documents. Clarify scope of both to ensure no double dipping. It is proposed to use CIL to address recreational impacts on limestone grassland at Berry Head to Sharkham Point, Brixham, so s106 contributions cannot be used for this infrastructure.</p> <p>2) Noted. This issue is important as it affects the extent to which non-infrastructure items may be pooled. Reg 123 of the 2010 CIL regulations restrict pooling for funding or provision of infrastructure, finding being defined as the <i>provision</i> of that infrastructure by means of funding.</p> <p>3) Disagree. As noted above, it is recommended that the SPD's commitments to the Test of Lawfulness is clarified. However, strongly disagree that the SPD promotes "a nil impact nirvana". It is a well established principle that developer obligations can be used to mitigate the effects of development to ensure that it is acceptable in planning terms. The SPD provide clear mitigations for the beneficial impacts of development.</p> <p>4) Disagree. The Local Plan's level of growth is above the natural rate of population growth because it seeks to encourage economic growth. However Torbay suffers severe economic deprivation and the loss of employment could result in unsustainable development. It is therefore considered lawful under CIL Regulation 122 to seek loss of</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
				<p>facilities is not simply related to new development .</p> <p>7) SPD will place unnecessary financial burdens on development and risks bringing the planning system into disrepute.</p> <p>8) Pooling restrictions prevent more than 5 obligations being pooled for infrastructure.</p> <p>9) Oxfordshire Case makes clear that councils should only levy charges in exceptional circumstances.</p>	<p>employment contributions. The SPD provide a range of methodologies to assess the economic cost of creating a replacement job. The SPD also provides the scope to assess viability to ensure that s106 Obligations do not render development unacceptable.</p> <p>5) See above. The council will need to specify projects that are the subject of obligations, and avoid conflating site deliverability matters with broader sustainable development matters.</p> <p>6) Disagree. The SPD relates to the impacts of additional development and not existing need for waste management. Development without suitable, proportionate waste facilities could be refused under Policy W1 and W2 and the National Waste Planning Policy. It is unlikely the Council would refuse an application solely for lack of contributions towards bins. However this does not mean that the development does not generate a cost to the Council that needs to be met and this will need to be weighed with other material considerations.</p> <p>7) Disagree. The SPD clearly considers the impact on developer contributions upon viability.</p> <p>8) Noted. See above.</p> <p>9) See response to Cavanna Home above.</p>
Developers- Retirement Sector					
RS1	Bill Richardson	Blue Cedar Homes	General comments/ Objection	<p>1) It is difficult to achieve on site affordable housing in retirement developments due to service charges, management regimes and additional facilities needed to support retirement developments.</p> <p>2) Object to seeking extra health and</p>	<p>1) Noted. However elderly persons housing is liable for affordable housing where it falls within use class C3. The SPD does allow for the provision of land or as a last resort financial contributions.</p> <p>2) Issue noted (see also Pegasus below and Paignton Neighbourhood Forum). Amend the SPD that healthcare contributions should only be sought to address additional</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
				<p>social care payments from developers of adaptable housing for the elderly as these provide a need within the community and help people to live independently.</p> <p>3) Elderly persons accommodation should not pay s106 contributions to matters such as education and children's play areas as residents will not use these facilities.</p>	<p>cost arising from specialist development. i.e. from inward migration, and discounting the onsite provision of care/communal facilities that may otherwise need to be met by the public purse.</p> <p>3) Agree. The SPD does not seek such items.</p>
RS2	Louise Fenner	Pegasus for Gallagher Ltd and English Care Village Partnerships.	Objection	<p>1) The definition of housing for older people as being within Use Class C3 is overly simplistic (6.4.1.47)</p> <p>2) Specialist retirement schemes have high costs including the cost of providing communal areas.</p> <p>3) Object to imposition of a tariff on specialist housing for the elderly. More evidence should be provided on the quantum of elderly persons inwards migration.</p> <p>4) Clarify where health care contributions should sit in terms of the hierarchy of priority in the SPD. Notwithstanding comments at (3) suggest that the health and social care charge should take a higher priority than affordable housing.</p>	<p>1) Noted. It is often a matter of degree whether housing for the elderly falls within use Class C2 or C3. The Council has offered a definition of Extra care Housing in the context of the CIL.</p> <p>2) Noted. Extra care housing is zero rated for CIL and much of the cost may be recouped through service charges (which is part of the Sector's argument why onsite provision of affordable housing is not viable). As per response to Blue cedar Homes and Paignton neighbourhood Forum, the SPD should clarify that only matters leading to additional demands on the integrated care budget will be charged health care s106 Obligations. The provision of onsite facilities and flexible care packages that reduce demands on the public purse will be treated in mitigation when considering healthcare contributions.</p> <p>3) Noted. See above. The SPD needs to make clear those contributions should only relate to additional cost arising from specialist development. i.e. from inward migration and provide a discount where the onsite provision of care/communal facilities that may otherwise need to be</p>

Schedule of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document consultation September to 31 October 2016

Ref:	Name	Organisation	General Comments	Details	Torbay Council Response
					<p>met by the public purse.</p> <p>However, Torbay is characterised by significant inwards migration of older people, a proportion of whom will go into specialist accommodation. Provide additional statistics on this in the SPD.</p> <p>4) Agree that a priority needs to be assigned. However it is considered that affordable housing should take a higher priority, as meeting housing needs is fundamental to the planning system.</p>

**Delivering the Torbay Local Plan 2012-30,
a landscape for Success.**

**Planning Obligations and Affordable
Housing Supplementary Planning
Document**

Amended Consultation Draft

November 2016

Delivering the Local Plan: Planning Obligations and Affordable Housing Supplementary Planning Document

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1) INTRODUCTION AND OVERALL APPROACH

1.1 Planning Obligations are an important way of providing the environmental, physical and social infrastructure needed by development. They are also one of the main ways in which affordable housing is provided.

1.2 This is a draft document setting out the Council's approach to planning obligations. It provides additional detail to deliver the Adopted Torbay Local Plan 2012-30 as set out in Policy SS7 and paragraph 4.3.25-37 of the Plan. It is important to note that the purpose of this document is to help deliver sustainable development, not to stifle desirable schemes.

1.3 The SPD was the subject of public consultation between Monday 19th September and Monday 31st October 2016, and reported to Council on 8th December 2016.

1.4 Contributions will usually be sought through S106, but sometimes other types of agreement may be more appropriate. In particular S278 Highway Agreements may be a better way of securing works to highways.

1.5 Planning Obligations should be considered in conjunction with Community Infrastructure Levy (CIL). The CIL Draft Charging Schedule can be read at www.torbay.gov.uk (see below).

1.6 The SPD is relevant to both residential and commercial developments. Planning contributions are sought to mitigate the impact of development. It is often easier to set out the impacts arising from residential development as a formula. However where commercial or other development impacts upon matters such as highways, biodiversity, flooding, town centre management etc, planning obligations will be sought to mitigate their impact. However obligations will not be sought where there is no reasonable link between the development and contribution. For example commercial development is unlikely to make education contributions.

1.7 Where formulas are set out for sustainable development contributions, it is emphasised that these are a starting point to seek to quantify the impact of development. S106 Obligations will not be sought as a "roof tax" but must relate to specific projects that development gives rise to a need for (as per regulation 122 of the CIL Regulations 2010 (as amended)). Where s106 contributions are sought for infrastructure items, no more than 5 obligations will be pooled towards that infrastructure item. The pooling limit does not apply to section 278 Highways agreements.

Who pays Planning Obligations: S106 and CIL

1.8 Obligations may be sought on planning applications as well as matters requiring Prior approval, subject to the tests of lawfulness and other restrictions (see below).

1.9 The Council's approach is to seek CIL on smaller developments, **and larger developments which are not within Future Growth Areas** broadly speaking 10 dwellings or fewer (5 or fewer in the AONB). "Tariff style" s106 contributions may **not** be sought from such sites. The CIL Charging Schedule may be found at www.torbay.gov.uk

1.10 Where CIL is sought on smaller sites, the only s106 contributions sought will be specific Site Deliverability matters. In a very limited number of cases, affordable housing

may also be sought on CIL liable developments (i.e. greenfield sites of 11-15 dwellings or 6-15 in the AONB, in accordance with Policy H2).

1.11 Larger residential developments, ~~above the threshold for affordable housing~~ **in Future Growth Areas** will be the subject of negotiation with developers to ensure that an appropriate s106 Agreement provides the infrastructure necessary to make development acceptable in planning terms, including the provision of wider community infrastructure.

1.12 It is acknowledged that there may need to be an element of cross subsidy for certain infrastructure, but this approach is considered by the Council to be the fairest and simplest to as many people as possible.

Restrictions on s106 Obligations

1.13 S106 Obligations are subject to restrictions set out below. The Council will adhere to these when seeking planning obligations.

1.14 All s106 obligations must meet the CIL Regulations Tests of Lawfulness (set out in regulation 122 of the CIL Regulations 2010 and NPPF paragraph 204). They must be

- Necessary to make the development acceptable in planning terms.
- Directly related to the development, and
- Fairly and reasonably related in scale and kind to the development.

1.15 Because of the impact that affordable housing and other infrastructure requirements have on development viability for larger sites, the Council seeks to address infrastructure issues arising from such sites through s106 obligations rather than CIL.

1.16 Where a s106 obligation is for an item of infrastructure capable of being funded through CIL, the Council will not pool more than 5 s106 obligations towards that piece of infrastructure. This does not apply to non-infrastructure items such as **training, monitoring, and habitat management**.

A Note on Thresholds for Affordable Housing and Tariff Style Contributions.

1.17 Since the publication of the Local plan, the Court of Appeal has upheld the Government's right to set thresholds for affordable housing and tariff style contributions through written ministerial statement and changes to the Planning Practice Guidance. Whilst this does not replace the Local Plan, the Council considers that the PPG and Written Ministerial Statement are material considerations that temper the interpretation of the Local Plan.

1.18 Accordingly affordable housing and "tariff style" contributions will only be sought on sites of 11+ dwellings or 6+ in the AONB.

1.19 The term "tariff style" contribution is used but not defined by the Planning Practice Guidance. The Council take it to refer to contributions that arise for infrastructure which development generates a need for (and are thus necessary to make a development acceptable in planning terms) but are not directly necessary to make a development safe, legal or function in direct physical terms.

1.20 It is noted that the situation is evolving and a number of Inspectors have supported lower thresholds (at Elmsbridge and Cambridge). The Council will keep emerging practice and legislation under review with regard to permissible thresholds.

1.21 The Government has suggested that a threshold of 10 dwellings should apply for starter homes (see below).

The Torbay Local Plan 2012-30 A landscape for success

1.22 The new Torbay Local Plan 2012-30 A landscape for success, was adopted on 10th December 2015. This document, along with neighbourhood plans when adopted, forms the development plan. Planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise (see NPPF paragraph 2). The Local Plan provides the framework for development in Torbay as well as the basis for seeking planning obligations.

1.23 Policies for seeking obligations are set out in the Adopted Local Plan 2012-30 (see Figure 2 below). This SPD provides guidance on the implementation of these obligations and sets out how the impact of development can be assessed.

1.24 All of the policies in the Local Plan have been assessed for their impact on viability¹. However there may be instances where planning obligations and/or CIL could undermine development viability. The Local Plan undertakes to negotiate with developers to ensure that sustainable development schemes can be built. This SDP sets out the Council's approach to assessing and negotiating viability (see Part 5). Note that the scope to negotiate "site acceptability" requirements is much more limited than of affordable housing or wider "sustainable development" style contributions.

1.25 Planning Conditions will be used wherever possible (rather than S106 Obligations).

Prioritisation of Developer Obligations

1.26 Policy SS7 "Infrastructure, phasing and delivery of development" sets out the Local Plan's overall strategy for seeking planning obligations. It indicates that contributions will be prioritised, to ensure that the most critical infrastructure is delivered. The Council prioritises s106 Obligations as follows:

- **Site Deliverability Matters** – essential site specific matters to mitigate the impact of development e.g. access and necessary road improvements, flooding, drainage/sewer capacity, direct biodiversity, landscaping. Planning conditions will be used wherever possible. Site Deliverability matters apply to all development.
- **Affordable Housing and critical socio-economic infrastructure** (including employment provision and health care on developments giving rise to additional care needs). Larger sites of 11+ dwellings/ 6+ in the AONB. All applications with a n employment or health impact
- **Wider sustainable development style** Will be used to secure broader

¹ Torbay Whole Plan Viability Assessment, Peter Brett Associates, 2014

contributions (e.g. waste management, education, open space/ recreation, wider environmental/green infrastructure, town centre management etc.). This applies to developments where CIL is not sought (i.e. larger residential developments in **Future Growth Areas**) and all commercial developments that have an impact which needs to be mitigated. These matters are still required to make development acceptable in planning terms, but not necessarily essential to render the development physically safe or legal. These are sometimes called “tariff style” contributions, although the council considers that this term can be misleading.

infrastructure from larger developments in Future Growth Areas (rather than CIL).

Whilst the SPD sets out figures based on an assessment of likely impacts, sustainable development obligations will not be sought on a “roof tax” basis but must relate to specific items that meet the CIL Tests of Lawfulness, (see “restrictions on s106 Obligations above)

Mitigation of specific impacts e.g. monitoring or town centre impacts, principally arising from larger development.

1.27 These are represented as diagrammatically as concentric rings or a pyramid of priorities (the nearer the base representing the higher priority) in Figures 1 and 2.

1.28 In the context of this document “larger developments **in Future Growth Areas**” refers to residential developments in Future Growth Areas where a zero rate of CIL is sought, but where the Council seeks to address the infrastructure needs arising from development through S106 Obligations.

~~Other types of developments which have a combined floor space of more than 1,000 sq. m (gross internal area) will be considered as larger developments, although S106 obligations will be sought from smaller commercial developments where there is a need to mitigate their impact on infrastructure etc.~~

Figure 1.1 S106 Priority

Community Infrastructure Levy (CIL)

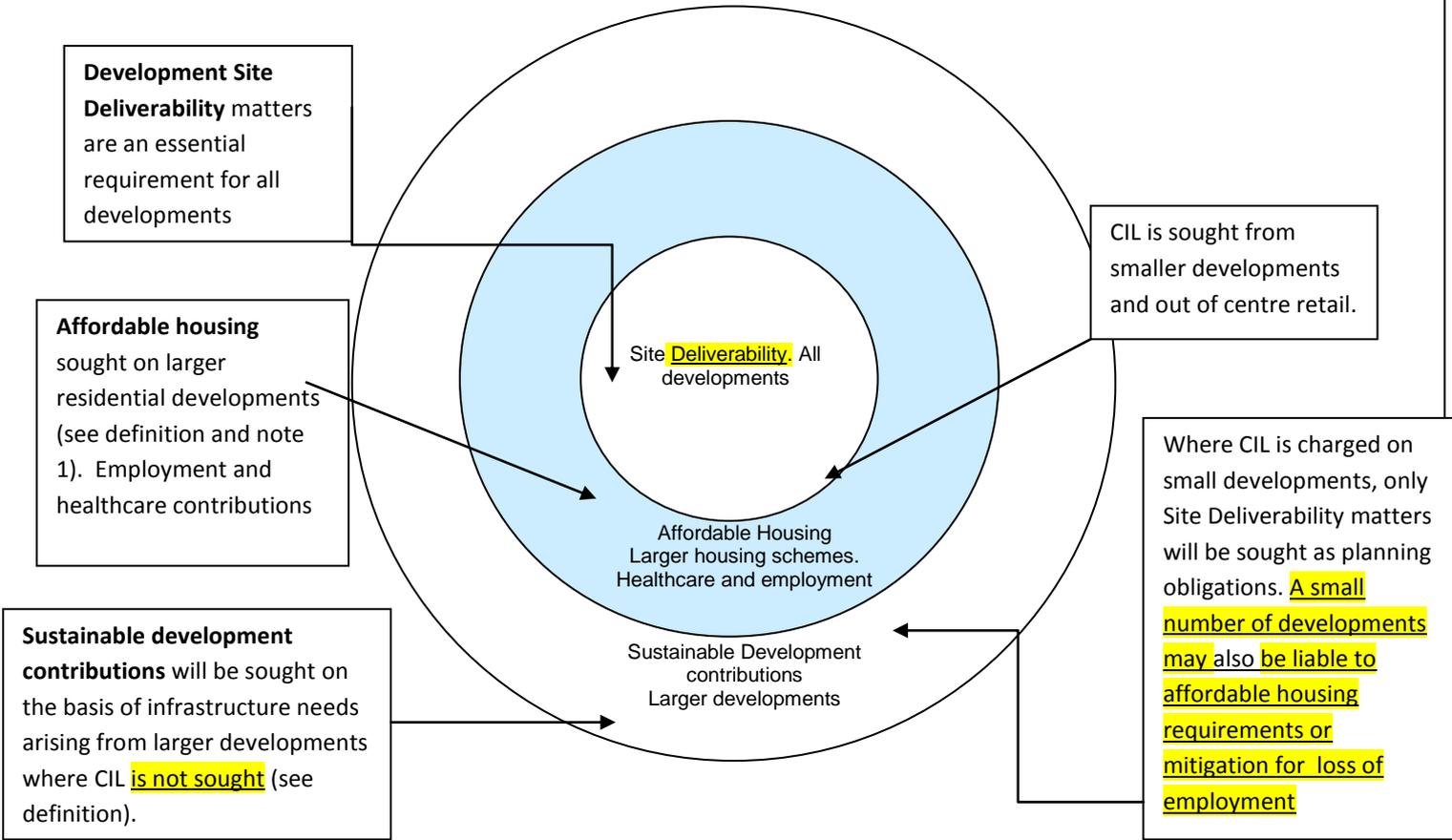


Figure. 1 Proposed Structure of Planning Obligations and Affordable Housing Supplementary Planning Document. and relationship to CIL

Figure 1.2: S106 Themes and prioritisation

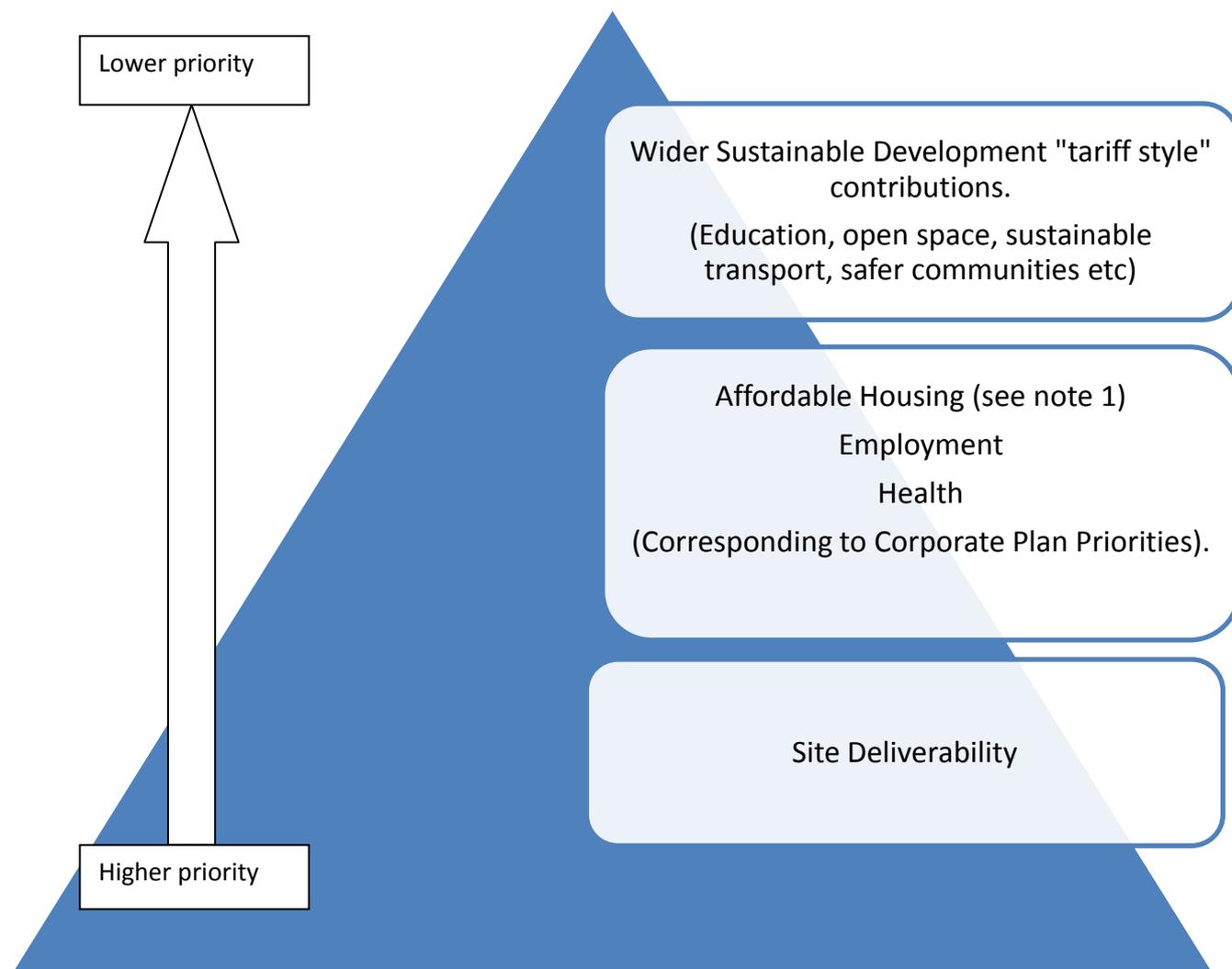


Figure2

Note 1 Affordable Housing. Affordable housing is defined in the National planning Policy Framework. The Council will have regard to a general duty to promote starter homes but this will not take precedence over Policy H2 unless required to do so by Regulations or other legislation.

Note 2. Policy H2 and Policy SS11 of the Local Plan indicates that the Council may agree reduced affordable housing provision where this would secure significant benefits to disadvantaged areas, including enhancement of the local natural or built environment. These would need to be so central to the delivery of the site as to render it a "site deliverability" matter.

Figure 1.3: Justification for Seeking Developer Obligations in the Adopted Torbay Local Plan 2012-30.

Item	Local Plan Policies/ Reference	Applicable to
Site Deliverability (highest priority)		
Apply to all developments (residential and non-residential). Will be addressed through site design/condition where possible. Limited scope to negotiate.		
Development Access	TA2 SS6	All development where there is an impact on access. Will be through S278 Agreements where possible.
Drainage and sewerage	ER1, ER2, 6.5.2.18 C3, 6.3.1,20 SDP2 Paignton town centre SDP3 Paignton North and Western Area.	All development including domestic extensions and prior approval. S 2-3. Particularly development within coastal location or flood risk zone
Flooding	ER1, ER2, 6.5.2.18 C3, 6.3.20 SDP2 Paignton town centre SDP3 Paignton North and Western Area DE1,DE2, DE5 W5	All development within coastal location or flood risk zones 2-3 and 1 where there are other flooding risks (wave action etc.).
Waste water	W5 6.5.3.23 and 6.5.3.24 Buckland WWTW 6.5.3.27	All developments (including Prior Approval) see Drainage above.
Marine habitats Water quality	NC1, 6.3.2.7 ER2 ,6.5.2.18	All development where there is an impact marine habitats
Greater horseshoe bat mitigation	SS1, SS2, SS8, NC1, 4.1.20, 4.1.21, SDP1, SDP3, SDB1, C1	All development where there is an impact on greater horseshoe bat foraging area/flightpaths
(Recreational Pressure on Berry Head)	(SS8, SDB1, NC1 TO1 6.3.2.3 to 6.3.2.5)	Residential and tourism development within the Brixham Peninsula area. It is proposed that this will be a CIL item and therefore S106 Obligations will not be sought towards mitigation of recreation impacts on Berry Head.
Cirl buntings	SS8, NC1, 6.3.2.12, SDT3, SDP3, SDB3	All development where there is an impact on habitat used by breeding or wintering cirl buntings or their habitats
Biodiversity-other	SS8, SS9 NC1	All development where there is an impact on habitats.
Design	6.1.2.19-20 DE1, DE2, DE3	All development – usually through design/conditions
Affordable Housing, employment and health		
Applies to residential developments above threshold. Proportions of affordable housing have been kept low to safeguard viability. Some scope to negotiate tenure on the basis of viability, subject to an overall development package being in the public interest.		
Regard will need to be had to the provision of starter homes as an element of affordable housing provision		

in Policy H2.

Employment provision is essential to delivery of Local Plan Strategy. Some scope to negotiate on the basis of viability, subject to an overall development package being in the public interest.

Additional healthcare/social services impacts arising from development that give rise to healthcare impact (e.g. sheltered housing, extra care units and care homes).

Some scope to negotiate on the basis of viability, subject to an overall development package being in the public interest.

Note that the requirement in the Housing and Planning Act 2016 to provide starter homes will affect the delivery of general needs affordable housing.

Affordable housing- general	Policy H2, 6.4.16 to , 6.4.1.18 H3. 6.4.1.19-27.	Sites over the threshold
Empty homes/ regeneration	4.5.18, 4.5.32 use of affordable housing contributions to bring empty homes back into use.	Sites where affordable housing is sought as a commuted payment.
Self build housing	H4, 6.4.1.19-27 (especially 6.4.1.24)	Self build homes (whether built as exception site or as a % of affordable homes.
Employment (and early delivery). Employment – contributions towards loss of employment	SS4, SS5, 4.2.19 4.2.27, 4.2.29 6.1.2.15	Commercial development and development entailing the loss or gain of jobs.
Live /Work units	4.2.31	Live work units, either through condition or S106 Obligation.
Healthcare and broader healthy communities	SS11.4 H6, 6.4.1.49 SC1	Development likely to give rise to healthcare impact (sheltered housing, extra care and care units). Health Impact Assessments on developments likely to impact on health Sites of 50+ dwellings should provide 5% of dwellings to Accessible and Adaptable standard.

Sustainable development infrastructure from larger developments. See definition above (Third priority).

Applies to larger residential developments in Future Growth Areas **where the CIL Charging Schedule indicates that s106/s278 obligations will be sought to fund infrastructure rather than CIL above threshold for affordable housing** and commercial developments where there is a particular impact which needs to be mitigated (e.g. sustainable transport, town centre management).

Whilst not essential for safety or direct operation of the development, such infrastructure is necessary to make development sustainable and therefore acceptable in Planning terms. **Regard will be had to the CIL Regulations Tests of Lawfulness and contributions will be linked to specific projects/items.**

There is some scope to negotiate on the basis of viability.

Regard will also be had to the threshold for “tariff style” contributions set out in the Written Ministerial Statement of 29/11/2014 and set out in the PPG. This is: Residential developments of 11+ dwellings (or 1000 sq. m)/ 6+ in the AONB. **However most such developments will be CIL liable and sustainable development contributions S106 Obligations will not be sought from developments that pay CIL**

The threshold for “tariff style” contributions also covers commercial developments of less than 1000 sq m

Infrastructure, phasing and delivery of development.	SS7, SS11	Residential developments of 11+ dwellings (or 1000 sq. m)/ 6+ in the AONB. Brownfield sites of 15+ dwellings. Commercial development where there is a need created for infrastructure.
Transport Infrastructure	SS6 4.3.10 (Western Corridor) 4.3.16 (A385 Totnes Road)	Residential developments of 11+ dwellings (or 1000 sq. m)/ 15+ dwellings on Brownfield sites. Commercial development where there is an impact on transport infrastructure The South Devon Highway is a CIL item.
Greenspace-Open space, sport and recreation	SS9, SC2	Residential developments of 11+ dwellings (or 1000 sq. m)/ 15+ dwellings on brownfield sites.
Education	SS11 SC3 6.4.3.15, SC5 (Child Poverty and equality of access)	Development of 11+ dwellings/ 15+ on brownfield sites.
Sustainable food production	SC4	Residential developments of 30+ dwellings
Sports and Leisure	SC2 DE1 Active design	Residential developments of 11+ dwellings/ Brownfield sites of 15+ dwellings (or 1000 sq. m). Active design principles apply to all developments as far as practical (usually through planning permission).
Town centre management	TC1 TC5 Evening and night time economy 6.1.1.23	Commercial development which has an impact on town centre management.
Monitoring	6.12.10 6.4.1.34	Development which give rise to specific monitoring/ management requirements (e.g. holiday occupancy, HMOs, biodiversity)
Waste management facilities	W1, 6.5.3.6 W2.5	On-site design for all developments, and sustainable development contribution from larger sites or where recycling cannot be achieved.
Implementation		
Applies to all development. It is intended that most small scale proposals will not require S106 Obligations.		
	Part 7: 7.4, 7.4.8 et seq, especially 7.4.11 6.4.1.12-18 viability testing	

2). SITE **DELIVERABILITY** MATTERS

2. SITE **DELIVERABILITY** MATTERS

2.1 These relate to works that must be carried out directly to the site to render development workable in physical terms, safety or meeting legal requirements. It includes matters such as access, landscaping, protected species, drainage and flooding.

2.2 Many matters can be addressed through the use of conditions rather than requiring a legal agreement. Conditions will be used where possible. However conditions will not be used to defer considerations that are central to an application's acceptability, such as drainage, flood risk and biodiversity.

2.3 Because site impacts are unique to each development it is not practical to set standard formulae. Policies SS2 and the Strategic Development (SD) Policies of the Local Plan set out key infrastructure matters in proposed Future Growth Areas.

2.4 Development Site Deliverability matters will need to be addressed before other obligations can be sought, and there is limited scope to negotiate on them.

2.5 This section is not intended to imply that all development is capable of mitigation. Although the Council will endeavour to overcome obstacles to granting permission, some proposals will be unacceptable due to their environmental or other impact.

Site Access and direct safety works (Local Plan Policy TA2)

2.6 There is an expectation that developers will pay for access to a development site and/or additional works necessary for safety or operational purposes (e.g. traffic lights, pedestrian crossings, cycle ways, footpaths etc.). **The impact of the development upon junction and road capacity in the immediate vicinity of the site (allowing for a reasonable period of traffic growth, usually five years) will also be considered as a site deliverability matter.**

2.7 However impacts on the wider transport network not directly related to junctions etc in the immediate vicinity of the site will be considered as sustainable development contributions.

2.8 Highway works are currently generally provided through s278 of the 1980 Highways Act.

2.9 The Council will require site access and associated works to be carried out by the developer under s278 in most instances. S278 Agreements are not subject to pooling limitations. They are subject to restrictions on "double dipping" so highway infrastructure that is funded through CIL (i.e. the South Devon Link Road) cannot be the subject to new s106 or s278 Agreements.

2.10 Matters such as internal road layout, parking, provision of cycling facilities etc will usually be dealt with through conditions as part of the development management process (see Policies SS6, TA1 to TA3).

2.11 Roads etc will need to be provided to an adoptable standard. They should provide necessary access to later phases of development by providing highway land to the edge of sites in order to prevent the creation of ransom strips. Details of the Council's highways standards are set out in the Highway Design Guide and Practice Guidance.

Flooding (Local Plan Policies ER1, ER2, NPPF paragraphs 103-104, and footnote 20)

2.12 The NPPF and Policy ER1 "Flood risk" require development to be located in areas with lowest risk of flooding on the basis of sequential and exceptions tests.

2.13 Where (on the basis of the above Policy Framework) development is deemed acceptable subject to flood resilience measures identified in the Flood Risk Assessment; the council will require flood resilience measures to be provided. Policy ER1 (etc.) requires a focus upon sustainable urban drainage and water sensitive urban design. However resilience measures such as water resistant doors, raised floor levels and high level electrical wiring will also be encouraged.

2.14 Such matters will usually be dealt with through planning conditions rather than obligations. However details of flood protection measures will be required when proposals are submitted.

Flooding, Drainage and Sewerage (Local Plan Policies ER1, ER2, W5)

2.15 Drainage is closely related to the issues of flooding and sewer capacity.

2.16 Torbay has been declared a Critical Drainage Area by the Environment Agency (see Policy 6.5.2.13 of the Local Plan). In addition Natural England have raised concern about the impact of combined sewer overflows affecting the candidate Special Area of Conservation (SAC) in Torbay. The Council's evidence² indicates that the impact of "urban creep" and climate change pose a significant risk to Torbay's sewer capacity.

2.17 Policies ER2 and W5 sets out a test to ensure that no additional surface water is discharged into shared sewers. Planning proposals, including prior notifications should ensure that all development (including brownfield sites) mimic greenfield run-off rate (or better).

2.18 The use of Sustainable (urban) Drainage Systems (SuDS) and Water Sensitive Urban Design (WSUDs) to achieve this is strongly encouraged.

2.19 Details of such measures will be required before permission is granted as part of a proposal's Flood Risk Assessment, and implemented prior to the development taking place.

2.20 As with flooding, matters to do with drainage will normally be dealt with through planning condition and the use of sustainable drainage/ water sensitive urban design will be promoted where possible.

2.21 Planning Obligations for off site mitigation will only be accepted as a last resort, and if a suitable project that does not fall foul of pooling restrictions and is implementable can be identified. If this cannot be achieved, proposals will need to be refused.

² Assessment of Sewer Capacity In Torbay, AECOM/SWW 2014

2.22 Developers will require a licence from SWW to connect to foul sewers. Where additional sewerage is required the Council, in liaison with South West Water, will seek to ensure that sufficient capacity is provided to meet the requirements of the whole Future Growth Area. This may mean that earlier phase developers overpay for drainage/flooding measures and provide proportionately less for less critical infrastructure, which will be met by later phases of development.

Biodiversity

2.23 In relation to biodiversity the National Planning Policy Framework (NPPF) requires development to minimise impacts on biodiversity and provide net gains where possible (paragraph 109 and 117-118)

2.24 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. They should identify ways to integrate biodiversity in developing policies, strategies, in managing land and buildings and developing infrastructure (roads/flood defences) etc.

2.25 In accordance with the NPPF, the Local Plan Policy NC1 indicates that there should be no net loss of biodiversity through development and the aim will be to secure net gain.

2.26 The approach set out in the following paragraphs is designed to have benefits for developers, local communities and habitats and species.

Development Impacts on Biodiversity

2.27 Some development sites will undoubtedly impact on biodiversity. The mitigation hierarchy of avoid, mitigate, compensate, enhance should always be followed.

2.28 Where impacts cannot be avoided, mitigated or compensated for on the development site, or on other land owned by the applicant, contributions for off-site mitigation or compensation will be sought.

2.29 It should be noted that this approach is not a replacement for the protection of those habitats and species covered by legislation. Furthermore, the approach will not be appropriate in all cases e.g. where there will be loss or deterioration of irreplaceable habitats. **Development** likely to affect habitats and/or species associated with an international site will be subject to assessment under the Habitats Regulations and will not be permitted unless **any likely significant effects can be fully mitigated any adverse effects upon integrity can be ruled out**

2.30 The following deals with specific biodiversity related issues of importance to Torbay:

- Greater horseshoe bats (*Rhinolophus ferrumequinum*) **associated with the Berry Head to Sharkham Point component of the South Hams SAC**
- Cirl buntings (*Emberiza cirlus*)
- Recreational impacts on the Berry Head to Sharkham Point component of the South Hams SAC (Calcareous grassland and other habitats)

~~Locally important protected sites for biodiversity or geodiversity~~ **Protected Sites – locally important sites for biodiversity and geodiversity** ~~Mitigation of biodiversity impacts via contributions for off-site habitat enhancement (biodiversity offsetting).~~ **Off Site Habitat Compensation (biodiversity offsetting)** **Greater Horseshoe Bats (*Rhinolophus ferrumequinum*)** associated with the Berry Head to Sharkham Point component of the **South Hams SAC**

2.31 The greater horseshoe bat (GHB) is a rare species in the UK **with a significant proportion of the population found in South Devon although it can be found almost anywhere in Torbay.** Most records refer to animals at traditional roost sites, commuting along strategic flyways or foraging in sustenance zones. 2.32 Natural England has produced the South Hams SAC Greater Horseshoe Bat Consultation Zone Planning Guidance (June 2010). The guidance identifies sustenance (foraging) zones around each of the component roosts of the SAC, as well as the strategic flyways which are most likely to link the SAC roosts. **The guidance provides details on the current protection for Greater Horseshoe Bats in Annex A.**

2.33 Those developments located in a greater horseshoe bat strategic flyway or sustenance zone will need to follow the above Natural England guidance. Such developments are likely to need a Habitats Regulations Screening Assessment, and potentially a full Appropriate Assessment, to determine whether there are any Likely Significant Effects on the SAC.

2.34 Impacts on greater horseshoe bats will need to be mitigated for on the development site, or on other land owned by the applicant. This can normally be achieved through the maintenance of dark corridors and habitat management measures that ensure that there are no detrimental impacts on the ability of the species to navigate and feed, and that there are no **adverse** impacts on the favourable conservation status of the species.

2.35 Within the context of ‘in-combination’ impacts, ensuring the greater horseshoe bat population’s resilience and the precautionary principle regard to enhancement for, and improving the resilience of the population of, greater horseshoe bats in Torbay, a number of strategic measures have been identified in conjunction with Natural England as detailed in the table below.

~~Contributions towards these measures will be taken via CIL for CIL chargeable development. Other mechanisms to mitigate impact, such as direct provision or s106 obligations will need to be provided by development that has not paid CIL. Such works, or management programmes, will be different from CIL funded infrastructure.~~

2.36 Contributions for these measures will be charged through s106 from the developments in the strategic growth areas as, based on their locations, these developments are the ones likely to impact on the greater horseshoe bat population and habitat. The need for contributions or other measures to mitigate the impact from any ~~non-CIL chargeable~~ **other** ~~developments or developments within Future Growth Areas~~ will be determined on a case by case basis. This will be identified through the Habitats Regulations process.

~~It should be noted that the list of strategic measures is likely to evolve over time and early discussions with regard to potential mitigation and enhancement for greater horseshoe bats~~

are welcomed. Table 2.1 below shows the list of strategic mitigation measures. Based on monitoring the greater horseshoe bat population and their habitat, these measures may be amended in the future.

Table 2.1 Greater Horseshoe Bat Strategic measures (note that contributions will be sought on a case by case basis based on impact)

Strategic measure	Cost (at 2016 rates)
New maternity roost provision at Berry Head (Priority project 1)	£80,000
Existing building enhancements to create new roost locations, potentially at: Sharkham Point, Berry Head, Woodhuish Farm (Priority project 2)	£40,000
Improvements to foraging habitat within the sustenance zone Land purchase and/or habitat enhancement of existing sites	To be determined on a case by case basis
New survey roosts and On-going monitoring of the Greater Horseshoe Bat population	To be determined on a case by case basis

Note that contributions will be sought on a case by case basis based on impact.

Cirl Buntings

2.37 The cirl bunting is a rare species in the UK, with a very restricted range. Most of its population is in South Devon, and a survey in 2009 showed that just over 8% of the UK population was in Torbay. The cirl bunting is a UK species of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. These species were identified as requiring action under the UK Biodiversity Action Plan and remain conservation priorities under the UK Post-2010 Biodiversity Framework. The cirl bunting is also protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), and is a red listed bird of conservation concern.

2.38 In areas where there are historic records of cirl buntings breeding territories, or where suitable habitat is present on a development site, the developer and Torbay Council will either need to accept presence of cirl buntings and agree on the level of presence or undertake specific Cirl Buntings surveys, in accordance with the Wildlife and Development Guidance Note: Cirl Bunting (Devon County Council, Teignbridge District Council and RSPB, draft June 2016 currently being finalised) latest RSPB guidelines, to determine the level of presence.

2.39 Where loss of summer breeding or winter cirl bunting habitat is unavoidable, compensatory habitat must be provided. This is unlikely to be achieved on the development site but may be able to be achieved. This may be able to be achieved on the development site, or on other land owned by the applicant within Torbay, although it is acknowledged that the creation and on-going management of suitable arable habitat within a development might be difficult to achieve.

2.40 Where suitable mitigation or compensation cannot be provided on site, contributions towards off-site compensation will be sought. Grampian conditions may be used to secure compensation prior to commencement of works.

2.41 Torbay Council is working with the RSPB and the Torbay Coast and Countryside Trust (TCCT) to identify potential off-site compensation sites for cirl buntings in Torbay.

2.42 Based on this work, **compensatory habitat provision for an additional six pairs of cirl buntings at Cockington has been identified.** ~~potential compensation sites at Cockington and Maidencombe have been identified.~~ A payment in the region of **£87,313** ~~£87,500~~ (at 2015-2016 costs) per pair of cirl buntings will be required for compensation **for** those site which are owned by Torbay Council and managed by TCCT. The offsite compensation payment will cover a 25-year management agreement **covers TCCT management and monitoring costs for 25 years. TCCT has every intention to continue to manage the land in accordance with the agreed Scheme of Management until the expiry of its current lease in 2060. A similar Scheme of Management is being developed for TCCT managed land at Maidencombe.**

2.43 **Further details can be found within the Wildlife and Development Guidance Note: Cirl Bunting (Devon County Council, Teignbridge District Council and RSPB, draft June 2016** with a commitment from TCCT to provide on-going management to the end of their current lease agreement on the land (2060). ~~Habitat management will be in line with the cirl buntings habitat requirements set out in the RSPB's Draft Wildlife and Development Guidance Note: Cirl Buntings (June 2016) and will include monitoring to establish success.~~

Recreational impacts on the Berry Head to Sharkham Point component of the South Hams SAC

2.44 As detailed in Policy NC1 of the Torbay Local Plan, developments comprising new housing or new holiday accommodation within 5km drive distance of the SAC (broadly equivalent to the Brixham SDB1 policy area) will be required to make a financial contribution towards mitigating the impact of additional recreational pressure on the calcareous grassland at the Berry Head to Sharkham Point component of the South Hams SAC.

2.45 **The Council has published the management of recreation impacts on the limestone grassland between Berry Head and Sharkham Point on its Regulation 123 List of matters it intends to fund through CIL. On this basis Contributions for this matter will be taken via CIL.**

Protected Sites - locally important sites for biodiversity and geodiversity

2.46 The Torbay Local Plan identifies locally important sites for biodiversity and geodiversity; these include County Wildlife Sites, Other Sites of Wildlife Interest, Unconfirmed Wildlife Sites and Regionally Important Geological Sites. **In addition policies NC1 and C4 seek to protect veteran trees and woodland.** ~~Developments within 500m of these Protected Sites~~ locally important sites are likely to impact upon and/or benefit from them. Accordingly, there may be a need for these developments to contribute towards enhanced management of these sites. Contributions will be modest and the need for, and level of, contributions will be determined on a case by case basis.

Off Site Habitat Compensation (biodiversity offsetting)

2.47 Where impacts on local habitats cannot be avoided, mitigated or compensated for on the development site, or on other land owned by the applicant, contributions for off-site habitat compensation will be sought.

2.48 For small developments that involve the loss of local habitat, a contribution of £25 per sq m will be sought (Calculated on the basis of 95p—£1 per sq. m habitat loss will be applied per year for 20 years). For example loss of 100 sq. m of habitat would result in a contribution of £2,000 (£1 x 20 years x 100 sq. m).

2.49 For larger developments contributions will be determined on a case by case basis.

2.50 Contributions will be used to provide off site habitat enhancements in accordance with management plans. There are a number of locally important sites across Torbay which have the potential to provide off site compensation through enhanced habitat management. These include County Wildlife Sites, Other Sites of Wildlife Interest and Unconfirmed Wildlife Sites, (see Appendix D of the Local Plan). In addition there may be potential for off-site compensation on other land, including land owned by Torbay Council and managed by the Council or TCCT.

~~Where contributions are sought for off site recreation, they will be treated as “sustainable development contributions” and will not be sought from developments that have paid CIL. Where an application involves the loss of greenspace and/or biodiversity, S106 contributions will be sought to offset their impact as a Site Deliverability matter. The Council do not consider this to be a “tariff style” contribution.~~

2.51 Consideration will be given to other biodiversity obligations or on-site provision to avoid “double counting”, i.e. financial contributions will only be sought to compensate for a net loss of biodiversity. This planning contribution mitigates a site specific impact and is therefore a site deliverability matter. Where used for greenspace management it is not infrastructure subject to pooling. It will not be used to duplicate matters that are CIL funded (i.e. the limestone grassland at Berry Head).

Design and active design

2.52 Policy DE1 of the Local Plan sets out a requirement for development to be well designed and contain a checklist of considerations relating to development’s function, visual appeal and quality of open space. Particular attention is drawn to designing out opportunities for crime, anti-social behaviour etc., and liaison with the Police Architectural Liaison Officer on major developments. The Policy also requires the provision of layouts and design which encourage active lifestyles and promote walking, cycling and public transport. Policy DE2 encourages the use of Building for Life Criteria.

2.53 Policy DE3 Development amenity sets out a requirement for good layout of dwellings including guidance on space standards, amenity space, road layout, parking, bin and storage areas. It sets out a guideline requirement for houses to have 55 sq. m of outside amenity/garden space and flats to have 10 sq. m per unit.

2.54 Policy SC1 Healthy Bay requires applicants to have regard to promoting healthy living. Developments of 30 or more dwellings, and smaller scale developments where there is an impact on health will be required to undertake a screening for a Health Impact Assessment.

2.55 Such matters are central to the development management process and it is expected that in most instances they will be addressed through conditions and the negotiation of layouts etc. ~~In instances where the promotion of healthy lifestyles etc. cannot be accommodated on-site (but are not essential to the safe or legal operation of a site), contributions will be sought as an equal priority to affordable housing and employment.~~

2.56 Policy SS10 Conservation and the historic environment requires development to contribute towards the character and local distinctiveness of the area. There will be instances where public realm improvements are central to the success of development, particularly in town centre and waterfront areas. In such instances public realm improvements may be prioritised.

2.57 Policy SS11 sets out a range of measures to regenerate community investment areas, including protecting and enhancement of the built environment or creating better accessibility and connections serving the local community. Helping to promote healthy lifestyles for example through promoting walking and cycling will also be given a high priority in these areas.

2.58 Whilst broader public realm improvements are treated as a sustainable development contribution (see Section 4 below), there will be instances where public realm/physical regeneration is considered critical to the success of an application to the extent that it will be considered to be a site deliverability matter, and prioritised accordingly. In many instances this can be achieved through conditions and good design of development and its environs. There may however be instances where s106 obligations are justified for offsite works in close proximity to the site.

3. Affordable Housing Employment and Health

3. AFFORDABLE HOUSING EMPLOYMENT AND HEALTH

3.1 This section sets out guidance on the implementation of the Council’s affordable housing, employment and health policies. These will be given the next highest priority in negotiating S106 obligations after direct Site **deliverability** matters have been taken into account. Note however that active design and related matters such as on-site green **open** space provision will often be dealt with through planning condition as part of Site Deliverability matters

Affordable Housing

3.2 Policy H2 of the Adopted Local Plan 2012-30 sets out the Council’s affordable housing requirements. **Policy SC5 “Child poverty” also promotes affordable housing and other measures to help reduce child poverty.**

3.3 Policy H2 remains the Council’s adopted Local Plan Policy. However the Government has won a Court of Appeal right to set a minimum threshold of 11 dwellings through written ministerial statement dated 28 November 2014. It subsequently amended the Planning Practice Guidance on 21 May 2016 to reflect these minimum thresholds. The WMS, PPG and ~~clearly stated Government intention~~ **intend** to restrict affordable housing thresholds are material considerations and **it is recommended that affordable housing contributions are not sought from dwellings of 1-10 dwellings or 1-5 dwellings in the AONB.**

~~Chapter 1 of the Housing and Planning Act 2016 creates a general duty upon Local planning authorities to promote starter homes. This will be implemented through Regulations. A technical consultation dated March 2016 indicates a preferred option of 20% of dwellings on sites of 10 or more units (or 0.5 ha) should be provided as starter homes, in addition to other affordable housing requirements (pp12-13). However until and unless Regulations come into force, it is recommended that Policy H2 remains the basis for seeking affordable housing. Starter homes may be sought as an element of intermediate affordable housing.~~

~~There is likely to be an exemption where the requirement would render sites unviable, but the consultation appears to indicate that other types of affordable housing should be dropped before starter homes (see P14)~~

3.4 The de facto implementation of Policy H2 is set out below

Policy H2

Affordable housing

The provision of affordable housing will be sought on greenfield sites of **3 11** dwellings or more, **unless they are within the AONB or are rural exceptions sites, when a 6 dwelling threshold will apply.** Affordable housing will be sought on ~~and~~ brownfield sites of 15 dwellings or more, to meet the housing needs of local people. Affordable housing will be sought on the following sliding scale, up to thirty percent (30%) of dwellings on qualifying sites:

Net new dwellings/ assessed site	Affordable housing target	Usual method of delivery
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capacity		
Development of Brownfield Sites		
3-14 dwellings	Zero	N/A
6-10 dwellings	Zero	N/A
11-14 dwellings	Zero	N/A
15-19 dwellings	15%	Delivered through on site provision. Commuted payments will only be accepted where this would achieve more effective provision of affordable housing, or bring significant regeneration benefits.
20+ dwellings	20%	Delivered on site. Commuted sums will only be accepted where this would achieve more effective provision of affordable housing or bring significant regeneration benefits.
Development of Greenfield Sites		
3-5 dwellings	40%	Usually through commuted payment Zero unless there is a change to the Planning Practice Guidance/Written Ministerial Statement.
6 -10 dwellings	15% in AONB	Usually through commuted payment: Zero unless there is a change to the PPG/WMS. If the site is within the AONB or a rural exceptions sites, then 15% through commuted payment. This will be payable on completion of units within the development
11-14 dwellings	20%	Delivered through on site provision. Commuted payments will only be accepted where this would achieve more effective provision of affordable housing, or bring significant regeneration benefits.
15-29 dwellings	25%	On site. Commuted sums will only be accepted in exceptional circumstances, where this would achieve more effective provision of affordable housing or bring significant regeneration benefits.
30+ dwellings	30%	On site. 25% affordable housing and 5% self build plots in accordance with Policy H3. Alternatively 30% affordable housing will be accepted where Self Build Plots are not practicable.

A site's overall capacity to accommodate dwellings will be taken into account when calculating affordable housing requirement, and artificial sub-division or underdevelopment of sites will be resisted.

Provision of affordable housing, or contributions on smaller sites, will be sought on the basis of one third social rented housing, one third affordable rent and one third shared ownership housing. An element of self-build plots will be sought on larger greenfield sites, in accordance with Policy H3.

A higher level of shared ownership/key worker housing may be agreed where this would aid economic prosperity, regeneration or promote the creation of mixed communities.

Proposals that exceed the minimum affordable housing requirements will be supported subject to other policies in the Plan, including the need to create mixed and balanced communities and meet local needs.

Where developers wish to reduce significantly the level of affordable housing provision, an independent assessment of viability will be required, with the developer underwriting the cost of the viability assessment.

The Council may agree to a reduced scale of affordable housing provision on sites where early delivery is possible.

Where a contribution is agreed in lieu of on-site provision, it should reflect the cost of providing on-site affordable housing.

In order to secure additional investment in disadvantaged areas of Torbay, the Council may agree to a reduction, or zero provision, of affordable homes on sites in those areas. Development of such sites will be expected to provide significant benefits to the creation of more sustainable, balanced communities as assessed against the criteria in Policy SS10.

3.5 The explanation to Policy H2 (Paragraphs 6.4.1.6-18) provides additional guidance on tenure natural design and implementation. It sets out the Council's approach to delivering affordable housing as part of mixed and balanced communities. Paragraph 6.4.1.2 indicates that sites should not be artificially subdivided or phased to avoid liability for affordable housing. This should apply both to new sites and the subdivision/redevelopments of existing buildings. Regard will be had to space standards set out in the explanation to Policy DE3 of the Local Plan.

3.6 Dwelling types should be provided in agreement with the TDA's Head of Asset manager and Housing and registered providers' needs. For example there may be a preference for 5 person 3 bedroom homes.

Tenure Mix

3.7 The Council seeks up to 30% affordable housing on the basis of the following:

1/3 Social Rent. This should be managed by a Registered Provider (e.g. a Housing Association) or alternative organisation approved by the Council. Social rented housing is homes let on assured or secure tenancies (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency.

1/3 Affordable rent Affordable rented housing is let by local authorities or private registered providers of social housing or alternative organisation approved by the Council to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

1/3 Intermediate. This is an umbrella term for homes for sale or rent at a discount below market rates but above social and affordable rented products. It includes (but is not limited to) shared ownership, discounted market sale and starter homes:

Shared ownership/ Shared Equity Homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition

above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, including rent-to-buy type products. ~~but not affordable rented housing.~~ Note that the NPPF (2012) definition of affordable housing currently requires affordable homes to be affordable in perpetuity or for the subsidy to be recycled into other affordable housing in order for it to be considered affordable housing.

Starter Homes.

3.8 Chapter 1 of the Housing and Planning Bill (2015) introduces a duty on local authorities to promote the supply of starter homes when carrying out their planning functions.

Starter homes are defined as a new dwelling available for purchase by a qualifying first time buyer, to be sold at a discount of 20% below market value subject to a price cap of £250,000. This will be implemented through Regulations.

3.9 A technical consultation dated March 2016 indicates a preferred option of 20% of dwellings on sites of 10 or more units (or 0.5 ha) should be provided as starter homes, in addition to other affordable housing requirements (pp12-13). However until and unless Regulations come into force, it is recommended that Policy H2 remains the basis for seeking affordable housing. Starter homes may be sought as an element of intermediate affordable housing. Qualifying person is currently a person under 40, although Regulations may introduce other criteria such as local connection.

3.10 PPG 55-005 indicates that starter homes should be subject to a s106 agreement requiring them to be offered to first time buyers for a discount of at least 20% below market value and with restrictions that they cannot be resold or let at their open market value for 5 years following the initial sale.

3.11 There is likely to be an exemption where the requirement would render sites unviable, but the consultation appears to indicate that other types of affordable housing should be dropped before starter homes).

3.12 Regulations may impose additional requirements on the provision of starter homes. However until these come into force, starter homes will be considered as an element of intermediate housing. There are likely to be instances where the provision of starter homes may be more achievable on site than other types of affordable housing for example as part of a block of flats.

3.13 Note that small homes that sell or rent at the lower end of the housing market simply by virtue of their small size will not be considered as affordable housing.

Self and Custom Build Housing.

3.14 In addition Policy H3 of the Local Plan promotes self or custom build housing on exception sites and on sites of 30+ dwellings. However general affordable housing will be accepted in lieu of self build plots if this would facilitate the successful delivery of development, or be necessary for site management or safety reasons.

3.15 Self-build and custom houses are defined as dwellings built by individuals or associations or persons working for them; but exclude the building of a house on a plot acquired from a house builder who builds the house wholly or mainly to plans or specifications decided by the house builder.

3.16 In all cases, self-build plots should be provided in accordance with the Council's allocation policy for self build housing.

3.17 Where they are provided as part of larger housing sites, developers will be expected to provide serviced plots for sale to qualifying households within the Council's allocation policy for self-build housing. Note that Policy H3 requires self build plots to be completed within three years of commencement. A condition or s106 Obligation will require occupants to have a strong local connection or employment in Torbay for five years from the date of commencement.

3.18 Policy H3 requires self-build plots built in the countryside as rural exceptions to be provided as affordable housing. Accordingly on rural exception self-build plots, there will be a requirement for affordable self build plots to be offered at a discount of at least 20% below the open market value of such a plot, to someone living or working in Torbay in housing need.

3.19 If the plot does not sell after 12 months of being marketed, it will cascade out to general needs affordable housing. A condition or s106 Obligation will be required to retain the dwelling as affordable housing in perpetuity. There will be a requirement that subsequent sale or occupation is at a discount of 20% below current market prices, and sale and occupation is to persons with strong local connections as indicated in the Council's allocations policy for self-build housing.

3.20 Note that affordable self build housing on rural exception sites must meet the acceptability criteria in Policy H3 and C1. In general they will need to adjoin a settlement and be acceptable in terms of landscape and environmental impacts.

3.21 As noted above, self build plots may be replaced with general needs affordable housing if there is evidence that this would achieve a more successful or speedy implementation of development, or if there is evidence of higher need for general needs affordable homes. In addition paragraph 6.4.1.13 of the Local Plan indicates that there is a general expectation that self build housing will be reduced prior to other forms of affordable housing.

Onsite provision or Commuted Sum?

3.22 Policy H2 assumes that affordable housing will be on-site. ~~In particular the provision of starter homes (see above) may be a more effective means of on-site provision where other tenures of affordable housing are difficult.~~ Where on-site delivery is not practical the second option will be the provision of alternative service sites or land. Financial contributions in lieu of onsite provision will only be accepted as a last option, and in exceptional circumstances.

3.23 However Policy H2 makes provision for financial contributions from smaller sites in exceptional circumstances. These will be calculated on the basis of the assumed subsidy needed to deliver the equivalent affordable housing through the open market, including administrative etc costs.

Calculating the assumed Subsidy Commuted Sums based on cost of provision.

3.24 The Council will assess the cost of providing affordable housing, taking account the value that such housing has in terms of how much occupants would pay for it and rental streams. The value will be below the full open market value. The values of affordable

housing as a proportion of market value Torbay Whole Plan Viability Testing (PBA 2014, and updated January 2016). These are set out below, along with the tenure split. Local Plan specified a tenure split as set out below:

- 1/3 Social rent at an assumed discount of 60% below open market rates
- 1/3 affordable rent at an assumed discount of 50% below open market rates
- 1/3 Intermediate housing including shared ownership and starter homes at an assumed minimum discount of 35% below the open market rate (which includes service charges).

3.25 This equals out as an average affordable dwelling being worth 48% the value of an open market dwelling (based on $(0.6 + 0.5 + 0.35) \div 3 = 0.4833$). In other words there is an average private subsidy assumed of 52% of the value of an affordable dwelling.

3.26 In assessing the cost of providing off site affordable housing, the Council has considered and gross development values.

House price data

3.27 Table 3.1 below sets out average new and second hand house prices at June 2016, based on Land Registry data. There was an increase of around 6% since June 2015. In most instances, the new price is more relevant to assessing the cost of providing affordable housing and therefore the commuted sum needed. However in the case of flats, the new price may reflect the luxury end of the market, whilst the second hand price incorporates the bottom of the market. On this basis a figure in between the two has been taken as the cost of providing a decent flat.

3.1a Torbay House Prices , June 2016 (Land Registry)

	New prices June 2016	New and second hand prices June 2016
Detached	£295,878	£303,857
Semi detached	£210,219	£205,602
Terrace	£185,654	£159,641
Flats	£292,990	£125,425
All properties	£252,500	£184,453

3.28 On the basis of house price data an average house is likely to cost around £190,000 and a flat around £135,000.

Gross development Values in Viability Studies

3.29 Torbay has three recent viability studies (Beter Brett and Associates 2014,2016 and Burrows Hutchinson (August) 2016. There are all available at www.torbay.gov.uk/CIL. The most recent assessments (PBA 2016 and Burrows Hutchinson, August 2016) were that average gross development values in Torbay were £2,700 per sq m for flats and £2,400 for houses, or 2,500 per sq m overall.

3.30 These translate to roughly £135,000 for a 50 sq m flat and £223,200 for a 93 sq m 3 bed, 5 person house. However a slightly lower figure for houses has been taken in recognition of house prices noted above.

3.31 Table 3.2 below sets out the Council's assumed cost of providing affordable housing. These will be used when calculating the cost of affordable housing and off-site contributions, where agreed. They include an allowance for administrative expenses and bringing second hand homes up to an acceptable standard.

Table 3.1b sets out the assumed cost of providing affordable dwellings including a 10% additional cost

Affordable housing type	Assessed cost of dwelling	Value of assumed subsidy at 52% of market value	Cost of provision with 20%-10% administrative costs (rounded down to nearest £1000)
Smaller dwellings 1-2 person	135,000	£70,200	£77,000
Medium sized housed	£190,000	£98,800	£108,000

Assumed size: As per national minimum space standards, Table 23 p196 of the Adopted Local Plan.

3.32 Where commuted sums are accepted, they should match the value of on-site provision as calculated above (and updated for inflation). A requirement calculator is set out in table 3.3 below, (which opens as an Excel spreadsheet). It is noted that commuted sums may be for fractions of dwellings as well as whole dwellings. This should not be taken to imply that off-site contributions will be acceptable.

Table 3.3 Affordable Housing Commuted Sum Calculator (per dwelling or part of)

Dwelling range	Number of dwellings	Proportion	No of affordable d	Contribution per affordable
Greenfield sites: 3+ bedroom dwellings.				
6 to 10 in AONB	6	0.15	0.90	108,000
11 to 14	11	0.2	2.20	108,000
15 to 29	15	0.25	3.75	108,000
30+	30	0.3	9.00	108,000
Greenfield sites: 1-2 bedroom dwellings.				
Dwelling range	Number of dwellings	Proportion	No of affordable d	Contribution per dwelling
6 to 10 in AONB	6	0.15	0.90	77,000
11 to 14	11	0.2	2.20	77,000
15 to 29	15	0.25	3.75	77,000
30+	30	0.3	9.00	77,000

Calculation of Viability and Deferred Assessment of Viability

3.33 Policy H2 recognises that the provision of affordable housing is a matter for negotiation. Where on-site provision is being made there may be scope to vary tenure to meet sustainable community or Government policy objectives. **Policy SS11 of the Local Plan is relevant to Community Investment Areas.**

3.34 It will, however be noted that paragraph 6.4.1.16 of the Local Plan indicates that proposals will be resisted where the reduction in affordable housing or other community benefits would be reduced to the extent that development is rendered unsustainable.

3.35 Where affordable housing or other s106 requirements are argued to render development unviable, the Council will require an open book viability assessment from the applicant. Where, on the basis of the viability assessment, it is agreed that affordable housing would render development unviable then the Council will negotiate an agreed level of provision e.g. increase amount of intermediate housing or a reduction in provision. In all cases where a reduction in the percentage of affordable housing is agreed, the Council will require a deferred contribution arrangement to be in place. Procedures for carry out viability assessments and deferred contributions are set out in part 5 “Implementation”.

Design and Layout

3.36 Affordable housing should not be distinguishable from open market housing by design. Where possible it should be pepper potted in ~~small~~ **more than one** clusters throughout a development **(i.e. not all in one place)**. **As a guideline, clusters of 10-12 affordable homes are appropriate on sites of up to 100 dwellings; and 20-24 on sites of 100 dwellings or more.**

3.37 Where provided together, different tenures of affordable homes should be provided, and the design of homes should not be noticeably different from the market housing.

Registered Providers

3.38 The Council’s preferred method of delivery of affordable housing is through partner Registered Providers (RPs) or alternative body approved by the Council. Early discussion with the Council and Torbay Development Agency is encouraged to discuss affordable housing delivery.

Affordable Housing and other Planning Obligations

3.39 Where affordable home are provided on-site and managed by a registered provider or subject to local occupancy conditions, the Council will not seek “sustainable development” contributions from these affordable units.

Another Note on Thresholds and Starter Homes

3.40 This SPD has been written on the basis of the High Court’s upholding of the Written Ministerial Statement and subsequent update to the PPG. Policy H2 of the Local Plan remains the relevant development plan policy; however the PPG and WMS are significant material considerations. Should thresholds change, for example as a result of updated guidance or regulations; then the approach taken in the SPD may be modified.

3.41 The SPD has had regard to Local Authorities' general duty to provide starter homes (introduced in the Housing and Planning Act 2016). However this approach may need to be amended should the Government issue further regulations on Starter Homes.

Employment

3.42 Policies SS1, SS4 and SS5 of the Local Plan place a high emphasis on economic growth.

3.43 Average GVA per head of population in Torbay in 2013 was £14,225 compared to £23,755 in the UK and £21,163 in the South West. GVA is the lowest in the South West (Cornwall and Isles of Scilly=£15,403). This makes Torbay the 13th lowest NUTS3 (County and Unitary) area in the UK (about 140 areas).

3.44 Policy SS5 and the Strategic Development (SD) policies of the Local Plan seek to achieve a mix of employment uses on major developments and identify a number of sites for mixed use development. These also set out indicative targets for employment, and indicate that the delivery of employment should be achieved through land equalisation, direct provision of serviced sites and or/developer contributions (paragraph 4.2.27). Where live-work units are provided as part of employment provision, their use will be controlled through condition or S106 Obligations controlling occupancy.

3.45 Where sites are identified for mixed use development in the Local Plan, the early provision of employment space will be given a high priority in determining obligations sought on site, as indicated in Policy SS2(ii) of the Local Plan.

3.46 Where on-site provision is not practical, the Council may agree developer contributions to help enable the provision of employment elsewhere.

3.47 The Council will seek local labour agreements from all developments as set out in Policy SC3 of the Local Plan. This will be incorporated into s106 Obligations where appropriate to do so. Whilst the use of local labour is relevant to all schemes, it will be particularly relevant to self build housing and other forms of development where a degree of exception to usual planning policies has been made.

Loss of Employment

3.48 Where a development proposal results in the loss of jobs (for example change of use away from hotels, offices etc.), a commuted sum will be required to help create similar employment elsewhere in Torbay, as set out in Policy SS5.

3.49 The principle of seeking loss of employment contributions is considered to be important given Torbay's high level of employment related deprivation. The Local Plan promotes a level of housing which is higher than the home grown level of household growth. It is therefore important to creating sustainable communities which are not dependent upon commuting or high numbers of economically inactive persons, that good quality jobs are provided to accompany housing growth.

3.50 Accordingly, loss of employment contributions will be given the highest priority after Site Deliverability and affordable housing matters. However consideration will be given to

the overall impact of development and mitigation may be allowed where schemes achieve significant regeneration or similar benefits.

3.51 Such contributions will be ring-fenced for investment in regeneration projects and unlocking employment development. A range of projects is set out in the Torbay Economic

3.52 Strategy 2013-18, as well as Masterplans for the regeneration of town centres. They will be used to help provide enabling infrastructure such as site servicing or decontamination costs for regeneration and employment generating schemes.

3.53 Where the contributions are used for infrastructure measures (e.g. site servicing), no more than 5 obligations will be pooled for a specific project. However smaller contributions will be targeted at non-infrastructure matters such as training.

3.54 Note that contributions do not imply that a change of use away from employment use is acceptable in terms of planning merit. Such applications will be assessed on the basis of Policies in Adopted Torbay Local Plan, particularly **SS5 Employment Space**.

Assessing the Cost of Employment

3.55 The Torbay Economic Strategy 2013-18 contains a detailed Action Plan which identifies projects needed to secure economic development. These relate closely to the Employment Land review (PBA 2013) which sets out key employment development areas. The cost of projects identified in the Strategy is around £290m. These will realistically take at least the Local Plan period to implement. This works out at around £4,778 per economically active person in Torbay (60,700). (When un-costed projects are taken into account the likely cost is nearer £500m, which equates to about £8,000 per economically active employee).

3.56 The 2008 Planning Contributions and Affordable Housing SPD assessed, based on work carried out by the Torbay Development Agency that the cost to the public sector in unlocking employment development was 15-20% of the cost of the job. The most recent available data on average annual wages (full and part time) is set out below. Allowing for 50% on-costs (pensions, NI etc.), is set out in Table 3.4.

Table 3.4. Assessment of the Cost of Providing Jobs

	Median annual earnings	Cost to employer with on costs (x1.5)	Contribution at 20% +hypothetical public sector cost of creating a replacement job.
Full time	£21,940	£32,910	£6,580
Part time	£ 7,830	£11,745	£2,350
All jobs	£16,680	£25,020	£5,004

Annual Survey of Hours and Earnings 2014

3.57 The TDA have assessed that the average cost of creating a higher value job³ in Torbay is in the region of £19,000-£22,000 (excluding abnormal costs), whereas nationally a range of £8,000-50,000 has been calculated depending on the project. The Heart of the

³ E.g. A jobs within the B1 Use Class of business/light industry. However the Local Plan considers as range of types of employment and not just jobs within the Class B employment use classes.

South West Local Enterprise Partnership and other grant schemes assume a cost of £6,000-10,000 is a reasonable rule of thumb.

3.58 Accordingly, applications which result in the loss of employment will be asked to pay a loss of employment contribution to mitigate the economic impact, on the basis of:

- £ 8,000 per full time equivalent(FTE) job lost
- £ 4,000 per part time job lost

3.59 The number of jobs lost will be based on evidence supplied by the applicant (Question 20 on the planning application form) and the Employment Densities Guide (3rd Edition 2015 or subsequent, see Table 3.5), which estimates FTE jobs by floor area. On this basis the loss of employment contribution will be calculated on the basis of:

3.60 Number of jobs lost x £8,000 per full time equivalent.

Table 3.5 Estimated Employee/Floorspace Ratios (Employment Densities Guide 3rd Edition)

Use Class	Sub-Category	Sub-Sector	Density (sqm)	Notes
B1a Offices	General Office	Corporate	13	NIA
		Professional Services	12	NIA
		Public Sector	12	NIA
		TMT	11	NIA
		Finance & Insurance	10	NIA
	Call Centres		8	NIA
B1b	R&D Space		40-60	NIA lower densities will be achieved in units with higher provision of shared or communal spaces
B1c	Light Industrial		47	NIA
B2	Industrial & Manufacturing		36	GIA
B8	Storage & Distribution	National Distribution Centre	95	GEA
		Regional Distribution Centre	77	GEA
		'Final Mile' Distribution Centre	70	GEA
Mixed B Class	Small Business Workspace	Incubator	30-60	B1a, B1b – the density will relate to balance between spaces, as the share of B1a increases so too will employment densities.
		Maker Spaces	15-40	B1c, B2, B8 - Difference between 'planned space' density and utilisation due to membership model
		Studio	20-40	B1c, B8
		Co-Working	10-15	B1a - Difference between 'planned space' density and utilisation due to membership model
		Managed Workspace	12-47	B1a, b, c
B8 / Sui Generis	Data Centres	Wholesale	200-950	
		Wholesale Dark Site	440-1,400	
		Co-location Facility	180-540	
A1	Retail	High Street	15-20	NIA
		Foodstore	15-20	NIA
		Retail Warehouse	90	NIA
A2	Finance & Professional Services		16	NIA
A3	Restaurants & Cafes		15-20	NIA
C1	Hotels	Limited Service / Budget	1 per 5 beds	FTE per bed
		Mid-scale	1 per 3 beds	FTE per bed
		Upscale	1 per 2 beds	FTE per bed
		Luxury	1 per 1 bed	FTE per bed
D2	Fitness Centres	Budget	100	GIA
		Mid Market	65	GIA – both types tend to generate between 40-50 jobs per gym
		Family		
	Cinema		200	GIA
	Visitor & Cultural Attractions		30-300	The diversity of the cultural attraction sector means a very wide range exists
Amusement & Entertainment Centres		70	Potential range of 20-100sqm	

Healthy Communities and Healthcare

3.61 Policy SC1 of the Local Plan requires development to contribute to improving the health and wellbeing of the community. Torbay has health problems strongly related to its demographic structure and deprivation (see paragraph 6.4.3.1).

3.62 All development should seek to promote active design as a Site Deliverability matter (see above).

3.63 Policy SC1 Healthy Bay requires developments of 30 dwellings or more, or developments where there are particular health impacts to carry out a screening for a Health Impact Assessment. Health Impact Assessment and its screening should be proportional to the size and type of development and identify the most effective measures that can be used to improve health and wellbeing. For smaller developments health impacts can be addressed through Design and Access Statements. These will usually be the promotion of active lifestyles through open space provision, cycling facilities (including secure covered storage).

3.64 Policy SC4 Sustainable food production requires that developments of 30+ dwellings should include provision of sustainable food production.

3.65 Regard will need to be had to the provision of open space and multi-functional green infrastructure for all developments. Where possible these facilities will be sought on-site. Where they are maintained by the Council, ~~at least 10 years~~ **up to 25 years** maintenance shall be provided through s106 or other financial arrangement. If ongoing maintenance is not funded, details of alternative maintenance arrangements (and funding) should be provided as a condition of granting planning permission.

Healthy Communities and Health Impact Assessments

3.66 The Local Plan seeks to help close the gap between the most and least disadvantaged neighbourhoods, as set out in Policy SS11 Sustainable Communities. Policy SS5 seeks to reduce child poverty by a range of measures including provision of affordable housing, education and urban design improvements.

3.67 Policy SC1 Healthy Bay requires development of 30+ dwellings or 1000 sq. m to undertake screening of a Health Impact Assessment. Policy SC4 seeks developments of 30 or more developments to consider providing sustainable food production.

3.68 Open space and recreation provision are dealt with in the sustainable communities section. However these will be instances where a higher priority is given to matters such as education, public realm, and open space provision in order to achieve healthy Bay objectives.

Development which creates a specific Health/Social Service need e.g. Care Homes, Sheltered Housing.

3.69 Torbay has a significantly older population than the national average, due in part to in-migration of older people. The most recent (2014 based SNPP) population data estimate that there are about 35,000 people aged 65+ in Torbay, comprised of 25,000 people aged

65-79 and 10,000 people aged 80+. The number is projected to rise to 45,000 by 2030 comprising 29,000 65-80 year olds and 16,100 80+ year olds.

3.70 Torbay's ~~pattern of demographics is strongly one of~~ **population growth** is driven by net domestic migration by older people into Torbay and outward migration of young people. This places a likely demand upon health care services from some new developments. **The population would decline but for migration trends.**

3.71 From October 2015, Torbay's adult community health and social care, integrated with Torbay Hospital Services to form a single Integrated Care Organisation.

3.72 The Joint Commissioning Team and South Devon Clinical Commissioning Group publishes Market Position Statements for Adult Social Care and Support and Children's Services in Torbay, the most recent being for 2016+ ⁴ This document indicates that demand for adult social care workforce time is growing twice as fast as population growth, at about +1.3% per year compared to 0.6% population growth. It is estimated that the cost of treating the over 85s is likely to increase to about £8.5 million per year in 2020, up from £7.3 million in 2012⁵.

3.73 The 2015/16 base budget for adult social care was £39.3 million compared to gross spending of £48.7 million, with £9.4 million paid for by clients. A strong policy objective of the Torbay NHS Healthcare Trust is to help people live independently in their own homes for as long as possible. Promoting good health is a key Corporate Plan objective.

3.74 In line with the Living Well@Home strategy, about £9.1 million of spending is domiciliary care. This includes a range of care facilities including community nursing, living at home re-enablement, provision of assistive technologies, meals services, night sitting, and respite care is provided by the NHS Healthcare Trust and Council, who comprise an Integrated care Organisation.

3.75 The £9.1 million cost of domiciliary care averages out at about £260 per person aged 65+

3.76 Local government and the NHS are facing unprecedented financial challenges with reduced funding from central government in the face of increasing demand for services. Torbay Council set the 2014/15 budget in February 2014, this included a savings programme totalling £22m to be found over 2 years (2014/15 and 2015/16), which will inevitably result in resources being stretched and services reduced.

3.77 It is recognised that an ageing population, and other clients in need of adult social care, will generate a need for specialist accommodation such as sheltered housing, supported housing and extra care units. **Such accommodation can help people live independently for longer.**

3.78 Policy H6 of the Local Plan deals with accommodation for people in need of care. There is a move away from the use of care homes (use Class C2), but there are likely to be

⁴ <http://www.torbay.gov.uk/torbaymps2016.pdf>

⁵ Torbay JSNA 2012/13

instances where applications are granted, particularly where they provide an improved level of care or specialist facilities to deal with issues such as dementia.

3.79 Accordingly Policy H6 indicates that the Council will seek financial contributions to meet the likely healthcare and social service costs arising from care facilities and sheltered accommodation, unless the applicant is able to show that this contribution would not be appropriate.

3.80 Where development leads to a specific requirement for additional healthcare/social care facilities, s106 obligations will be sought to address these impacts in terms on the Integrated Care organisation. This will be based on the cost of helping people to live in their own homes for as long as possible for sheltered, supported and extra care units. In the case of care homes (use Class C2) the contribution will be based on the additional public cost of care to the Integrated Care Organisation.

3.81 The Contribution will be based upon the likely additional cost to Torbay's integrated care organisation budget arising from such applications. It will not be sought from developments that can show that they will not impose costs upon this, for example where on-site care and facilities are provided as part of an overall development package, or where occupancy is restricted to persons already living in Torbay.

3.82 A baseline contribution of £1,300 per unit of sheltered/supported/extra care accommodation (i.e. uses within Use Class C3) and £2,220 from care homes (uses within Class C2) will be sought.

3.83 This is calculated using the baseline care cost of £260 per person and adjusting it based on likelihood of residents being inwards migrants, likely level and length of care required.

3.84 It is assumed that sheltered housing with minimal care facilities will attract a higher level of inwards migration than accommodation for the less active; with care homes attracting the lowest level of inwards migration. It is assumed that the yearly cost of care increases but the likely length of care decreases in supported housing, extra care housing and care homes. The assumptions are set out in table 3.6 below and the calculation of contributions shown in Table 3.7.

3.85 The assessed cost of care homes is based on figures from the Clinical Commissioning Group of an average cost of £2,500 per year of which 59% is borne by the public purse. An average stay of 3 years is assumed.

Table 3.6 Assumed cost of care and length of occupation of accommodation.

Accommodation type	Multiplier based on care need. (Applied to £360)	Average period of care (years)
Sheltered housing	5 x £360	10
Supported Housing /Assisted living	5 x £360	5
Extra Care units	10 x £360	5
Care Homes (Class C2)	£25,000 x 59% borne by public purse.	3

Table 3.7 Healthcare Contribution for Accommodation for people in need of care.

(A). Accommodation type	(B). Cost provision for 1 years (£260 x multiplier based on likely need)	(C) Likely cost for 5 years care ((B) x 10 years for sheltered housing and 5 for supported and extra care.	(D) Likelihood of inwards migration from outside Torbay	(E) Contribution per unit (room in the case of Class C2) ((C)/(E))
Class C3 units				
Sheltered housing	£260 (x1)	£2,600	50%	£1,300
Supported housing	£1,300(x5)	£6,500	20%	£1,300
Extra care units	£2600 (x10)	13,000	10%	£1,300
Care Homes and uses within Class C2				
	Cost per place and Average cost to CCG	Likely cost for 3 years	Likelihood of person migrating from outside Torbay	Contribution per room
Care home within Class C2	£25,000 of which average cost to CCG of £14,750 (59%)	£44,250	5%	£2,220

3.86 ~~Where developers are able to show that they will be providing facilities which will obviate the need for additional adult social care, these figures may be reduced.~~ Contributions will not be sought from affordable units or where developments are restricted to occupancy from existing residents of Torbay. The provision of affordable housing will usually be prioritised over social care contributions for affordable housing liable developments (broadly Class C3 units), where viability considerations would prevent obligation for both.

Development where there is a need for a Surgery/Local Centre etc.

3.87 The Joint Commissioning Team and health Care trust will keep the need for medical facilities under review as part of the Masterplanning of Future Growth Areas. Where development results in the need for a surgery or other health facility, the Council will seek its provision as part of the s106 Agreement, which should include a delivery timeframe, and fall back option. Where possible, the provision of residential accommodation will be supported particularly where this would aid delivery of healthcare facilities.

4. Sustainable Development Infrastructure

4. SUSTAINABLE DEVELOPMENT INFRASTRUCTURE

4.1 Sustainable development contributions are sought to render development acceptable in planning terms. However they are less urgently essential to health, safety or legal obligations than Site Deliverability matters.

4.2 Sustainable development contributions are will not be usually sought from development that pays CIL (QV) or sites below the Government's threshold for "tariff style" contributions, which currently is 11 or more dwellings or 6 within the AONB.

4.3 On this basis "sustainable development" obligations will be sought from larger developments in Future Growth Areas where the Council has chosen to negotiate s106 Obligations to address the infrastructure requirements needed to serve the development, rather than levy CIL

The following sections sets out figures based on assessments of the likely impact of development. However this should not be construed as a "tariff based approach" per-se

Each application will need to be assessed in terms of what contributions ~~are necessary to render development sustainable, meet the test of lawfulness.~~ are lawful and justified in terms of being:

- Necessary to make the development acceptable in planning terms.
- Directly related to the development, and
- Fairly and reasonably related in scale and kind to the development.

4.4 In order for contributions to be sought, the relevant service areas/organisations will need to identify specific projects, which meet these tests, they seek a S106 (etc) agreement for. Unless this is done, an obligation is unable to be sought.

Where contributions relate to infrastructure, no more than 5 s106 Obligations will be pooled towards that item of infrastructure, so long as this is a legal requirement under the CIL Regulations or elsewhere. Should these pooling restrictions be relaxed, the Council may pool obligations, subject to other tests of lawfulness.

4.5 Because sustainable development obligations arise principally from larger developments, onsite provision of many of the items identified will take place; for example sustainable transport measures beyond direct access requirements, provision of open space and multiuse games areas. These can often be secured through condition. The provision of "in kind" facilities or land will be counted against financial contributions sought, although in some instances the Council will seek obligations for maintenance.

4.6 This section includes the following matters.

- Transport Infrastructure - Major Road Network and Sustainable Transport
- Education
- Greenspace Sports and recreation
- Lifelong learning
- Public realm
- Waste management
- Difficult to monitor uses including town centre management.

Transport Infrastructure - Major Road Network and Sustainable Transport

Background and Justification

4.7 The implementation of sustainable transport measures is regarded by Government as essential to reducing traffic congestion, improving air quality and addressing climate change.

4.8 Note that physical works to create safe access for vehicles and pedestrians are sought as Site Deliverability matters. These will usually be delivered through planning condition, negotiation of site layouts or S278 Agreements.

4.9 This section deals with wider sustainable transport matters these are necessary to make development acceptable in terms of mitigating its effect, but go beyond the provision of access to the site and its immediate links to the transport network.

4.10 Chapter 4 of the NPPF sets out Government's policy on transportation. It requires that development which generates significant amount of traffic should be supported by a Transport Statement or Assessment which considers the opportunities for sustainable transport, provision of safe and suitable access, and whether improvements can be made to limit the impacts of development.

4.11 The **Torbay Local Transport Plan 2016-2021** (LTP) contains a range of measures aimed at improving accessibility, air quality, road safety and quality of life and reducing congestion and the impact of transport. The draft Torbay Delivery Plan (January 2016) identifies a range of projects needed to deliver the Local Plan, which cost a total of £5.315 million. The LTP does not include improvements to the A385/Totnes Road which are likely to be required before 2020 if early implementation of development at Collaton St Mary is to be feasible. These are estimated to cost in the region of up to £1m **(although this figure is likely to change in response to detailed site assessments)**.

4.12 The above figure does not include the £20 million funding requirement for the South Devon Highway, which is being sought through CIL.

4.13 Local authorities are required to support essential community facilities such as transport services and maintain infrastructure stemming directly from development. This puts a considerable long term additional pressure on the Council's ability to provide high service quality and support. "Whole life costing" assesses the true social, environmental and economic cost of any development throughout its useful life. Unless this is met by developer contributions, it has to be borne by the taxpayer.

4.14 Much of Torbay's transport infrastructure operates at or over capacity and delivering growth is only likely to be achievable if accompanied by measures to ensure that it does not rely heavily on car borne transport. Failure to meet these objectives would create additional congestion and have negative health impacts e.g. from poor air quality.

4.15 Policy TA3 of the Local Plan promotes the provision of cycle parking and electrical points within developments, which will usually be secured through negotiation of layouts or through planning conditions. **Large developments will usually be required to provide travel plans to promote alternatives to single occupancy car use.** ~~It covers matters such as bus contributions which are necessary to mitigating the impact of development upon the wider road network, but are not required to physically access the site (such matters being site deliverability matters and are dealt with above).~~ Where possible, these measures will be sought through S278 Agreements, although there will be instances where s106 Obligations will need to be used.

Sustainable Transport Obligations

4.16 Developments in Torbay (where the Council has opted not to charge CIL) will be assessed to identify whether they generate net additional trips and should therefore contribute towards sustainable transport.

~~Contributions will be used for a range of sustainable transport measures identified in the Local Plan and Local Transport Plan or are closely related to the development (either by location or the nature of development).~~

4.17 Sustainable transport contributions will be sought on the basis of a calculation of the additional impact that development has upon the transport network, **or other costs to the authority such as bus passes in the case of specialist developments.** ~~This includes cumulative impacts.~~

4.18 The figures set out below will be taken as a starting point. Additional obligations may be sought where developments have a greater impact upon traffic generation or create a particular need for ongoing revenue support for equipment and running costs, for example as could arise from out of town retail proposals.

Assessing the cost of Additional Trips

4.19 The Council has used Trip Rate Information Computer System (TRICS version 7.3.2) to calculate the number of journeys generated by development. Table 4.1 sets out the likely additional trip rate associated with development over the period to 2017-22 (i.e. the next five years at time of writing) based on development likely to arise in the next five years based on the Local Plan's Strategic Delivery Policies.

Table 4.1 TRICS (7.3.2) Assessment of trips generated by Development in the Torbay Local Plan 2017-22

Development type	Number/floorspace	Trip rate per unit or 100 sq. m	No of trips per day
Dwelling houses	2,750	5.1	14,025
Business (B1, B2, B8)	40,000 sq. m	7.6	3,040
Other employment uses	45,000 sq. m	7.6	3,420
Retail (assume in-town centre)	25,000 sq. m	44	11,000
Tourism, leisure	20,000 sq. m	9.5	1,900
Other (education, healthcare etc.)	20,000sq m	17.5	3,500
			36,885

4.20 Based on this it is assessed that the 36,885 additional trips per day will be generated in Torbay by development between 2017-22. Based on the cost of delivering the Local Transport Plan and other Future Growth area highway infrastructure this would equate to £171 per trip generated.

4.21 Planning Obligations will be sought from development based on the above **net** trip generation

Table 4.2 S106 Sustainable Transport Obligations sought from larger development

Development type	Assumed trip rate per unit or 100 sq. m	Contributions Impact per unit per unit or 100	Notes

		sq. m (trip rate x £171)	
Apartments 1-3 bedrooms	4	£690	Obligations will be sought to address sustainable transport/highways network works that are necessary to make development acceptable and subject to pooling limits where infrastructure.
Houses 1-3 bedrooms	5	£860	
Larger dwellings (houses and apartments of 4 or more bedrooms)	6.5	£1,110	
B Class employment and other employment uses	7.6	£1,300	Mitigation will usually be provided for job creation/ regeneration.
Retail – Town Centre (including, Preston and St Marychurch District Centre and Local Centres in built up area)	44	£7,530	Mitigation will usually be provided for in- town centre regeneration and built environment improvements.
Retail –out of town centre (including the Willows and West of Paignton)	120	£20,520	
Tourism, leisure	9.5	£1,620	Mitigation will usually be provided for job creation/ regeneration.
Other (education, healthcare etc.)	17.5	£3,000	S106 Obligations are not sought from publically funded schemes

4.22 These figures will be used as a starting point and will be adjusted for the level of highways and sustainable transport works provided by the developer (as a development Site Deliverability matter or through negotiated direct provision). Regard will also be had to the cost of providing other mitigations to transport such as measures incorporated in Travel Plans etc.

4.23 Contributions will only be sought where specific projects are identified which meet the tests of lawfulness, and pooling restrictions where they are for infrastructure. On this basis the above costs can only be a starting point.

4.24 In calculating obligations identifying projects, priority will be given to improving road safety, capacity and accessibility, including availability of public transport within walking distance (about 400 metres) of the proposed development. In addition, local air quality (particularly the proximity of Air Quality Action Zones) will be taken into account.

Education

4.25 Torbay Council has a statutory duty under the Education Act 1996 (as amended) to provide sufficient school places to enable every child between the ages of 4-16 to access a school place. Policies SS10 “Sustainable communities”, SC3 “Education skills and local labour” and SC5 “Child poverty” all identify the need to provide education facilities to serve development.

4.26 The TDA’s Schools and Capital Planning Manager has indicated that there is a need for both primary and secondary places throughout Torbay. This includes:

- The need for a new 420 place primary school serving Torquay, at an estimated cost of £5.66 m
- The need for a new secondary school serving Torquay, or expansion of existing schools. This is likely to be a 600 space school at a cost of around £10.44m
- The need for two primary schools serving Paignton, at a cost of £11.32m (based on 420 space schools).
- The need for an extension to secondary school or an additional school serving Paignton at a cost of around £10.44m
- The need for an additional primary school serving Brixham, at a cost of £2.85m
- Expansion of South Devon College under approved Local Development Order.

4.27 The total cost of this is about £40.71 million. Whilst it is not expected that S106 Obligations could cover the entire requirement, it is reasonable for developers to contribute to the additional requirement for school places generated by development.

4.28 The Education Funding Agency sets cash flow multipliers, which are the capital cost of providing an additional school place. They are indexed linked to inflation (on the BCIS public sector cost index). At April 2016, they stood at:

- Primary place £12,398.
- Secondary place £18,954.
- ~~Further education place (16-18) £20,575.~~

4.29 These are the average of the cost of new build and extensions. Whilst a different figure is given for both, they are not significantly different and Torbay requires a mix of new build and extensions to provide new school places). On this basis it is considered appropriate to use an average figure.

4.30 Based on 11 years of school of which 6 in Primary and 5 in secondary this equates to an average cost per school place of £15,833 (i.e. 6/11 of £12,398 plus 5/11 of £18,954)

Numbers of School Age Children per dwelling

4.31 To establish the impact of existing and new development proposals on education facilities it is necessary to identify the likely number of pupils that will be generated by individual developments.

4.32 Devon County Council (2016) have established (Based on research carried out in 1999, 2009 and 2015) that, on average, each family dwelling (i.e. dwellings with 2 bedrooms or more) generates approximately:

- 0.25 primary aged pupils (ages 5 to 11),
- 0.15 secondary aged pupils (ages 12 to 16)
- 0.06 further education (ages 17 to 18).
- This equates to 0.406 school spaces per dwelling in total.

4.33 The figure in Torbay is assessed to be similar to the rest of Devon at about 0.4 school aged children per dwelling, based on assessment of children arising from development in the West of Paignton in 2014-16.

4.34 Multiplying the cost per school place by likelihood of there being a school age child living in a house provides an average capital cost per dwelling of providing a school place. The baseline cost is £6,333 as set out in table 4.3. This is the capital cost of providing an additional school place (i.e. it does not include revenue costs, IT, transport, special education needs, or Further Education).

Table 4.3 Capital cost of Providing School places.

(A) School Age	(C) Capital cost per school place	(D) Number of children per dwelling	(E) Cost per 2+ bedroom dwelling
Primary	12,398	0.25	£3,100
Secondary	18,954	0.15	£2,843
Total		0.4	£6,333

4.35 It is assumed that no education requirement arises from specialist accommodation for the elderly or from one bedroom dwellings. Accordingly no education contribution is sought from these types of dwelling.

4.36 Whilst it is hypothetically more likely that there are more children in larger homes, evidence from the TDA's Schools and Capital Planning Manager suggests that smaller houses, often purchased under help to buy, are equally likely to contain school aged children. Accordingly a relatively minor weighting has been applied for larger dwellings.

4.37 The contribution sought from dwellings is set out in table 4.4

Table 4.4 Education Contributions Sought from Open Market Dwellings.

	Adjustment (multiplier) to overall average of 0.4 children per dwelling	Contribution per dwelling £6,333 x adjustment
Specialist accommodation for the elderly	Zero	0
1 bedroom dwellings	Zero	0
2 bedroom apartments	0.5	£3,170
2 bedroom houses	0.75	£4,750
3 bedroom dwellings	1	£6,330
4 bedroom dwellings	1.25	£7,920
5+ bedroom dwellings	1.5	£9,500

4.38 As set out above, education contributions will only be sought from sites where the Council has opted to use s106 Obligations rather than CIL to fund the infrastructure needed by a development. Obligations will be spent on specific projects that provide for the need that developments generate for school places. No more than five obligations will be pooled for infrastructure.

4.39 Where sites are provided on site, as is proposed in several Future Growth Areas, it is likely to be preferable to seek a contribution in kind in terms of provision of land.

4.40 The Council will endeavour to use S106 education contributions to provide school places or other educational improvements close to the development. However, because catchment areas may be Bay wide, and providing school places in one location can have a knock on effect of freeing up places closer to a development, this may not always be possible.

Greenspace ~~Open Space~~, Sports and Recreation

4.41 Active design principles apply to all developments as far as practical, and will be sought as site-acceptability matters usually through conditions. Local Plan policies DE1, DE2 and DE3 set out the design and amenity standards for new development. A minimum of 55 sq m of amenity space is sought for new houses.

4.42 This section applies to larger developments where the Council has opted to use S106 rather than CIL to address the infrastructure needs arising from development. Where new development generates a need for open space, or exacerbates an existing deficiency, new provision will be required. The provision may be by way of on-site facilities or an off-site financial contribution to ensure that proper provision is maintained within the vicinity of the development (for example by improving maintenance, management and equipment at existing facilities).

4.43 Policy SC2 “Sport leisure and recreation” of the Adopted Torbay Local Plan sets a framework for planning for new recreation developments and proposes a number of recreation facilities. Policy SS9 “Green Infrastructure” of the Adopted Local Plan is also relevant as is the Countryside, coast and greenspace chapter, particularly the undeveloped coast within Policy C2, and Policy C5 Urban landscape protection areas, where these have public access. Neighbourhood Plans are likely to identify Local Green Spaces, most of which will have public access.

It is recognised that the public realm in town centres etc also provides recreation and makes an additional contribution to the historic and built environment value of the built environment (see Policies SS10, SS11 and DE1).

4.44 The Council's **Greenspace Strategy** is an adopted Supplementary Planning Document (July 2007). (An in-house refresh of standards and costs has been carried out as part of the preparation of this SPD). The standards set out in it will be refreshed as an evidence base document) that sets out the requirement for the provision and management of open space for recreation. The Greenspace Strategy contains local The council's current standards for greenspace open space as set out in table 4.5.

4.5 Open Space Requirements Per Person (* added since 2007 Strategy)

Type of open space	Hectares per thousand population	Square metres per person
Playing pitches	1.2	12
<u>Other Outdoor Sport and Recreation Facilities (e.g. Multi Use Games Areas, outdoor fitness equipment etc)</u>	0.2	2
Equipped <u>play</u> facilities for children and young people	0.2	2
<u>Greenspace Open space (including but not limited to parks and gardens, amenity space, natural and semi-natural spaces and beaches and promenades)</u>	2.5	25
Allotments/sustainable food	4 <u>0.22</u>	-40 <u>2.2</u>

production*		
Public realm/open space in town centres	N/A	N/A

In general the Greenspace Strategy found an ample provision of green space (community parks, Town parks, coastal areas, country parks etc) but identified funding shortfalls with management. This management and enhancement shortfall has become more acute since the Greenspace Strategy was adopted.

4.45 Note on allotments: The National Society of Allotment and Leisure Gardeners (NSALG) recommends that the minimum provision should be 20 standard plots (300 sq.Yd/250 sq. m) per 1,000 households. This equates to: 5,000 sq. m (20 plots of 250 sq. m) per thousand households or 5 sq. m per household. Based on a household size of around 2.25 persons this equates to 2.2 sq. m per person.

4.46 The cost of open space provision per person **and per dwelling**, as per the Greenspace Strategy and Planning Contributions and Affordable Housing SPD 2008, adjusted for inflation is set out in Tables **4.6 and 4.7 respectively**.

4.6 Cost of Open Space Provision per Person

Type of open space	Sq m per person	Cost of provision per metre	Cost per person
Playing pitches	12	£15	£180
Other Outdoor Sport and Recreation Facilities (e.g. Multi Use Games Areas (MUGAs), outdoor fitness equipment etc)	2	£62.50 £250	£125 £500
Equipped play facilities for young people	2	£250	£500
Open space (including but not limited to parks and gardens, amenity space, natural and semi-natural spaces and beaches and promenades) Greenspace	25	£10	£250
Allotments/sustainable food production	2.2	£30	£66
Public realm/open space in town centres		£700,000 estimated cost	Around £80 per dwelling
Cost of open space per person			£1,121

Source Greenspace Strategy **updated by Residents and Visitors Services to reflect current costs and standards, 2016**. Adjusted for inflation based on Bank of England Inflation Calculator (CPI) at 1.25%

4.7 Cost of Open Space Per Dwelling

Estimated Persons Per Dwelling	Cost Per Person	Cost per dwelling
1 bedroom-1.4 persons	£490 £496 (excludes children's	£690

	play facilities and MUGAs etc)	
2 bedroom – 1.9 persons	£740 £871 (half children’s play area contribution)	£1410 £1,655
3 bedroom – 2.6 persons	£990 £1,121 (full play park contribution)	£2,580 £2,915
4 bedrooms -3 persons	£990 £1,121 (full play park contribution)	£2,970 £3,363

4.47 The provision of open space will be assessed on its merits having regard to the Local Plan and Greenspace Strategy Policy Framework.

4.48 The consideration of whether open space provision should be on or off site will depend on:

- **The size of development ;**
- **The extent, location, capacity and condition of existing open space; and**
- **The likely demand that the development will generate.**

~~Regard will be had to the location, capacity and condition of existing open space, as well as the likely demand on it that development generates.~~

4.49 Tables 4.5 to 4.6 above give a cost per person and dwelling of providing green open space. However it is recognised that provision will often be in kind through the provision of play parks etc. on site. **Sustainable development obligations are only sought from developments where the Council has opted to negotiate requirements through s106 Obligations rather than CIL. Most large developments will be expected to provide public open space as part of their layouts.** Where developers make on-site provision, the cost of this will count against any financial contribution (with the exception of maintenance payments noted below).

4.50 Sustainable development Obligations are not sought from sites of less than 11 dwellings in accordance with the written Ministerial statement of 28 November 2014, nor are they sought from developments where CIL is sought. However the Council will keep the need for open space and the status of the WMS etc under review.

4.51 The Council will normally seek on or off site provision in accordance with Table 4.8 below. However, it is acknowledged that there may be local circumstances where it is considered appropriate to switch from on site to off site provision (or vice versa, or a combination of both).

4.52 Open space provision will be taken as a whole and over provision of one type may be counted against other types of greenspace. Open space provision (whether offsite or onsite) should match the type of space likely to be used by residents, so for example elderly persons developments will not require childrens’ play facilities.

4.53 Provision will be a matter for negotiations with developers and should pre-application discussions are urged to achieve successful development.

Table 4.8 Guideline thresholds for on-site provision and off-site financial contribution

Type of open space	Approximate scale of development				Comments
	Major development				
	1-10 dwellings*	11 – 49 dwellings	50 – 199 dwellings	200+ dwellings	
Playing pitches	Off site	Off site	Off site	Off site	There may be occasional instances where on-site playing pitches are considered suitable. This is likely to be on sites of over 500 dwellings
Other Outdoor Sport and Recreation Facilities (e.g. Multi Use Games Areas, outdoor fitness equipment etc)	Off site	Off site	On site / Off site	On site	
Equipped play facilities for young people: Local Areas for Play (LAPs) aimed at very young children (also known as doorstep play areas) Locally Equipped Areas for Play (LEAPs) aimed at children who can go out and play independently (also known as community play areas) Neighbourhood Equipped Areas for Play (NEAPs) aimed at older children (also known as destination play areas)	Off site	On site/Off site	On site	On site	For sites of between 11 and 49 dwellings a split of on site provision of a LAP and off site contribution to a LEAP, or sole off-site contribution to a LEAP will be considered. Sites over 50 dwellings will normally need to provide both a LAP and LEAP. It is noted that one quality play space catering for a range of age groups is preferred to two separate play spaces. Sites over 500 dwellings will also need to provide a NEAP.
Open space (including but not limited to parks and gardens, country parks amenity space,	On site/ Off site	On site	On site	On site	For sites between 11 and 49 dwellings there may be instances where an off-site contribution to improvements to

natural and semi-natural spaces and beaches and promenades)					nearby open space, including access improvements from the development site, may be sought in lieu of on site provision.
Allotments/sustainable food production	Off site	On site / Off site	On site/Off site	On site	Torbay Local Plan Policy SC4 sets out that developments of over 30 dwellings should include provision for sustainable food production, including allotments, proportionate to the scale of the development. Off-site contributions towards provision of new allotment sites or improvements / extensions of existing sites may be sought in lieu of on site provision.

*The Written Ministerial Statement of 28/11/2014 indicates that "Tariff style" obligations may not be sought from sites of less than 11 dwellings. Sustainable Communities obligations are not sought from developments where CIL is sought.

4.54 Where no new open space is provided to serve new dwellings (above the threshold identified above), the Council may seek contributions to ensure that proper provision is maintained, on specific open space an appropriate distance from the development. Local play parks and informal space should ideally be within easy walking distance (300m) of the development. However it is reasonable to expect people to travel further for facilities such as sports pitches, beaches.

4.55 Specific items necessary to making the development acceptable in planning terms will be identified. Where these are for infrastructure, no more than 5 Obligations will be pooled. However they may be used for non infrastructure matters (for example by improving maintenance, management and equipment at existing facilities) where these would meet the tests of lawfulness. These contributions are likely to relate to projects identified in the Greenspace Strategy Action Plan, or in Neighbourhood Plans.

4.56 Where public open space or equipment is provided through a s106 (or other means) by a developer, it should in all cases make financial provision for 10 years maintenance. It is considered by the council that maintenance is essential and therefore these payments should be prioritised. Alternatively, maintenance may be transferred to a management company, so long as financial provision is made for long term maintenance, and dispute resolution.

4.57 All play space and equipment should be completed to an adoptable standard (currently European Standard EN1776 (Play Areas) and EN1777 (Hard Surfaces)) and agreed by the Head of Community Services.

4.58 Where on site facilities are provided, the Council will use a s106 agreement (or other similar means) to secure the following:

- Definition of the extent and type of provision (including a plan). Specific quality standards for all open spaces, including play spaces (LAPs, LEAPs and NEAPs), will be set out in the forthcoming update of the Greenspace Strategy.
- Design, initial establishment, implementation and completion measures.
- Future maintenance specification and funding arrangements.
- Future ownership and management arrangements.
- Rights of public access and use in perpetuity.

Any off site contributions and payment of commuted sums for Council adoption of open spaces and equipment will also be secured by s106 agreement (or other similar means). Agreements will clearly set out the rights and responsibilities of each party.

Lifelong learning

4.59 The Council, as a unitary authority, has a responsibility to provide a range of lifelong learning services to adults, including adult community learning centres, museums and libraries. Libraries are an important element in reducing social inclusion and reducing the inequality gap in Torbay. They host a range of services including acting as a contact for the Council via the Connections Service.

4.60 The cost of running libraries in Torbay is £1,053,000 per year before revenue and £977,000 per year net of revenue (Torbay Budget 2016/17). This equals about equates to £7.30 per person per year.

4.61 Torbay's museums and cultural attractions also provide education and lifelong learning as well as contributing to tourism and therefore employment in the area. Torre Abbey is managed directly by the Council, whilst grant support is given to Torquay and Brixham museums. Management agreements exist for Babbacombe and Princes theatres. Palace Theatre in Paignton is directly managed and also operates the Council's youth theatre, known as the Acting Factory.

4.62 The total expenditure from museums and theatres is £678,000 which is £216,000 after revenue.

4.63 Contributions will be sought from sites of 15+ dwellings in Future Growth Areas (i.e. that do not pay CIL in Torbay) towards lifelong learning. Note that specific projects or items of spending will be identified. Where these are infrastructure they will not breach 5 s106 Obligation pooling limits **(unless these are relaxed)**.

4.64 The calculation of cost of lifelong learning per person and per dwelling is set out in tables 4.9 and 4.10 below.

4.9 Calculation of Life Long Learning Cost per person			
	Net cost of service (after revenue). Source Torbay Council Budget 2016/17	Cost per person (based on 134,000 population) and average persons per dwelling	Cost per person & per dwelling per 10 years
Libraries	£977,000	£7.30	£73 per person
Museums and theatres	£216,000	£1.60	£16 per person
Cost per person		£8.90 per year	£89 per person

4.10 Calculation of Life Long Learning Cost per dwelling		
Number of dwellings	Persons per household	Cost per dwelling (
1 bedroom	1.4	£125
2 bedroom	1.9	£170
3 bedroom	2.6	£232

4+ bedroom	3	£267
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Public Realm improvements

4.65 Improvements to public realm, including urban spaces and the fabric of buildings etc that face on to them, are critical elements of regeneration and improve quality of life for residents and visitors alike, and reducing deprivation in town centre areas. Policies SS10, “Conservation and the historic environment”, SS11 “Sustainable Communities”, and DE1 “Design” all support public realm improvements. In addition, the Council adopted masterplans for the regeneration of Torquay and Paignton town centres in June 2015, which set out public realm improvements. The Heritage Strategy (2011) promotes conservation led regeneration and improvement of the built environment.

4.66 It is estimated that around £700,000 works are required to enhance public areas within town centres associated within town centres, (*Kay Elliot, forthcoming*).

4.67 The Masterplans will unlock significant commercial and residential development. Whilst figures are highly tentative the Local Plan town centre policies (SDT2, SDP2, SDB2) and Masterplans indicate a in the region of:

- Torquay 30,000 sq m commercial development and 600 dwellings
- Paignton 35,000 sq m commercial development and 520 dwellings
- Brixham 2,500 sq m commercial development and 65 dwellings.

4.68 On the basis of the above, ~~open space contributions will be targeted on sought~~ **the achievement of** public realm improvements for developments in the masterplan areas. This applies **to residential** and non residential developments which directly impact upon the need for public realm improvements. In ~~many~~ **most** instances urban design improvements such as the removal of clutter or poor quality later additions can be achieved by good design. Additional costs of providing these be taken into account in the negotiation of s106 or s278 Agreements (see paragraph 4.4.37 of the Local Plan). **There may be instances where a s106 Obligation is justified to provide offsite public realm improvements.** In instance where there is a particularly close relationship with development and public realm improvements, they may be prioritised over other contributions.

Waste Management Facilities

Policy W1 Waste Hierarchy and Paragraph 6.5.3.6 require that all development minimise the generation of waste and encouraging recycling rates.

The waste and recycling collection service, operated by Tor 2 is running at 98% capacity, so new development will generate a need for new waste recycling early in the Plan period. On average, each household generates 500kg of waste per year, of which 42% (210 kg) is recycled. Based on 2.1 people per household, this equates to about 240kg per year per person of which about 100 kg is recycled and 140kg needs to land filled or incinerated.

The recycling rate falls to about 22% for shared dwellings where the Council's bin and box recycling system does not operate, which equates to about 190kg of non recycled waste per person.

On average it cost the Council £100 per tonne to landfill or incinerate waste: around £14 per person per year (based on 0.140 tonne x £100). Where bin and box systems do not operate, the figure rises to £19 per year (0.019 tonne x£100).

It is therefore important to increase recycling rates for financial as well as environmental reasons.

Provision of Bin and boxes for new dwellings.

All development should make provision for adequate storage of waste and recycling bins and boxes on site, within easy reach of kerbside collection points. Guidance on refuse and recycling requirements is produced by Tor2, and developers or residents will need to obtain bins and boxes from Tor2.

It is estimated that the additional per dwelling cost of providing new dwellings with a bin and boxes, and provision of recycling information etc. is around £85 per dwelling. Larger developments (over around 200 dwellings) will need to incorporate on site facilities for the recycling of glass, paper, clothes etc. This can often be achieved through conditions.

The Council/Tor2 will seek the cost of bin and boxes from all new residential developments using municipal waste collections, as a separate process from the planning system. ~~If applicants chose not to provide this through S106/Unilateral obligations, residents of the dwellings will need to buy compatible bins and boxes directly from Tor2 before waste collection can commence.~~

Increasing capacity of waste collection services from larger developments

As noted, Torbay's waste collection service is running at near capacity. Where the Council has opted to use s106 obligations rather than CIL to help fund infrastructure, it will seek contributions towards the additional cost of waste management generated by the development.

~~Contributions will be sought from larger developments towards the cost of additional waste management facilities. On the basis of the assessed average cost per dwelling of providing additional vehicles etc., a cost of £97 per dwelling will be sought from sites of 15 or more dwellings.~~

Because it is recognised that Council Tax will provide a proportion of this, it is proposed to seek s106 Obligations to contribute based on the cost of vehicles rather than revenue costs such as fuel and wages (although in practice moneys may be used for a range of waste management matters). The Council's Environmental Services have indicated that the cost per vehicle (with a 10 year life) would be:

- 2 refuse collection vehicles at £182,000 per vehicle
- 4 recycling stillage vehicles at £82,000 per vehicle
- i.e. a total of £764,000 by 2030.

This equates to £764,000 or £85 per dwelling (based on 8,900 dwellings in the Local Plan).

Cost of Additional RCVs and Recycling Teams arising from development

On the basis of a refuse collection vehicle and team being able to service around 4,500 properties in a fortnightly cycle (500 properties x 9.5 effective working days cycle); this would equate to the need for two additional collection teams over the Plan period.

Recycling boxes are currently collected weekly, and assuming the service rates above, would equate to a need for four additional vehicles and teams over the period to 2030.

The Council's environmental Services have indicated that the cost per vehicle would be:

Refuse Collection Vehicle

Vehicle £182,500

Wages £ 51,100

Fuel £13,000

TOTAL £246,600

Recycling Stillage Vehicle

Vehicle £82,500

Wages £34,600

Fuel £ 7,500

TOTAL £124,600

This equates to a total cost of around £1million. Because it is recognised that Council Tax will provide a proportion of this, it is proposed to seek s106 Obligations to contribute based on the cost of vehicles (although in practice moneys may be used for a range of waste management matters). This equates to £863,400 or £97 per dwelling (based on 8,900 dwellings in the Local Plan).

Where developments are unable to provide the Council’s normal waste recycling bin and boxes, an additional charge will be sought to cover the additional cost to the Council **arising from reduced recycling rates. This will be based on a cost of £50 per person (representing 10 years of £5 being the additional cost of landfill etc as calculated above).** This is unlikely to apply to developments that have paid CIL.

Table 4.7 below sets out waste contributions sought from residential development.

Table 4.7 Waste Management Contributions

	Cost of Bin and Recycling Boxes, and recycling information	Contribution to additional waste and recycling services
Sites of 1-10 dwellings, where normal bin and box recycling system can operate	“Tariff style contributions are not sought from smaller sites. However developers have the option of purchasing bins and boxes from Tor2 at the planning stage. If they chose not to then they will be billed directly by the Council/Tor2	-
Sites of 11+ Dwellings where normal bin and box recycling system can operate.	£75 Developers have the option of purchasing bins and boxes from Tor2 at the planning stage. If they chose not to then they will be billed directly by the Council/Tor2	£97 £85
Developments where there is a reduced capacity to recycle e.g. due lack of recycling facilities	A waste audit will be required to indicate how municipal waste will be managed. Otherwise a contribution will be sought based on the additional cost to the Council Tor of dealing with the waste arising from the development, and reduced recycling rates. .	£97 £85+£50 per person/room

Difficult to Monitor Uses and Town Centre Management

The Local Plan indicates that s106 Obligations will be sought to monitor development that gives rise to specific monitoring requirements such as holiday occupancy conditions, non-Registered Providers of affordable housing (excluding starter homes), town centre management use, holiday occupancy, ecological mitigation and HMOs.

Officer time costs on average £72 per hour, or £245 per half day. Table 4.8 below sets out the types of development that require **specific** monitoring and the cost to the council over 5 years. Note that this is not a definitive list and contributions will be sought proportionately to the requirement to monitor.

Policy TC5 “Evening and Night-time economy” indicates that contributions will be sought towards town centre management, maintenance and policing

Note that Monitoring and management contributions are not usually sought for infrastructure items and therefore not subject to pooling restrictions.

Table 4.12 Monitoring Contributions

Use	Monitoring requirement	Cost of Monitoring/ Contribution	Notes
Holiday occupancy conditions	Low	£360	Based on annual visit being required <u>Based on 1 day per annum data assessment or visit.</u>
Non-RP Affordable Housing (excluding starter homes)	Low	£360	Based on annual visit being required <u>Based on 1 day per annum data assessment or visit.</u>
Ecological Mitigation Works	Low	£360	Based on annual visit being required <u>Based on 1 day per annum data assessment or visit.</u>
Houses in Multiple Occupancy	Medium <u>to high</u>	£1440	<u>Based on 4 days per annum data assessment or visits.</u> May be reduced where on-site management is provided.
Amusement Arcades, betting shops.	Medium to High	£2,880	Will be applied proportionately to monitoring requirement.
Night time economy uses, alcohol related uses	High	£2,880 per 100 sq. m	Will be applied proportionately to monitoring requirement

5. IMPLEMENTATION

Policy SS7 of the adopted Torbay Local Plan 2012-30 undertakes to prioritise developer Obligations according to:

- The tests of Lawfulness
- Prioritisation of critical infrastructure
- Evidence of viability
- Wider development impact
- Torbay Community Plan themes
- Availability of other funding, including ring fenced government funding and CIL.

As noted above, Planning Conditions will be used wherever possible rather than S106 Obligations.

Note that “sustainable development contributions” are not sought from developments that pay CIL, and “tariff style” obligations are not sought from residential developments of less than 11 dwellings or commercial development of less than 100 sq m. Whilst site deliverability matters still apply, but can often be addressed through conditions. On this basis it is expected that many small developments will not need s106 agreements.

Types of s106 obligations

With small-scale developments which only require the payment of commuted sums, and where the developer has been notified that the Council is minded to grant planning permission, it may be simpler for the developers to pay the sums through a unilateral undertaking. A unilateral undertaking is a legal document made pursuant to s.106 of the Town & Country Planning Act 1990 under which, in this case, the developer agrees to pay contributions in respect of necessary measures to make the development acceptable in planning terms. If a unilateral undertaking is considered by the Council to be appropriate, a template document will be provided for the developer to complete, sign and return.

A unilateral undertaking can only be entered into by the owner of the land to be developed. An applicant who does not own the land to which the application relates will need to ask the owner to enter in to the undertaking. Where payment is made in advance of granting permission a 10% discount to the commuted sums will be applied and the Council will not impose a charge for its legal costs.

Section 106 Agreements

Where the Council decides to grant planning permission subject to the completion of a S106 Agreement (or S278 Agreement in the case of works to the highway), matters covered in the s.106 agreement will include (as appropriate):

- Timing of payments and phasing of development
- Nature of obligation and (where a financial contribution) how it will be spent.
- In the case of affordable housing:
 - The number of affordable units
 - The type and size of the properties
 - Arrangements for ensuring that the housing remains affordable in perpetuity
 - Local occupancy condition, where appropriate

- How the affordable element will be achieved e.g. through the construction of units, transfer of land, or financial or other off-site contribution
- Any cascade arrangements including the length of time in which to secure funding for rented housing, before which the tenure mix can be re-negotiated and time that units need to be marketed for.
- A mortgagee in possession clause
- Where appropriate a clause for financial re-assessment and payment of deferred contributions

Developers will be expected to pay the Council's legal costs of drafting **or review of** S106 Agreements at the current rate of £150 per hour; this rate may be increased in line with inflation and level of complexity of the issues involved.

Mitigation

S106 Obligations are intended to address the net additional impact of development upon the built and natural environment and wider society. On this basis, contributions may be mitigated where development gives rise to particular social, economic or environmental benefits.

Mitigation for Existing Uses The Planning Contributions and Affordable Housing SPD is intended to meet the community (etc.) impact of additional development. Therefore the existing use should be taken into account and contributions sought on the **net additional impact**. Note that this requires applicants to be specific about existing uses and provide details of floorspace.

Mitigation for existing uses cannot remove the need for contributions towards matters that are necessary to the safe operation of the site or meeting legal requirements (i.e. Site Deliverability matters).

Mitigation where there is an Identifiable Social Good (e.g. provides jobs or regeneration benefits). Where development results in an identifiable social good, for example significant regeneration, built or natural environment or provision of jobs, the authority will take a flexible approach to planning contributions in order to ensure that the social benefits of development are realised.

Mitigation for Job Creation. Economic Prosperity is a high priority for the Council. Therefore it is particularly important that planning obligations do not impede job creation. On this basis mitigation from "tariff style" contributions will be given for jobs created by development proposals, using the methodology set out in Part above as a starting point.

Affordable Housing "Sustainable development" contributions will not be sought for social rented from affordable housing (which for simplicity should include affordable rent), and a 50% discount applied to intermediate housing and starter homes. **where full nomination rights are given to Torbay Council, or occupancy is restricted in perpetuity to people already living or working in Torbay.**

Note that this relates to affordable housing within the definition in the NPPF (and starter homes). It does not apply to small "low cost" open market units sold without a discount. In addition, "development site acceptability" matters have to be addressed on affordable housing developments, to make the site safe and workable in physical terms.

Where intermediate housing provides additional sustainability benefits such as exceeding minimum Building Regulations standards on energy efficiency or accessibility, then the Council will consider relaxing the requirement for sustainable development contributions.

Viability – Content of Viability Assessments

The Local Plan acknowledges that s106 Obligations may be negotiated between the Council and developer. Where it is claimed that planning obligations would render development unviable, the Council will require the developer to ~~carry out a viability assessment at the developer's expense.~~ **cover the cost of an independent viability assessment by a suitably qualified professional appointed by the Council. They will work with both parties but will be accountable to the Council.**

The Council may also require the developer to pay for a critical review of the viability assessment and a re-appraisal of the proposed development if it deems it necessary. The developer is to pay for the cost of this critical review and re-appraisal.

Calculation of viability will usually be based on residual land value (i.e. a calculation that the value of land after development costs, policy requirements and contributions remains sufficient for a willing developer to bring forward development).

An open book accounting approach will be used to assess the viability of the development and should include itemised details of: However the Council will have regard to financial confidentiality in publishing these.

- **Acquisitions costs, land and Stamp Duty Land Tax etc.**
- **Planning, legal and professional fees, marketing costs.**
- **Demolition and** other abnormal costs;
- **Construction costs at price per sq. m floor area detailing what is included and on what basis; and what evidence has been used to arrive at the build cost. These should include preliminaries, external works and contingencies**
- **Build programme**
- **Allowances for any other contribution or costs associated with the development including planning obligations contributions due;**
- **Any other contractual arrangement such as uplift or claw-back provisions;**
- Details of any finance agreements;
- **Gross development value, eg. sales values with evidence and, for larger schemes, cashflows showing the timing for the sales**

- Details of any ground rents, affordable housing values (evidenced by offers from RPs), commercial values including rents and yields.
- Anticipated developer profit clearly expressed in terms of % of GDV. The Council will allow 20% of GDV on market housing and 6% on affordable units to represent a reasonable level of profit.

The Council will have regard to financial confidentiality in publishing this information. It may be required to publish such data, but will redact figures and details that would harm financial confidentiality.

A basic development appraisal template is available on the Councils website setting out the information required. Developers may use their own templates but these must include the exact details to ensure that a clear and consistent approach to viability appraisal is maintained for all sites. Viability assessments should be proportional to the scale and nature of the application.

The open-book accounting approach will expect land values to reflect market conditions, alternative land use value and local and national planning policy requirements at the time the viability appraisal is carried out. The price paid by the developer for the land will not normally be a factor in determining the viability of a site, if they have paid above the assessed open market rate.

Where Development is Unviable

Where a developer demonstrates to the satisfaction of the Council that a proposed scheme is not currently viable with a policy-complaint level of developer contributions **and** the Council consider that there is scope to agree an acceptable development, the Council will agree to reduce S106 and other obligations in order to render development viable, subject to a recalculation of viability as set out below.

Contributions will be reduced in line with the order of priorities set out in Policy SS7 and this SPD (i.e. broader sustainability contributions will generally be relaxed before affordable housing/employment and health contributions). There is no scope to relax Site Deliverability requirements, although these will generally be addressed through conditions rather than developer contributions.

Where reduced S106 Obligations are agreed, the S106 Agreement will include a clause to secure a further Viability Appraisal/s (at the developer's expense) to be carried out at the end of the development, or at the completion of each phase of larger developments to assess the precise profit based on actual development costs and sales figures.

Any further viability appraisal will only apply to units that have not reached practical completion by an agreed time to be agreed in the initial S106 Agreement. This will usually be:

- Three years from the grant of planning permission for sites of up to ~~400~~ 50 dwellings;
- Four years from the grant of planning permission for sites of between 51-90 dwellings
- Five years for developments of 90 dwellings or more.

Very large sites (e.g. over 200 dwellings or mixed use developments will be negotiated on an individual basis).

If actual profit exceeds 20% Gross Development Value (GDV) the developer will be required to pay an additional contribution equivalent to 50% of the profit above 20% GDV. Where a reduced level of affordable housing has been provided, the Council will seek increased provision of affordable housing in the later phases of development, subject to sustainable communities and other relevant considerations.

A ceiling on the contributions/affordable housing provision will be imposed to ensure the developer does not contribute more than the amount of contribution that was applicable at the time of submission of the latest relevant application.

Re-negotiating the Terms of the Section 106 Agreement

The Council has discretion to renegotiate s106 Agreements, but is under no obligation to do so. There is no right of appeal against a refusal to renegotiate s106 Obligations that are less than five years old. On this basis the Council will only renegotiate s106 Obligations where this would provide net benefits to the community, environment etc.

Where the developer seeks to re-negotiate previously agreed s106 Obligations the Council will require an open-book viability appraisal to be carried out at the developer's expense.

The assessment must take the form of the viability appraisal template or other form agreed in writing between the developer and the Council providing that the land values, development costs, development values and finance costs all reflect current market conditions.

The findings of the viability appraisal will remain valid for a maximum period of 12 months from the date an amended Agreement is agreed; or, where phasing has been agreed in excess of 12 months, a new viability appraisal will be required for each phase.

Where viability appraisal satisfactorily demonstrates that the development is not currently viable when taking into account the full obligations and contributions required, the Council will agree to re-negotiate s106 Obligations in the order of priority identified ~~above~~ in this SPD. However, contributions cannot be relaxed to the extent that development would not be in accordance with certain regulatory requirements (such as in the Habitats Directive) or not in the public interest.

Developers will be expected to pay the Council's legal costs of drafting a deed to vary the original s106 at the current rate of £150 per hour (with a minimum fee of £500); this rate may be increased in line with inflation and level of complexity of the issues involved. The Council may charge developers for additional costs it encounters associated with monitoring s106 clause triggers etc.

Monitoring and Spending S106 Obligations

The Council will collect s106 for projects and programmes necessary to make the development to which they relate acceptable in planning terms. It will monitor the collection and spending of development contributions and will where practicable spend them within five years of the contribution being paid. Up to five percent of the cost of s106 obligations (not representing an additional charge to the developer) may be retained for administering and monitoring them.

6. Summary

The tables below are intended as a summary of contributions that may be sought from development. Although figures are presented for some items, these are intended to be an assessment of the likely impact of the development rather than a “tariff” per se, and will not be sought as a tariff.

The SPD will need to be updated in line with inflation and evidence of need for different items off infrastructure. The Council will also need to have regard to the evolving nature of government and legal guidance and legislation on S106 and CIL, particularly the Planning Practice Guidance and Ministerial Statements on levying affordable housing and “tariff style” contributions on small sites, as well as particularly relating to affordable housing thresholds, and s106 pooling limits. Should pooling limits be relaxed, they will not be applied.

S106 may also apply to commercial developments, which must be determined on a case by case basis.

6.1 Summary of Contributions Sought

Residential Developments of 1-11 dwellings (1-5 in the AONB)		
	Requirement	Notes
Site Deliverabilitys		Applies to all sites
Direct access/safety	Direct provision or as costed by Highways Department	S278 Agreement where possible.
Flooding, drainage and Sewerage	Direct provision, SuDS, requisition from South West Water	Note that Torbay is a Critical Drainage Area
Biodiversity	Mitigation of biodiversity, <u>including woodland, impacts and compensation for losses.</u> Through condition or s106 Obligation	Note that <u>indirect recreational</u> impact on South Hams SAC is a CIL item so developments that pay CIL will not be charged S106 contributions towards this
Design and Active Design	Through design/conditions	
Built environment improvements and public realm	Through design/conditions.	
Affordable Housing Employment and Health		
Affordable Housing	Greenfield Sites of 6-11 dwellings in the AONB required to pay commuted sum based on 15% provision see table 3.2	Regulations may introduce a requirement for starter homes. The Council will keep the minimum permissible threshold for greenfield sites under review.
Healthcare	£1,300 per dwelling £2,220 per care home room	S106 Contributions sought where there is a specific <u>additional</u>

		<p>healthcare requirement arising from development e.g. sheltered accommodation. Will not be sought where developments show that they provide additional care and facilities which will not result in additional cost to the integrated care organisation.</p> <p>Active design is a Site Deliverability matter (see above).</p>
Employment	£8,000 per FTE job lost.	<p>Only applies to where application entails the loss of employment.</p> <p>The Council will seek to negotiate local labour arrangements with developers.</p>
Sustainable Development	Not normally sought on sites of 10 or fewer dwellings unless application gives rise to a specific need.	The Council will keep the ability to seek “tariff style” contributions under review. Will not be sought from developments where CIL is levied.
Waste management	£50 per person for developments where bin and box recycling system cannot operate.	Option to pay £85 per dwelling at the planning stage. Otherwise bins and boxes will need to be purchased from the Council/Tor2
Monitoring Contributions		Where development results in specific additional monitoring needs.
Community Infrastructure Levy	Charged on new floorspace	See CIL Charging Schedule

(6.1) Residential Developments of 11+ dwellings (6+ in the AONB)

	Requirement	Notes
Site Deliverabilitys		Applies to all sites
Direct access/safety	Direct provision or as costed by Highways Department	S278 Agreement where possible.
Flooding, drainage and Sewerage	Direct provision, SuDS, requisition from South West Water	Note that Torbay is a Critical Drainage Area

Biodiversity	Mitigation of biodiversity impacts and compensation for losses, including woodland. Through condition or s106 Obligation.	Note that recreational impact on South Hams SAC is a CIL item Note that indirect impact on South Hams SAC is a CIL item, so developments that pay CIL will not be charged S106 contributions towards this.
Design and Active Design	Through design/conditions.	
Built environment improvements and public realm	Through design/conditions.	
Affordable Housing Employment and Health		
Affordable Housing	Onsite provision for Greenfield sites: 11-14= 20% 15-29= 25% 30+ = 30% or 25% plus 5% self build plots Brownfield 15-19= 15% 20+ = 20%	
Healthcare	£1,300 per dwelling £2,220 per care home room	S106 Contributions sought where there is a specific healthcare requirement arising from development e.g. sheltered accommodation. Will not be sought where developments show that they provide additional care and facilities which will not result in additional cost to the integrated care organisation. Active design is a Site Deliverability matter (see above).
Employment	£8,000 per FTE job lost.	Only applies to where the application entails the loss of employment The Council will seek to negotiate local

		<u>labour arrangements with developers.</u>
Sustainable Development	Applies only to developments that do not pay CIL (i.e. sites of 15+ dwellings within Future Growth Areas).	
Sustainable transport	Apartments 1-3 bedrooms £690 Houses 1-3 bedrooms £860 Larger dwellings £1,110	<u>Will need to relate to specific identified projects which are necessary to making development acceptable in planning terms (etc).</u>
Education	1 bedroom dwellings and specialist accommodation= zero 2 bedroom apartments £3,170 2 bedroom houses £4,750 3 bedroom dwellings £6,330 4 bedroom dwellings £7,920 5+ bedroom dwellings £9,500	<u>Will need to relate to specific identified education which are necessary to making development acceptable in planning terms (etc).</u>
Lifelong learning	1 bedroom dwellings £125 2 bedroom dwellings £170 3 bedroom dwellings £232 4 bedroom dwellings £267	<u>Will need to relate to specific identified education which are necessary to making development acceptable in planning terms (etc).</u>
Open space, sports and recreation	1 bedroom dwellings £690 2 bedroom dwellings £1,410 3 bedroom dwellings £2,580 4+ bedroom dwellings £2,970	<u>Will usually be achieved by onsite provision on larger developments (subject to maintenance agreements).</u>
Waste management	£85 (ins and boxes) plus £97-per dwelling <u>Plus £50 per person/room for developments using municipal waste which cannot provide standard bin and recycling boxes scheme.</u>	<u>Applies to larger developments where a need for additional waste management facilities is identified. Will need to relate to specific identified education which are necessary to making development acceptable in planning terms (etc).</u> <i>plus developments where the Council's bin and box recycling system is difficult to achieve.</i>
Monitoring and management	Costs based on officer time at £72/hour (at 2016 values)	Only proposals that give rise to particular monitoring issues.

<p>Community Infrastructure Levy</p>		<p>Applies to dwellings, based on new floorspace. CIL is sought on new dwellings apart from sites of 15+ units in Future Growth Areas. For such sites, planning obligations will be used.</p> <p>Where CIL is sought, “tariff style” S106 Obligations will not be sought. S106</p>
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Record of Decision

Mayor's Response to Council's Objection to Planning Contributions and Affordable Housing Supplementary Planning Document

Decision Taker

Mayor on 06 January 2017

Decision

- (i) that following consideration of representations made on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document (SPD), the SPD be adopted, with minor modifications, as a Supplementary Planning Document as set out in Appendix 3 to the submitted report; and
- (ii) that the Executive Head of Business Services, in consultation with the Executive Lead for Planning, Transport and Housing, be given delegated powers to make minor amendments to the document to ensure legibility and clarity.

Reason for the Decision

Having had regard to the considerations, including Court and Appeal decisions set out in the Council Report, the Mayor considers that the higher threshold of 11 dwellings should apply for affordable housing on greenfield sites, in accordance with Government advice set out in the Written Ministerial Statement of 28 November 2014 and reiterated in the Planning Practice Guidance.

The Mayor considers that applying a threshold of 11 dwellings will be less onerous to viability for small house builders and thereby encourage the supply of housing. He notes that the draft SPD allows for reduced S106 contributions where viability is assessed to be jeopardised by S106 requirements. However, seeking such relief from S106 Contributions incurs expense. It is also noted that new greenfield developments may also be CIL chargeable. Whilst "tariff style" S106 contributions would not be sought from such sites, they may incur expenses from site acceptability matters. In addition, rising costs and skill shortages are likely to impact on smaller house builders more than large ones.

The affordable housing requirement is set out in Policy H2 of the Adopted Local Plan. This indicates that affordable housing requirements are usually made through commuted payment on sites of 3-10 dwellings. The level of contribution proposed by the draft Supplementary Planning Document (SPD) is as follows.

(A) Site size	(B) % of affordable housing	(C) Level of contribution in the draft SPD per single affordable dwelling required (As per Table 3.1b, Page 30 of the Draft SPD)	(D) Pro-rata contribution per dwelling on the site.
3-5 dwellings	10%	Smaller dwelling 1-2 person =£77,000 Medium dwelling 3+ persons =£108,000	£7,700 per smaller dwelling £10,800 per larger dwelling
6-10 dwellings	15%	Smaller dwelling 1-2 person =£77,000 Medium dwelling 3+ persons =£108,000	£11,550 per smaller dwelling £16,200 per larger dwelling.

For example, a development of 3 medium greenfield dwellings would be liable for 10% affordable housing i.e. 0.3 of a dwelling at £108,000 per dwelling i.e. a contribution of £32,400 overall or £10,800 per dwelling.

A development of 10 larger dwellings would be liable for affordable housing contributions at 15% i.e. 1.5 dwellings at £108,000 per dwelling or £162,000 (equivalent to a contribution of £16,200 per dwelling).

Implementation

The recommendation of the Mayor will be considered at the Council meeting on 2 February 2017.

Information

At the meeting of Council held on 8 December 2016, Members the considered the submitted report setting out a review of the Planning Contributions and Affordable Housing Supplementary Planning Guidance. Members noted the document set out the Council's approach to developer contributions for both commercial and residential properties. The Council resolved:

that the Council formally objects to the adoption of the Planning Contributions and Affordable Housing Supplementary Planning Document on the basis that the officer recommendation should be adopted by Council as follows:

- 3.3 that following Consideration of representations received on the Draft Planning Contributions and Affordable Housing Supplementary Planning Document (SPD), the SPD be adopted, with minor modifications, as a Supplementary Planning Document as set out in Appendix 3 to the submitted report except that the threshold for provision of affordable housing in paragraph 3.4 of the SPD, and accompanying text elsewhere, be amended to 3 instead of 11 to ensure that the document adheres to the affordable housing thresholds set out in Policy H2 of the Adopted Torbay Local Plan, i.e. 3 dwellings for greenfield sites and that the Written**

Ministerial Statement of 28 November 2014 should be noted in the SPD as a material consideration; and

- 3.4 that the Executive Head of Business Services, in consultation with the Executive Lead for Planning, Transport and Housing, be given delegated powers to make minor amendments to the document to ensure legibility and clarity.**

In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to consider this objection by 6 January 2017 and either:

- a) submit a revision of the Planning Contributions and Affordable Housing Supplementary Planning Document with the reasons for any amendments to the Council for its consideration; or**
- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.**

The objection (substantive motion) was then considered by members, which was agreed by Council (shown in bold text above). The Mayor would consider the objection and publish his response by 6 January 2017 for consideration at the Extraordinary Council meeting on 19 January 2017.

The Mayor considered the recommendation of the Council and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

Yes – Reference Number: I024914

Does the call-in procedure apply?

No

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

None

Published

6 January 2017

Signed: _____
Mayor of Torbay

Date: 6 January 2017



Meeting: Council

Date: 2 February 2017

Wards Affected: All

Report Title: Capital Plan 2016/2017 – Quarter 3 Monitoring

Is the decision a key decision? No

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Mayor Gordon Oliver, mayor@torbay.gov.uk

Supporting Officer Contact Details: Martin Phillips, Head of Finance,
martin.phillips@torbay.gov.uk, 01803 207285

1. Proposal and Introduction

- 1.1 The Capital Plan budget totals £130 million for the 4 year programme, with £46.2 million currently scheduled to be spent in 2016/17, including £4.6m on the South Devon Highway and potential expenditure from the Investment Fund. The Capital Plan currently requires £0.7 million from capital receipts and capital contributions over the life of the Plan.
- 1.2 The Council's Capital Plan is updated on a quarterly basis which includes any new funding announcements and allocations. It provides high-level information on capital expenditure and funding for the year compared with the last Plan update as reported to Council in December 2016, relating to Quarter 2 position.
- 1.3 The projection of capital schemes to be spent during 2017/18 within the appendix to this report will also be included as a stand alone report to enable the Council to approve a 2017/18 Capital Plan in line with the Council's Constitution.

2. Reason for Proposal

- 2.1 Quarterly reporting to both the Overview and Scrutiny Board (OSB) and to Council is part of the Council's financial management with the Council being asked to note the 2016/17 quarter three position for its Capital Plan 2016/17 – 2019/20.
- 2.2 There are a number of new capital projects and grant allocations recommended for approval.

3. Recommendation(s) / Proposed Decision

3.1 That the latest position for the Council's Capital expenditure and funding for 2016/17 be noted.

3.2 That the allocation of the following Government grants be approved:

Dept for Transport – Pothole Action Fund 2017/18 allocation of £0.117m and National Productivity Investment Fund of £0.413m (to Highways Structural Maintenance)

Dept for Education – Early Years Capital (to Children's Services)

- White Rock Primary Nursery £0.235m
- Ellacombe Academy Nursery £0.541m

4 Supporting Information and Impact Assessment

4.1 Members of the Overview and Scrutiny Board and Council receive regular budget monitoring reports on the Council's Capital Plan throughout the year. The Council's four year Capital Plan is updated each quarter through the year. This report is the monitoring report for the third quarter 2016/17 and includes variations arising in this quarter to the end December 2016.

4.2 The overall funding position of the 4-year Capital Plan Budget of £130 million, covering the period 2016/17 – 2019/20, is primarily fully funded but still relies upon the generation of £1.2 million of Capital income from capital receipts and capital contributions over the life of the Capital Plan. Of this £1.2m, £0.5 million has been received by the end of December 2016, leaving a balance of £0.7 million still to be realised. It is only after this target has been reached that any capital receipts should be applied to new schemes.

4.3 It is anticipated some further capital resources will be achieved from capital contributions including a Community Infrastructure Levy (CIL) scheme which is expected to be approved during 2016/17.

4.4 The movements in the estimate of expenditure in 2016/17 on the Capital Plan between the last monitoring report at September 2016 of £31.7m and the latest budget for 2016/17 of £42.3 m are shown below.

Scheme	Variation in 2016/17	Change £m	Reason
Estimate as at Q2 2016/17		31.7	Capital Plan Update, 2016/17 Quarter 2
Joint Commissioning Team			
Adult Services			
Affordable Housing	Budget to 2017/18	(0.1)	Unlikely to spend in 2016/17
		(0.1)	
Children's Services			
Capital Repairs and Maintenance 16/17	New budget for 2016/17 Part moved to 2017/18	0.4 (0.2)	Govt. grant alloc re 2016/17
Early Years schemes at White Rock and Ellacombe	New budgets Part moved to 2017/18	0.9 (0.4)	DfE allocation of grant to support early years provision
Education Review Projects	Budget re profiled to 2017/18	(0.2)	Timing of likely expenditure reviewed

Secondary School Places	Part budget to 2017/18	(0.4)	Some works rescheduled to next financial year
Torbay School Relocation	Budget re-profiled to 2017/18	(0.2)	Review of expenditure
		(0.1)	
Joint Operations Team			
Community and Customer Services			
CCTV equipment	Budget moved to 2017/18	(0.4)	Delay in procurement
Empty Homes Scheme	Re profiled to 2017/18	(0.2)	Review estimated expenditure
Private Sector Renewal	Budget transfer to 2017/18	(0.1)	No requirement in 2016/17
Transport – Integrated Transport schemes	Reprofile budget	(0.5) (0.2)	Repay funds swap re LEP schemes Funds transferred to Western Corridor scheme
Transport – Highways Structural Maintenance	Increased budget	0.2	Govt. grant allocations increased
Western Corridor	Torbay match funding Budget re profiled to 2017/18	0.2 (1.8)	Increased budget from Integrated Transport Latest forecast of costs to be incurred in 2017/18.
		(2.8)	
Corporate and Business Services			
Beacon Quay Toilets	Increased budget	0.1	Increased cost estimate
Essential Capital Repairs	Part of budget allocated Remainder to 2017/18	(0.4) (0.1)	Budget allocated to Freshwater Cliff Stabilisation Not likely to be required in 16/17
Council Fleet Vehicles	Budget moved to 2017/18	(0.1)	Review of expenditure needs
Employment Site	Transfer to next year	(2.0)	Expenditure plans reviewed
Freshwater Cliff stabilisation	New budget	0.3	Budget assigned from Essential Capital Repairs
Investment Fund	Part budget brought forward to 2016/17 and allocated to potential site acquisitions	16.4	Budget increased for 2016/17 to enable potential site acquisitions
Torbay Innovation Centre Phase 3 (EPIC)	Budget moved to 2017/18	(0.6)	Minimal spend in 2016/17
Town Dock Pontoon replacements	New budget mainly phased to 2017/18	0.2 (0.2)	Harbour Committee approved funds from Harbours Reserve
		13.6	
Estimate – Quarter Three 2016/17		42.3	

5.0 Expenditure

- 5.1 The Capital Plan Budget has been updated for any further revision to both projects and timing, resulting in the latest revision attached at Appendix 1. The Plan now totals £130 million over the 4 year period of which £42.3 million relates to 2016/17 and £56.3 million relates to 2017/18.
- 5.2 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.
- 5.3 Expenditure to the end of this third quarter was £6 million with a further £2 million of commitments on the Council's finance system. The expenditure of £6 million is only 14% of the latest budget for 2016/17. This compares with £12.7 million (or 56% of outturn) for the third quarter last year. It is recognised that for a number of schemes (e.g. South Devon Highway and Investment Fund), the Council will not incur expenditure until later in the year.

	2012/13 £m (%)	2013/14 £m (%)	2014/15 £m (%)	2015/16 £m (%)	2016/17 £m (%)
Quarter One	2 (11%)	4 (23%)	2 (10%)	1 (4%)	1 (2%)
Quarter Two	4 (21%)	4 (23%)	4 (20%)	4 (17%)	3 (7%)
Quarter Three	5 (26%)	3 (18%)	4 (20%)	8 (35%)	2 (4%)
Quarter Four	8 (42%)	6 (35%)	10 (50%)	10 (43%)	
Total In Year	19	17	20	23	42

5.4 **Updates to Capital Plan**

5.5 **Joint Commissioning Team**

- 5.6 Affordable Housing – budget is not likely to be allocated for specific schemes in 2016/17 so £0.1m budget moved to next year.

Affordable Housing – Community Housing Fund. Torbay has received a 2016/17 grant allocation of £0.643m to enable and boost delivery of affordable housing units through community – led housing groups in areas affected by high levels of second home ownership. The grant has initially been accounted for as revenue, however some expenditure may be capital depending on the actual allocation of the grant. Therefore the grant is noted here for information and to enable use if confirmation as capital resources is received.

- 5.7 There are a number of projects in Children's services where some expenditure has been re profiled to move funding between years to reflect latest expenditure projections:

Capital Repairs 2016/17 - £0.15m moved as some works will not be undertaken until 2017/18.

Education Review Projects – £0.2m of this budget is not expected to be required until next year, so has been transferred accordingly.

Secondary School Places – £0.4m of budget moved to 2017/18 to reflect expected expenditure profile

Torbay School Relocation – part (£0.2m) of budget reprofiled to next financial year.

Early Years provision – as detailed below (para. 8.4) the Department for Education have awarded grant to support two specific nursery projects. The details are set out in the table below:

School	Project	School contribution	LA contribution	GRANT	Total Project Cost
White Rock Primary	New 26 place nursery	£28,286	£50,000	£234,858	£313,144
Ellacombe Academy	Expansion of Little Stars Nursery from 24 to 48 places	£130,337	£50,000	£541,012	£721,349

The Council's contribution to the above schemes will come from existing Early Years resources within the approved Capital Plan so has no new resourcing implications.

5.8 **Joint Operations Team**

5.9 **Community and Customer Services**

5.10 CCTV Equipment – following delays related to the procurement of this work the £0.4m budget will not now be required until next financial year.

5.11 Empty Homes Scheme – work and plans not yet finalised so £0.2m of the budget is transferred to 2017/18.

5.12 Private Sector Renewal – there are not currently any plans for this budget so the funds of £0.1m are transferred to 2017/18.

5.13 South Devon Highway – Following contract negotiations between Devon County Council and the main contractor over cost variations a settlement has been agreed which will potentially increase Torbay's contribution to the scheme by approximately £0.1m. There are still other costs to be determined (including compensation claims) before the final cost of this major infrastructure improvement is known.

5.14 Transport – Integrated Transport Schemes – This budget covers various transport schemes including work at Fleet Walk. The main work relating to this particular project will not now take place until 2017/18. Funds are being used this year to make early reversal of a resource swap used last year to support LEP funded transport schemes. This reversal had previously been scheduled over future years. Some funds are also being transferred to the Western Corridor scheme representing Torbay's agreed match funding to the project (see also para. 5.16 below).

5.15 Transport Structural Maintenance – the Government has recently announced the latest grant allocation from the Pot Hole Action Fund for 2017/18, along with a new highways National Productivity Investment Fund allocation. Subject to Council

approval, it is intended to add this increased funding of £0.117m and £0.413m respectively, to the 2017/18 budget.

5.16 Transport – Western Corridor. – This scheme is mainly funded from Local Enterprise Partnership (LEP) grant and £0.2m has been added to the budget to reflect Torbay’s match funding for the project. These resources are transferred from the Integrated Transport block. Following a review of likely expenditure levels £1.78m of the 2016/17 budget has been moved to 2017/18.

5.17 Corporate & Business Services

5.18 Essential Repair Works – Part of the prudential borrowing of £3 million for essential capital repair works has been assigned to Freshwater Cliffs Stabilisation. Tenders have now been received for the cliff work and £0.375m budget is being allocated to the scheme. The remaining £0.1m of the profiled 2016/17 budget is unlikely to be allocated this year so is re-phased to 2017/18.

5.19 Beacon Quay Toilets - The tenders have now been returned for this refurbishment work and unfortunately the cost is higher than expected (the estimated cost is now £0.117m from £0.085m).The additional funding will be added to the original funding from the Harbours Reserves.

5.20 Council Fleet Vehicles – no vehicles likely to be procured this year, so the available budget of £0.1m has been moved to next financial year.

5.21 Employment Space – proposed works on this project are delayed and consequently the scheduled £2.0m 2016/17 budget has been reprofiled into 2017/18.

5.22 Investment Fund - a number of potential options are being considered to achieve an income stream for the Council. In view of particular opportunities at present £16.4m of the budget initially allocated to future years has been brought back into 2016/17 to provide resource cover to facilitate acquisition opportunities.

5.23 Torbay Innovation Centre Phase 3 (EPIC) – again works scheduled for 2016/17 have not progressed as anticipated with the result that £0.6m budget has been transferred to next financial year.

5.24 TEDC Capital Loan – some minor reprofiling of this financial support for TEDC capital projects has been required to match expenditure patterns.

5.25 Torquay Town Dock pontoon replacements – Harbours Committee (Dec 2016) approved capital spend of approximately £0.22m required for Torquay Harbour to carry out some essential pontoon replacement works to the Town Dock to be funded from Harbours Reserve. Whilst some costs will probably fall into the current year it is expected that the majority of expenditure will fall in 2017/18.

6 Receipts & Funding

6.1 The funding identified for the latest Capital Plan budget is shown in Appendix 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 Plan is shown in the Table below:

	2016/17	2017/18	2018/19	2019/20	Total @ Q3 16/17
	A	B	C	D	E
Funding	£m	£m	£m	£m	£m
Unsupported Borrowing	27	29	18	5	79
Grants	13	23	6	2	44
Contributions	0	1	0	0	1
Reserves	0	2	0	0	2
Revenue	1	0	0	0	1
Capital Receipts	1	1	1	0	3
Total	42	56	25	7	130

6.2 Grants

6.3 Capital Grants continue to be the major funding stream (over 56% in last 3 years) 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 £11 million of grants in 2015/16 and is currently estimating to use £13m of grants in 2016/17 (approximately 31% of 16/17 budget).

6.4 Since the last Capital update (Quarter 2 2016/17) reported to Council in December 2016, the Council has been notified of the following capital grant allocations.

- Dept. for Transport - Pothole Action Fund 2017/18 allocation £0.117m and National Productivity Investment Fund 2017/18 allocation of £0.413m. This is a new allocation from a new national fund to improve local road networks and public transport.

Whilst both of these are not “technically” a ring fenced grant, there are conditions which require the funding to be used as directed, and in the case of the Productivity Fund commitments must be given by the Council on the use of this grant in order to receive the funding.

The allocations have therefore been added to the 2017/18 Highways Structural Maintenance budget.

- Dept. for Education – Early Years capital provision.

Following a successful bid the DfE have awarded funding for two projects to provide additional early years care at:

White Rock Primary Nursery - £0.235m
Ellacombe Academy Nursery - £0.541m

- Dept for Communities and Local Govt – Community Housing Fund

The DCLG have recently announced Torbay’s 2016/17 allocation to support delivery of affordable homes within the community. Whilst details are still awaited it is expected there will be both capital and revenue elements to enable and boost delivery of community-led housing.

6.5 Capital Receipts

6.6 The approved Plan relies upon the generation of a total of £2.7 million capital receipts from asset sales by the end of 2017/18, of which £1.4 m was held at 31 March 2016 and a further £0.6m received by the end of December 2016, leaving a target of £0.7m still 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.

6.7 Capital Contributions – S106 & Community Infrastructure Levy

6.8 The Council’s Capital Strategy states that capital contributions are applied to support schemes already approved as part of Capital Plan and are not allocated to new schemes unless the agreement with the developer is specific to a particular scheme outside the Capital plan.

6.9 Income from Section106 capital contributions so far in 2016/17 amount to £0.4 million, but often there are conditions on the schemes that can be funded from these funds.

6.10 Following the adoption of the Local Plan in late 2015, Council has now also approved a Community Infrastructure Levy (CIL) scheme which will provide funds for infrastructure improvements linked to and in the vicinity of proposed developments. The Planning Inspectorate has provided feedback on the proposed scheme which are being assessed by officers.

6.11 The main capital project identified for CIL receipts is South Devon Highway. The South Devon Highway business case estimated external contributions including Section106/CIL payments of £2.1m to help fund the scheme (£0.142m, received since 2012).

7.0 Borrowing and Prudential Indicators

7.1 There was no borrowing taken or repaid during the quarter However the Council does have borrowing requirement linked to its approved capital plan, in particular from the investment fund, therefore the Council could be taking borrowing in the final quarter of the year.

7.2 The Council’s capital expenditure has an overall positive impact on the Council’s Balance Sheet. Expenditure in the Capital Plan on the Council’s own assets will increase the value attached to the Council’s fixed assets. As at 31 March 2016 the Council’s “Non Current Assets” were valued at £335 million.

Appendices

Appendix 1 - Capital Plan summary – Quarter Three 2016/17

CAPITAL PLAN - QUARTER 3 2016/17 - EXPENDITURE

Appendix 1

	Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2016/17 Qtr 3	Previous 2016/17 (@ Q2 16/17)	2016/17 Q3 Adjustments	New Schemes 2016/17	Revised 4-year Plan December 2016				
							Total 2016/17 Revised	2017/18	2018/19	2019/20	Total for Plan Period
PB = Approved Prudential Borrowing schemes	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
ADULT SERVICES											
Adult Care											
Adult Social Care	922	0	922	922			922				922
Housing Strategy											
Affordable Housing	1,934		0	100	(100)		0	934	1,000		1,934
Affordable Housing - Community Housing Fund	643					0	0				0
Sanctuary HA - Hayes Road Pgn	500	250	0	0			0	250			250
	3,999	250	922	1,022	(100)	0	922	1,184	1,000	0	3,106
CHILDRENS SERVICES											
2 Year Olds Provision	155	130	25	123	(98)		25	0			25
Brookfield House Site	550	465	35	85			85				85
Capital Repairs & Maintenance 2014/15 (incl. Furzeham)	1,052	668	91	384			384				384
Capital Repairs & Maintenance 2015/16	106	21	171	85			85				85
Capital Repairs & Maintenance 2016/17	448		132		(150)	448	298	150			448
Childrens Centres	230	230		0			0				0
Cockington Primary expansion	3,142	3,074	67	68			68				68
Devolved Formula Capital			35	250			250				250
Early Years - Ellacombe Academy Nursery	721		4		(471)	721	250	471			721
Early Years - White Rock Primary Nursery	313				(63)	313	250	63			313
Education Review Projects				292	(202)		90	200			290
Ellacombe Primary expansion	552	469	67	83			83				83
New Paignton Primary school	9	2	7	7			7	0	0		7
Paignton Academy Places - mobiles	500	1	477	499			499				499
Secondary School places	2,092	185	240	856	(365)		491	1,216	200		1,907
Torbay School PRU Hillside	101	101		0			0				0
Torbay School Relocation	3,300	35	63	465	(200)		265	2,000	1,000		3,265

CAPITAL PLAN - QUARTER 3 2016/17 - EXPENDITURE

Appendix 1

	Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2016/17 Qtr 3	Previous 2016/17 (@ Q2 16/17)	2016/17 Q3 Adjustments	New Schemes 2016/17	Revised 4-year Plan December 2016				
							Total 2016/17 Revised	2017/18	2018/19	2019/20	Total for Plan Period
Torre CoE Primary expansion	1,293	1,293		0			0				0
Whiterock Primary expansion	3,999	3,574	427	425			425				425
Youth Modular Projects	409	372	0	37			37				37
	29,592	10,620	1,841	3,659	(1,549)	1,482	3,592	4,100	1,200	0	8,892
COMMUNITY AND CUSTOMER SERVICES											
Babbacombe Beach Road	70	0	0	70	(70)		0	70			70
CCTV equipment	350	0	0	350	(350)		0	350			350
Clennon Valley Sport Improvements	70		1	70			70				70
DfT Better Bus Areas	462	263	114	199			199	0			199
DfT Local Sustainable Transport Fund (Ferry/Cycle)	1,642	1,639	(1)	3			3	0			3
Disabled Facilities Grants			685	1,094			1,094		0		1,094
Empty Homes Scheme	500	39	4	225	(220)		5	456			461
Private Sector Renewal			0	113	(113)		0	113	0		113
 South Devon Highway - Council contribution	20,224	12,670	4,536	4,647			4,647	1,500	1,000	407	7,554
 Street Lighting - Energy reduction Ph1	515	496	0	19			19				19
 Street Lighting - Energy reduction Ph2	1,112	0	940	1,112			1,112				1,112
Torbay Leisure Centre - structural repairs	545	535	7	10			10	0			10
Torre Abbey Renovation - Phase 2	5,010	4,992	11	18			18				18
Torre Valley North Enhancements	127	3	19	124			124				124
Transport - Edginswell Station	4,511	511	(1)	0			0	2,300	1,600	100	4,000
Transport Integrated Transport Schemes			342	1,356	(728)		628	1,063	1,063	1,063	3,817
Transport Structural Maintenance			883	1,252	153		1,405	1,827	1,174	1,174	5,580
Transport - Torquay Gateway Road Improvements	3,875	604	523	946			946	2,325			3,271
Transport - Torquay Town Centre Access	625	208	(7)	417			417				417
Transport - Tweenaway Junction	4,775	4,775	33				0				0
Transport - Western Corridor	7,652	1,571	840	4,281	(1,580)		2,701	3,380			6,081
	52,065	28,306	8,929	16,306	(2,908)	0	13,398	13,384	4,837	2,744	34,363

CAPITAL PLAN - QUARTER 3 2016/17 - EXPENDITURE

Appendix 1

							Revised 4-year Plan December 2016				
	Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2016/17 Qtr 3	Previous 2016/17 (@ Q2 16/17)	2016/17 Q3 Adjustments	New Schemes 2016/17	Total 2016/17 Revised	2017/18	2018/19	2019/20	Total for Plan Period
CORPORATE AND BUSINESS SERVICES (INCL. CONTINGENCY)											
Corporate Services											
 Corporate IT Developments	1,000	0	0	250			250	250	250	250	1,000
 Essential Capital repair works	2,625	0	0	75	(75)		0	1,625	500	500	2,625
Enhancement of Development sites	278	75	41	203			203				203
Oldway Estate works	0		0	0			0				0
Payroll Project	370	346	5	24			24				24
Riviera Centre renewal	1,131	1,131	0	0			0				0
General Capital Contingency	631	0	0	0			0	631	0		631
Business Services											
 Beach Hut Acquisition/Renewal (Broadsands, Meadfoot)	2,622	2,622	1				0				0
Beacon Quay Toilets refurbishment	85	0	1	85	32		117				117
Brixham Harbour - Major repairs	123	0	150	123			123				123
 Claylands Redevelopment	10,000	0	13	0			0	8,500	1,500		10,000
 Council Fleet Vehicles	463	322	0	141	(141)		0	141			141
 Employment Space	6,644	0	0	2,000	(2,000)		0	6,644			6,644
Flood Defence schemes (with Env Agency)	686	625	30	9	(3)		6	55			61
 Freshwater Cliffs Stabilisation	375	0	346	425	(50)		375				375
Haldon Pier - Structural repair Phase I&2	3,072	3,012	(19)	60			60				60
Harbour Workboat	45	0	34	45			45				45
Hollicombe Cliffs Rock Armour	1,544	0	53	930			930	614			1,544
 Investment Fund	50,000	0	0	5,000	16,410		21,410	10,000	15,000	3,590	50,000
 NGP - Torbay Innovation Centre Ph 3 (EPIC)	7,221	696	10	620	(600)		20	6,505			6,525
Old Toll House, Torquay	150	4	0	35	(20)		15	131			146
Princess Pier Decking	363	235	129	125	3		128				128
Princess Pier - Structural repair (with Env Agency)	1,744	0	0	4			4	1,740			1,744
 TEDC Capital Loans/Grant	2,530	1,327	477	547	81		628	575			1,203
Torquay Harbour - Inner Harbour pontoons	48	0	48	48			48				48
Torquay Harbour -Town Dock Pontoons replacements	220				(195)	220	25	195			220

CAPITAL PLAN - QUARTER 3 2016/17 - EXPENDITURE

Appendix 1

	Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2016/17 Qtr 3	Previous 2016/17 (@ Q2 16/17)	2016/17 Q3 Adjustments	New Schemes 2016/17	Revised 4-year Plan December 2016				
							Total 2016/17 Revised	2017/18	2018/19	2019/20	Total for Plan Period
	93,970	10,395	1,319	10,749	13,442	220	24,411	37,606	17,250	4,340	83,607
TOTALS	179,626	49,571	13,011	31,736	8,885	1,702	42,323	56,274	24,287	7,084	129,968
CAPITAL PLAN - QUARTER 3 2016/17 - FUNDING											
Unsupported Borrowing				14,138	13,214		27,352	29,507	17,671	4,708	79,238
Grants				15,825	(3,311)	1,324	13,838	22,674	5,707	2,337	44,556
Contributions				192	(262)	158	88	814	15		917
Reserves				343	(321)	220	242	1,773	0	0	2,015
Revenue				399	(150)		249	229	79	39	596
Capital Receipts				839	(285)		554	1,277	815	0	2,646
Total				31,736	8,885	1,702	42,323	56,274	24,287	7,084	129,968



Meeting: Council

Date: 2 February 2017

Wards Affected: All Wards

Report Title: Revenue Budget Monitoring 2016/17 – Quarter 3

Is the decision a key decision? No

When does the decision need to be implemented? n/a

Executive Lead Contact Details: Mayor Oliver, mayor@torbay.gov.uk

Supporting Officer Contact Details: Martin Phillips, Head of Finance,
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1. Purpose and Introduction

- 1.1 The quarterly revenue monitoring report provides a summary of the Council's revenue income and expenditure for the financial year 2016/17.
- 1.2 As at quarter three the Council's revenue budget is predicting an overspend of £2.2m primarily as a result of expenditure pressures in both children's and adults social care. The overall estimated overspend remains the same as quarter one but there has been movement within that overall figure.

2. Recommendation (s) / Proposed Decision

- 2.1 That the forecast 2016/17 revenue budget position be noted.

3. Reason for Recommendation/ Proposed Decision

- 3.1 Report for review and information.

4. Position

4.1 Summary Position

As at Quarter 3 the Council's revenue budget is predicting an overspend of £2.2m (Qtr 2: £2.1m), primarily as a result of issues in both children's and adults social care. The overall over spend is slightly higher than Quarter 2, as the pressure from the Councils risk share on the ICO financial position has increased which has been offset in part by under spends in other services.

From October 2015, with the start of the Integrated Care Organisation (ICO), the Council now has a 9% risk share of the total financial performance of the ICO. The ICO had predicted a significant overspend in 2016/17, however in the past month the ICO have increased their forecast deficit by a further £10m, although the ICO has plans to reduce that value by £4m. Torbay's share of the estimated forecast position of the ICO is now an overspend of £1.7m (Qtr 2: £1.2m). This increase in the ICO deficit in 2016/17 is likely to impact on the ICO's 2017/18 financial position.

The ICO in late December gave twelve months notice to terminate the risk share agreement with the Council and the Clinical Commissioning Group. This was undertaken reluctantly but allows the ICO to receive an additional over £5m income in 17/18 and more in 18/19 towards its transformation programme. If the risk share does terminate then the Council will need to agree a new contract arrangement for adult social care from January 2018. Consideration of what that could look like is being given active consideration now between the three parties

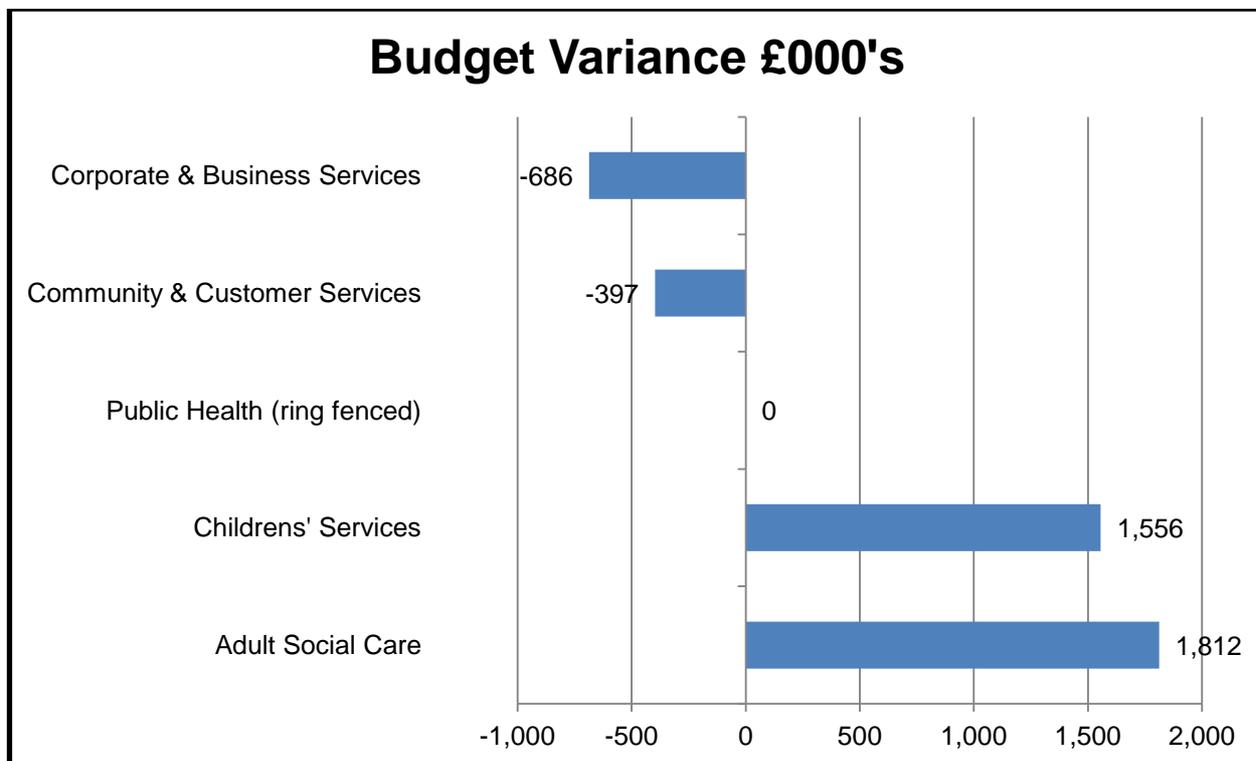
The predicted overspend on children's social care of £1.5m (Qtr 2: £1.5m) is primarily the non achievement of the anticipated placement reductions in spend linked to the children's services cost recovery plan and the fact that staffing costs, including agency staff, are above budgeted levels. These costs have been offset, in part, by in year recovery action by the Director of Children's Services. An updated financial plan for this service that identifies further options for service improvement and cost reduction was due to be presented to OSB in January.

This level of overspend is an increasing cause for concern and impacts on the Council's 2017/18 budget. In the absence of any compensating savings in other services Council will need to identify options to fund the overspend. At this stage, it is likely that the use of earmarked service reserves will be required which will be outlined in the 2017/18 Review of Reserves report.

The ongoing financial impact of the 2016/17 budget variations (based on the quarter two position) on both adults and children's social care was been included within the Mayor's 2017/18 budget proposals (November 2016).

The Council has recently been informed of two new (ring fenced) grants for 2016/17. The first is the successful bid for Homelessness funding in excess of £0.4m, and the second in excess of £0.6m from the Community Housing Fund "to support communities to deliver affordable units of mixed tenure in response to the challenges created by a large number of second homes".

A bar chart summarising the projected budget variance by service for 2016/17 is as follows;



4.2 Detailed Position

The budget position for each service is shown in the table below:

Service	2016/17 Budget- revised as at September 2016			Forecast Full Year Variance as at:-		Direction of Travel
	Expenditure £000s	Income £000's	Net £000's	Qtr 3 £000's	Qtr 2 £000's	
Adult Social Care	41,631	-1,584	40,047	1,812	1,343	R
Children's Services	77,727	-48,772	28,955	1,556	1,496	R
Public Health	11,185	-11,094	91	0	0	G
Joint Commissioning	130,543	-61,450	69,093	3,368	2,839	R
Community Services	30,662	-6,542	24,120	(140)	12	G
Customer Services	73,511	-69,694	3,817	(257)	(200)	G
AD Community & Customer Services	104,173	-76,236	27,937	(397)	(188)	G
Commercial Services	6,604	-1,773	4,831	(109)	(1)	G
Finance	19,174	-12,289	6,885	(463)	(540)	R
Business Services	8,331	-12,327	-3,996	(114)	(11)	G

Regeneration & assets	6,356	-2,050	4,306	0	0	G
AD Corporate & Business Services	40,465	-28,439	12,026	(686)	(552)	G
Total Expenditure	275,181	-166,125	109,056	2,285	2,099	R
Sources of Funding	-	-109,056	-109,056	(37)	(37)	
Net Expenditure	275,181	-275,181	0	2,248	2,062	R

A narrative of the position in each service area is as follows:

Service	Variance to Budget £m	Main Variances in 2016/17
Adult Social Care	1.8	<p>From 1st October 2015 the Integrated Care Organisation started. The Council has a 9% risk share agreement from that date based on the total financial position of the Torbay and South Devon Healthcare Foundation Trust (SDH) – a share of a total budget of approximately £379m. Financial performance of SDH is reported to its board – minutes are available on the link below:</p> <p>http://www.torbayandsouthdevon.nhs.uk/about-us/board-meetings/</p> <p>The projected overspend for the Council's share of the forecast ICO overspend is £1.7m (Qtr 1:£1.1m). This is in addition to the additional funds the Council provided as part of the Annual Strategic Agreement agreed by Council in July 2016.</p> <p>In other adult social care budgets there is a continuation of the prior year pressures on the Joint Equipment Store of £0.1m. The ICO have agreed to fund 1/3rd of the overspend on this service which has reduced the impact on the Council.</p>

Children's Services	1.5	As a result of monitoring within Children's Services a recovery action on a projected overspend has been initiated. However the service is still forecast to overspend by £1.5m (Qtr1: £1.5m) in 2016/17. The overspend is a combination of delays in the planned reduction in staffing levels and higher than forecast placement expenditure. In addition there are increased cost pressures on special guardianships and section 17 grant allocations.
Public Health	0	Ring fenced budget
Community and Customer Services	(0.4)	Community Services: Projected overspends on Housing are offset by a projected saving from the 'Energy from Waste' plant, vacancy management, the moratorium on spend, additional grant funding and recovery of Housing Benefit overpayments.
Corporate and Business Services	(0.7)	Projected savings on audit fees, grant income, "corporate" pension payments and the change in the MRP policy approved by Council in September 2016 (£0.8m), offset by a budget pressure on treasury management arising from lower rates on investments and a delay in implementing changes to some staff terms and conditions.
Sources of Funding	0	Grant higher than budget
Total	2.2	Projected overspend

4.3 2016/17 Savings

4.4 The 2016/17 budget relies on the achievement of approved budget reductions. The Council's Senior Leadership Team has been monitoring the achievement of these savings as part of the current year budget monitoring. The majority of savings are being achieved; however the main areas of variance in the financial year are, as identified above, additional pressures within social care.

4.5 Risks & Sensitivity

4.6 The predictions for the full year outturn in this report are based on six months of financial information and will be subject to changes in both assumptions and demand.

4.7 Historically the Council's overall position improves in the last quarter of the year as actual expenditure and income for the year is finalised and impact of some future year savings are realised in year.

4.8 There are a number of financial risks facing the Council. Key risks are shown below:

Risk	Impact	Mitigation
Achievement of approved savings for 2016/17	High	16/17 Budget monitoring and "saving tracker" monitored by senior staff.
Potential cost impact of the Council's 9% risk share of total ICO performance	High	Monthly information is being provided by the ICO to Council supported by "contract" meetings
Potential impact and costs of judicial review for care home fees	High	Balance of CSR reserve and 2016/17 social care contingency to fund if required.
NEW- Future of ASC contract following ICO notice to terminate current risk share arrangement from January 2018	High	High priority issue for Councils senior leadership team and close working with ICO colleagues to resolve issues
Achievement of Childrens' Services cost reduction plan	High	Regular monitoring of performance and recovery plan.
Identification, and achievement, of £21.5m of savings for 2017/18 to 2019/20 per Efficiency Plan (Sept 2016).	High	Issue identified in Medium Term Resource Plan. Four year Efficiency Plan now available which was presented to Council in September and forwarded to DCLG in October. Transformation Team set up to coordinate the implementation of potential transformation savings.
Additional demand for services particularly in childrens' social care	High	16/17 Budget monitoring, use of service performance data and recovery plan.
Ability of ICO to deliver a balanced budget in 2016/17 and to prevent further increases in expenditure in year.	High	Regular monitoring of performance and financial performance with challenge to ICO on cost improvements.

4.9 Implications on 2017/18 Budget

- 4.10 A number of 2016/17 budget monitoring issues link directly to the 2017/18 budget proposals. Where a saving has been achieved in 2016/17, if applicable, this has been reflected in 2017/18 budget proposals.
- 4.11 The ongoing impact of the 2016/17 budget variations on both adults and children's social care (as at quarter two) has been included within the Mayor's 2017/18 budget proposals (November 2016). In addition for children's social care, the financial impact on the previously projected reduced use of reserves of £1.1m in 2017/18 has been included in both the 2017/18 budget proposals and the 2017/18 Review of Reserves report.
- 4.12 The financial impact of the ICO's decision in late December to give twelve months notice to terminate the risk share agreement with the Council and the Clinical Commissioning Group is potentially significant. If the risk share does terminate then the Council will need to agree a new contract arrangement for adult social care from January 2018. In addition the recently reported increase in the ICO financial deficit is also likely to impact on and the value of the Council's 9% risk share.
- 4.13 The Director of Children's Services is continuing to review the performance of children's services with a view to presenting to Council a revised financial plan supported by a level of detail to enable performance monitoring and challenge. The impact of this plan, when appropriate, will form part of the Council's final 2017/18 budget and reserve planning for 2017/18 and future years.

4.13 2017/18 Budget Process

- 4.14 The Mayor presented his budget proposals for 2017/18 on 4th November 2016 for consultation.
- 4.15 Council approved the Efficiency Plan that was submitted to DCLG to enable the Council to accept the Revenue Support Grant (RSG) funding "offer" for the next three financial years. The Council's 2017/18 RSG was confirmed in December to be as per the "offer" at £14m, a £6m year on year reduction.
- 4.16 Other elements of the Council's 2017/18 funding are now confirmed/being confirmed to enable the Mayor to present his final 2017/18 budget proposals to Council in February 2017.

4.18 Balance Sheet issues

- 4.19 No long term borrowing was taken or repaid as at end of December 2016, so the Council's long term borrowing remained at £138m which was within the Council's approved Operational Boundary and Authorised Limit (for debt and long term liabilities as set by Council In February 2016). However the Council does have borrowing requirement linked to its approved capital plan, in particular from the investment fund, therefore the Council could be taking borrowing in the final quarter of the year.

4.20 The Council has interests in a number of companies. The financial performance for 2015/16 of these companies is included in the Council's statement of accounts (link below).

4.21 The total value of debtor write offs in the third quarter of 2016/17 was:

Service	Number of records written off	Value of write offs £000's	Number over £5,000
Council Tax	553	144	0
NNDR	27	206	8
Housing Benefit	195	87	3

4.22 Any write offs in the quarter over £5,000 are reported to Members in exempt Appendix One. (To follow).

Background Documents

2016/17 Budget digest & supporting reports, including 2016/17 Review of Reserves and the Medium Term Resource Plan.

<http://www.torbay.gov.uk/council/finance/budget/budget-201617/>

2017/18 Draft Budget Proposals and supporting financial and service information

<http://www.torbay.gov.uk/council/fit-for-the-future/>

2015/16 Statement of Accounts

<http://www.torbay.gov.uk/media/7211/soa-1516.docx>

Schedule 5 - Scheme of Delegation of Executive Functions to the Executive, Committees of the Executive and Officers

This report is presented to the meeting of Council on 19 January 2017 in accordance with Standing Order C4.2(a) for inclusion in the Council’s Scheme of Delegation (Schedule 5 of Part 3) of the Constitution of Torbay Council.

1. The names, addresses and wards of the people appointed to the Executive by the elected Mayor are set out below:

Name	Address	Electoral Ward
Deputy Mayor and Executive Lead for Health and Wellbeing and Corporate Services - Councillor Derek Mills	5 Bascombe Close Churston Brixham TQ5 0JR	Churston with Galmpton
Executive Lead for Tourism, Culture and Harbours - Councillor Amil	Flat 6 22 Polsham Park Paignton TQ3 2AD	Cockington with Chelson
Executive Lead for Community Services - Councillor Robert Excell	Excell Studio 203 Union Street Torre Torquay TQ1 4BY	Tormohun
Executive Lead for Planning, Transport and Housing – Councillor Mark King	5B Coburg Place Torquay TQ2 5SU	Cockington with Chelston
Executive Lead for Business – Councillor Richard Haddock	Churston Farm Shop Dartmouth Road Brixham TQ5 0LL	St Marys with Summercombe
Executive Lead for Adults and Children– Councillor Julien Parrott	51 Princes Road Torquay TQ1 1NW	Ellacombe
Executive Lead for Environment – Councillor Terry Manning	36 Summerlands Close Summercombe Brixham TQ5 0EA	St Marys with Summercombe

2. The elected Mayor is responsible for the discharge of all executive functions (except as specified in paragraph 3. below). Executive Leads will have an advisory role in relation to the areas of responsibility set out below.

Executive Lead	Portfolio:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Elected Mayor Gordon Oliver</p> <p>Executive Lead for Finance and Regeneration</p> <p>Page 330</p>	<p>Torbay Development Agency:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Built Environment <input type="checkbox"/> Employment and Skills <input type="checkbox"/> Business support <input type="checkbox"/> Regeneration <input type="checkbox"/> Business Relocation, Creation and Growth (inc. social enterprise/apprenticeships) <input type="checkbox"/> Inward Investment <input type="checkbox"/> Property (assets) <input type="checkbox"/> Estates <p>Finance:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Financial Services (including Capital and Revenue Budget and Budget Monitoring) <input type="checkbox"/> Events 	<ul style="list-style-type: none"> <input type="checkbox"/> Chief Executive/Chief Executive Torbay Development Agency <input type="checkbox"/> Chief Finance Officer <input type="checkbox"/> Assistant Director of Community and Customer Services

Executive Lead	Portfolio:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Deputy Mayor and Executive Lead for Health and Wellbeing and Corporate Services</p> <p>Councillor Derek Mills</p>	<p>Public Health</p> <ul style="list-style-type: none"> <input type="checkbox"/> Public Health Commissioning Team <input type="checkbox"/> Community Development Trust <p>Special Projects</p> <ul style="list-style-type: none"> <input type="checkbox"/> Special projects and innovation <p>Corporate and Business Services:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Business Development <input type="checkbox"/> Governance Support <input type="checkbox"/> Mayor’s Support Unit <input type="checkbox"/> Human Resources and Payroll <input type="checkbox"/> Legal and procurement 	<ul style="list-style-type: none"> <input type="checkbox"/> Director of Public Health <input type="checkbox"/> Director of Children’s Services <input type="checkbox"/> Assistant Director of Corporate and Business Services
<p>Executive Lead for Planning, Transport and Housing</p> <p>Councillor Mark King</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Building Control <input type="checkbox"/> Planning and Strategic Transport <input type="checkbox"/> Highways <input type="checkbox"/> Strategic Housing <input type="checkbox"/> Operational Housing <input type="checkbox"/> Waste <input type="checkbox"/> TOR2 Commissioning (Design Review Champion) <p>Customer Services:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Customer Services <input type="checkbox"/> Revenue and Benefits 	<ul style="list-style-type: none"> <input type="checkbox"/> Assistant Director of Community and Customer Services <input type="checkbox"/> Assistant Director of Corporate and Business Services <input type="checkbox"/> Director of Adults Services <input type="checkbox"/> Executive Head of Business Services <input type="checkbox"/> Executive Head of Customer Services

Executive Lead	Portfolio:	Main Director/Assistant Director/Executive Head/Lead Officer
Executive Lead for Tourism, Culture and Harbours Councillor Nicole Amil	<input type="checkbox"/> Culture <input type="checkbox"/> Heritage <input type="checkbox"/> Museums <input type="checkbox"/> Resort Services <input type="checkbox"/> Tourism <input type="checkbox"/> Harbours <input type="checkbox"/> (Armed Forces Champion) <input type="checkbox"/> (Heritage Champion)	<input type="checkbox"/> Assistant Director of Community and Customer Services <input type="checkbox"/> Executive Head of Business Services
Executive Lead for Community Services Councillor Robert Excell	<p>Community and Customer Services:</p> <input type="checkbox"/> Community Safety (Crime and Disorder) <input type="checkbox"/> Street Scene <input type="checkbox"/> Sport <p>Business Services:</p> <input type="checkbox"/> Car Parking	<input type="checkbox"/> Assistant Director of Community and Customer Services <input type="checkbox"/> Executive Head of Business Services

Executive Lead	Portfolio:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Executive Lead for Adults and Children</p> <p>Councillor Julien Parrott</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 333</p>	<p>Adult Social Care:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Children and Adults Commissioning <input type="checkbox"/> Adult Partnership <input type="checkbox"/> Adult Social Care <input type="checkbox"/> NHS Advisory Service <input type="checkbox"/> Healthwatch <p>Children:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Torbay Youth Trust <input type="checkbox"/> Torbay Public Service Trust <input type="checkbox"/> Improvement and Performance <input type="checkbox"/> Schools <input type="checkbox"/> Children’s and Young People <p>Safeguarding</p> <ul style="list-style-type: none"> <input type="checkbox"/> Children’s Safeguarding and Wellbeing 	<ul style="list-style-type: none"> <input type="checkbox"/> Director of Adult Services <input type="checkbox"/> Director of Children’s Services <input type="checkbox"/> Assistant Director of Safeguarding
<p>Executive Lead for Business</p> <p>Councillor Richard Haddock</p>	<p>Business Services:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environment and Flooding <input type="checkbox"/> Joint Ventures and Arms Length Companies <input type="checkbox"/> Town Centres <input type="checkbox"/> Business Improvement Districts <p>Customer Services:</p> <ul style="list-style-type: none"> <input type="checkbox"/> ICT <input type="checkbox"/> Corporate debt and creditor payments <input type="checkbox"/> Business Rates <input type="checkbox"/> Libraries 	<ul style="list-style-type: none"> <input type="checkbox"/> Assistant Director of Community and Customer Services <input type="checkbox"/> Assistant Director of Corporate and Business Services <input type="checkbox"/> Executive Head of Business Services <input type="checkbox"/> Executive Head of Customer Services

Executive Lead	Portfolio:	Main Director/Assistant Director/Executive Head/Lead Officer
Executive Lead for Environment Councillor Terry Manning	<input type="checkbox"/> Environmental Health and Regulatory Services <input type="checkbox"/> Natural Environment	<input type="checkbox"/> Assistant Director of Community and Customer Services

3.
 - (i) The Deputy Mayor (Councillor Derek Mills) will be responsible for the discharge of all executive functions relating to the regeneration of the Castle Circus area of Torquay as the elected Mayor owns properties in this area and has a pecuniary interest;
 - (ii) The Executive Lead for Business (Councillor Richard Haddock) will be responsible for the discharge of all executive functions relating to Connections as the elected Mayor owns properties in the area of the Torquay Connections Office and has a pecuniary interest;
 - (iii) The Executive Lead for Business (Councillor Richard Haddock) , in consultation with the Executive Lead for Adults (Councillor Julien Parrott) and Executive Lead for Planning, Transport and Housing (Councillor Mark King), will be responsible for the discharge of all executive functions relating to the contract for housing pathway for single vulnerable adults;
 - (iv) The Executive Lead for Tourism, Culture and Harbours will be responsible for the discharge of all executive functions relating to tourism due to the perceived concerns of the public in respect of the Mayor’s interests in the tourism sector.
 - (v) the Deputy Mayor will be responsible for the discharge of executive functions if the elected Mayor:
 - (a) is absent (e.g. on holiday) for a period of time or in cases of urgency where the Chief Executive is satisfied that the elected Mayor cannot be reasonably contacted;
 - (b) is incapacitated through illness; or
 - (c) has a pecuniary interest in any matter requiring determination.
 - (vi) If the elected Mayor or the Deputy Mayor (Councillor Derek Mills) are unable to act on a matter requiring a decision then the Chief Executive shall have the power to determine any matter requiring a decision.
4. No executive committees have been appointed at the present time.
5. No executive functions have been delegated to area committees, any other authority or any joint arrangements at the present time.
6. The elected Mayor has also (so far as lawful) delegated to officers the discharge of those functions that are referred to in Schedule 7 and are executive functions in the manner set out in that Schedule, in accordance with (and subject to) the Council’s Standing Orders in relation to the Executive.
7. So far as the Constitution requires officers to consult with “the relevant member”, the areas of responsibility of the Executive Leads are as set out paragraph 2 above.



Meeting: Council

Date: 2 February 2017

Wards Affected: All Wards

Report Title: Torbay Economic Development Company Limited Business Plan 2017 to 2021

Is the decision a key decision? Yes

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

Executive Lead Contact Details: Mayor Oliver, Directly Elected Mayor and Executive Lead for Economic Regeneration and Finance, Mayor@torbay.gov.uk

Supporting Officer Contact Details: Anne-Marie Bond, Assistant Director Corporate and Business Services, anne-marie.bond@torbay.gov.uk

1. Proposal and Introduction

- 1.1 The Torbay Economic Development Company Limited (which operates under the trading name of the TDA) is Torbay Council's wholly owned and controlled economic development company. Established in 2011 the TDA is responsible for delivery of a range of services and outcomes for Torbay Council. It is also a trading business providing services to the broader public sector. The TDA's business plan sets out how the business will function over the next four years.
- 1.2 At its meeting on 27 October 2016 (Council Minute 85.10.16) the Council agreed for the TDA Business Plan to be included in the Council's Policy Framework. Therefore the draft business plan is before the Council for approval.
- 1.3 The draft Business Plan 2017 to 2021 has been submitted by the TDA Board to the Council for approval. It has been reviewed by the Mayor's Executive Group and Overview and Scrutiny Board. The Mayor is responsible for proposing Policy Framework documents to the Council, and the Mayor's response to the Business Plan is set out at exempt Appendix 2.
- 1.4 The draft Business Plan includes financial assumptions and associated projections. The approval of the Business Plan does not fetter the Council's decision making process in respect of its budgets, and each year the assumptions and projections will need to be revised accordingly.

2. Reason for Proposal

2.1 To enable the TDA's business plan to be approved by the Council.

3. Recommendation(s) / Proposed Decision

3.1 That the draft Torbay Economic Development Company Limited Business Plan 2017 to 2021 set out at exempt Appendix 1 to the submitted report be approved.

3.2 That the Assistant Director of Corporate and Business Services be given delegated authority to agree any changes to the Business Plan arising from the Council's approved budget.

Appendices

Appendix 1: draft Torbay Economic Development Company Limited Business Plan 2017 to 2021 (exempt)

Appendix 2: Directly Elected Mayor's response to the Business Plan (exempt)

4. Background Information

4.1 Established in 2011 and known locally as the TDA is responsible for promoting economic development, physical regeneration and business growth within the Borough of Torbay, together with the provision of other services to external clients. These other services provide the company with surpluses and working capital.

4.2 The TDA is wholly owned by Torbay Council and was set up to deliver a more coherent programme of economic development and increase the pace of delivery. It was established to increase both public and private sector investment; provide more job opportunities and facilitate better business development and engagement. Its primary objectives are to:

- lead economic development and regeneration in the Torbay region as a whole, promoting economic development, physical regeneration, the renewal of infrastructure, socio-economic improvements and business growth;
- work alongside Torbay Council and act as its ambassador for the economic development of the Torbay region as a whole, supporting its vision for the local economy and identifying the tools to encourage economic growth delivery;
- encourage, facilitate and increase business development and inward investment in (and to) the Torbay region and identify opportunities for the same;
- raise the profile of and promote Torbay as a business location and make the Torbay region more attractive to entrepreneurs and the public as a whole.

4.3 Through its memorandum and articles of association the TDA is set up to be socially motivated. This means that surpluses which the company makes are reinvested to deliver regeneration within Torbay.

- 4.4 Torbay Council's control of the company is exercised through a large number of Reserved Matters and representation at Board level.
- 4.5 Work undertaken by the TDA on behalf of the Council is managed through a Commissioning Agreement.



Meeting: Council

Date: 9 February 2017

Wards Affected: All

Report Title: Transformation Project - Children's Services Medium Term Finance Strategy

Is the decision a key decision? Yes

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

Executive Lead Contact Details: Councillor Julien Parrott, Executive Lead for Adults and Children, julien.parrott@torbay.gov.uk

Supporting Officer Contact Details: Andy Dempsey, 01803 208949, andy.dempsey@torbay.gov.uk

1. Proposal and Introduction

- 1.1 Shortly after his appointment in July 2016, the interim Director of Children's Services (DCS) was asked by the Chief Executive and Executive Lead Member to undertake a review of the Children's Services' 5 Year Financial Strategy to determine whether the targets it contained were realistic and achievable. This reflected a concern that, despite the Children's Services' budget benefiting from contributions from reserves of £2.3m (2015/16) and £1.1m (2016/17), the Department was projecting an overspend of £1.3m at Quarter 1 with the potential for this to reach around £2.2m by year end.
- 1.2 The DCS undertook a review of the Children's Services' 5 Year Plan reporting his findings to corporate SLT on 30 August 2016 and Mayor's Executive Group on 6 October 2016. Alongside this, action was taken by the DCS to freeze vacancies and reduce agency costs in order to address the in year pressure.
- 1.3 The review conducted by the DCS concluded that the savings envisaged in the previous plan were not achievable due to a range of factors. The savings envisaged in the 5 Year Financial Strategy were to be achieved, in the majority, through a reduction in placement costs and within that two key elements. Firstly, it envisaged bringing Children Looked After (CLA) numbers in line with statistical comparators by 2018/19 and, secondly, a shift in the balance of placement spend from high cost residential and independent foster care placements towards in care foster care provision. The review further identified that the strategy was unsuccessful because the pace and scale of CLA reduction was unrealistic and the necessary underpinning processes were not established.

1.4 A revised Children's Services 'Medium Term Financial Strategy (2017-2021) has now been prepared by the DCS, a copy of which is attached at Appendix 1.

2. Reason for Proposal

2.1 The revised Medium Term Financial Strategy (MTFS) covers the period 2017/21 and aims to align activity to reduce costs with that underway to improve services and outcomes for children. This acknowledges that Children's Services are currently subject to intervention and likely to transfer to an alternative delivery model over the next 12 – 18 months. The plan has also benefited from the work undertaken by Peopletoo (a consultancy commissioned by the Local Government Association) and the Chartered Institute of Public Finance and Accountancy (CIPFA) – looking at Social Care costs.

2.2 The key objectives of the MTFS over the period 2017 - 2021 are:

- to bring social care staffing and support costs more in line with statistical comparators;
- to bring placement costs and the children looked after population costs more in line with statistical comparators;
- to put in place the management culture, business processes and arrangements to ensure future performance and expenditure compares favourably with statistical comparators on a sustained basis;
- to align activity to reduce expenditure with improvement activity; and
- to ensure the Children's Services budget is stabilised in support of transition to an alternative delivery model (ADM).

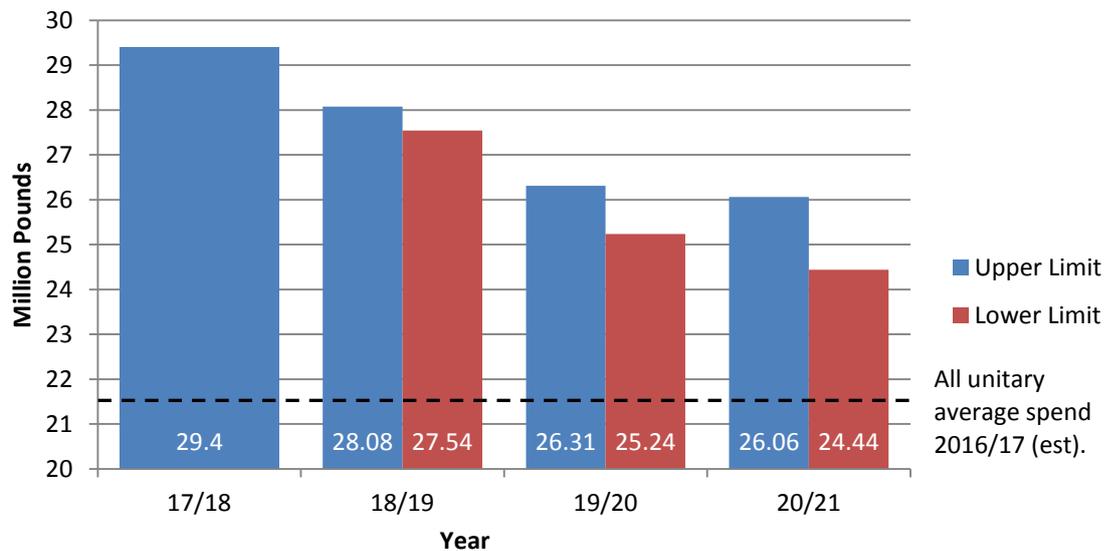
2.3 The key savings elements within the MTFS will arise across 4 key themes:

- the re-profiling of costs within the CLA population to reduce proportionate and absolute expenditure on residential and independent foster care placements;
- the gradual reduction of the CLA population to bring it in line with statistical comparators at an achievable rate;
- the reduction of social care staffing and support costs to bring these in line with statistical comparators; and
- savings from other areas of activity, primarily from commissioned activities.

2.4 Attached to the MTFS is an action plan setting out a range of proposals whose pace and scale have been aligned with a measured journey towards the performance of statistical comparators. The graph below sets out the projected savings overtime and the extent to which costs will be brought into alignment with national comparators. It is important to recognise that savings from a net reduction in CLA numbers will vary considerably depending upon the child's placement type and subsequent destination. As a consequence, the MTFS projects a range of savings a cautious approach has also been taken to the incorporation of it's

proposals into the 2017/18 revenue budget. Overall, the MTFS increases the projected savings from Children's Services for 2017/18 from £900k to around £1.3m.

Figure - Reduction in Children's Services Expenditure



3. Recommendation(s) / Proposed Decision

- 3.1 That the Children's Services Medium Term Finance Strategy (MTFS) (2017 – 2021) and the revised contribution to the 2017/2018 Revenue Budget as set out in Appendix 1 to the submitted report be approved.

Appendices

Appendix 1: Children's Services' Medium Term Financial Strategy 2017 – 2021 (Rev 2)

CHILDREN'S SERVICES MEDIUM TERM FINANCIAL STRATEGY (REVISION 2)

2017 – 2021

1. Background

- 1.1** The Children's Services budgets for 2015/16 and 2016/17 benefited from contributions from central reserves of respectively £2.3m and £1.1m, with the 2016/17 budget set at £28.9m. The previous Children's Services 5 year Financial Strategy, agreed by full Council in October 2014 as part of the budget process, proposed the gradual reduction of expenditure and return of revenue to balances, through a combination of measures to reduce placement and staffing costs.
- 1.2** However at the end of Quarter 1 of the current financial year, which is Year 2 of the 5 year strategy (2016/2021), Children's Services were projecting an overspend of £1.3m. Action taken by the new Director of Children's Services (DCS) in July, to freeze vacancies and reduce agency costs, has gone some way to address this but slippage with placement changes built into the current year has the continued potential to cause a significant overspend. A worst case scenario, allowing for no savings from the 2016/17 placement changes or actions to address other cost pressures would result in an overspend of around £2.2m. The proposed budget for 2017/18 reflects the financial position in the current year.
- 1.3** This Medium Term Financial Strategy (MTFS) sets out a revised approach towards the reduction of costs by aligning the change process with the development of the capacity and culture within Children's Services necessary to ensure its delivery. The scale and pace of change has also been carefully profiled to ensure this is normative rather than exceptional and is further informed by the work undertaken by the Chartered Institute of Public Finance Accountants (CIPFA) and Peopletoo (commissioned by the Local Government Association (LGA)) to review social care expenditure and costs.
- 1.4** Attached at Appendix 1 is a detailed action plan and at Appendix 2 is a summary of the savings proposals for the period 2017 - 2021. It should be emphasised that this is a financial strategy setting out a range of potential savings, based on a significant planned change in practice occurring within the context of our improvement journey. How those savings are incorporated within the budget setting process will be a matter for further discussion and consideration.

2. Why have previous plans failed?

- 2.1** The reductions in costs envisaged in the previous 5 year financial strategy arose in the significant majority through a reduction in placement costs and, within that, two key elements. Firstly, it envisaged bringing Children Looked After (CLA) numbers in line with statistical comparators by 2018/19 and; secondly, a shift in the balance of placement spend away from high cost residential and independent foster care placements, towards in house foster care.
- 2.2** The table below outlines the reduction in the CLA population proposed by the 5 year financial strategy both in absolute numbers and as a rate per 10,000 population

(which is the comparator used by the Department for Education (DfE) set against the current position.

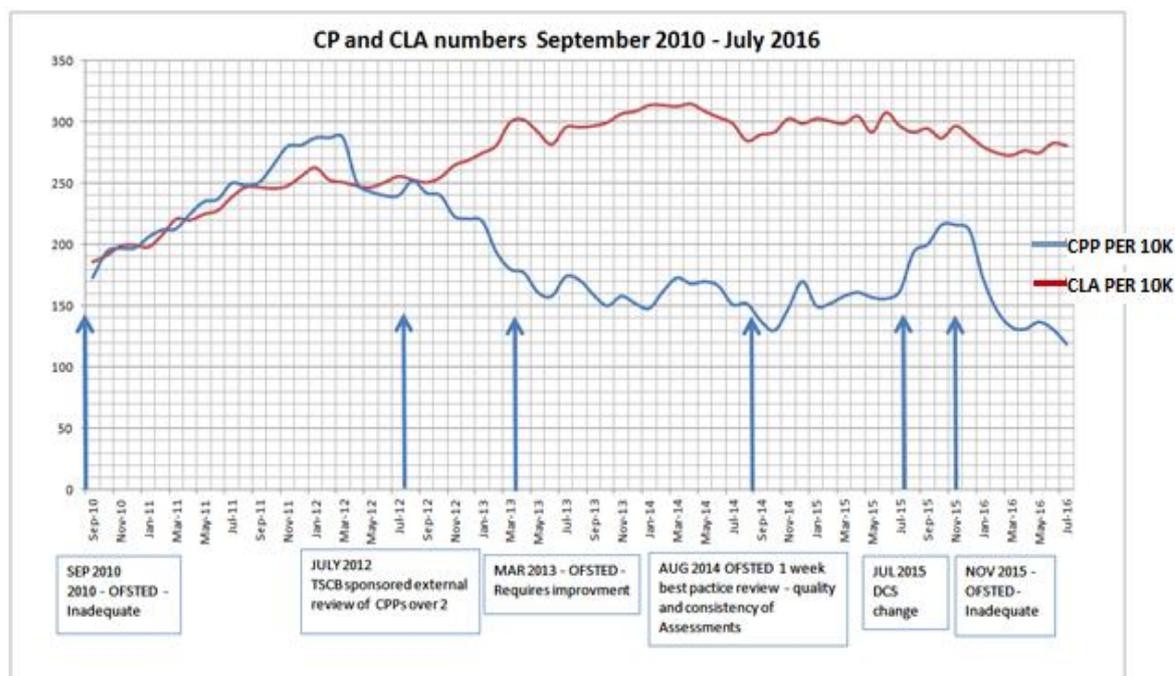
Table 1: Previous 5yr Plan for CLA population reduction

Torbay CLA Population				
YEAR	November 2016	2016/17	2017/18	2018/19
Number	279	242	211	180
Rate/10K	111	97	84	72

2.3 It should be noted that the above figures do not include children coming to Torbay under the Unaccompanied Asylum Seeking Children (Unaccompanied Asylum Seeking Children Scheme (UASC), where direct placement costs will be met by Central Government for any child requiring to be accommodated, with numbers limited to 0.07% of child population (18 in total currently 4).

2.4 Torbay has had one of the highest CLA rates (per 10k child population) nationally for some time. The graph below outlines the changes in the CLA and child protection populations over time, and includes the dates of Ofsted inspections and other key milestones. The graph illustrates what could be argued to be a ‘**low risk – high cost**’ strategy for social care that developed in response to the 2010 Ofsted inspection and has continued more or less unchanged to date. When considered in this context, the aim of the previous financial plan to bring the CLA population in line with statistical comparators over three years represented a fundamental shift in approach.

Graph: Child Protection and Children Looked After Numbers 2010 – 2016



2.5 The current year of the previous 5 year financial plan also included 27 placement changes/exits from care due to be delivered during 2016/17, from July 2016

onwards. As part of the work commenced by the new DCS at the request of the Executive Lead Member to address the in year pressure, it was identified that the July and early August dates had slipped. The table below sets out the monthly increases in the budget pressure that will occur if these changes are not achieved. Work is now underway to progress the changes via a dedicated placements/contracts team, the details of which are set out later in the report.

Table 2: Cumulative costs incurred through placement slippage 2016/2017

Month	Increase (£)
July (2016)	7,526
August	21,560
September	82,105
October	101,205
November	108,655
December	158,471
January	181,763
February	164,173
March (2017)	181,763
Total	1,007,221

2.6 There are a number of significant factors contributing to the failure of the previous financial strategy:

- the pace and scale of reduction in the CLA population was unrealistic, requiring a level of performance that no other local authority has achieved on a sustained basis, against a background of growth elsewhere. Over the period 2011 – 2015 CLA populations increased 6% nationally (average) and 12% amongst statistical comparators;
- the national increase in the number of children in care is being driven by a number of factors around which there is a broad consensus: a much better awareness and identification of child abuse and neglect from a range of partners; the better application of consistent thresholds to receive help as a result of revised statutory guidance ('Working Together to Safeguard Children' 2015); a growing professional risk aversion amongst partners driven by national child care scandals ('I don't want it to be me...'); some evidence of the impact of recession and austerity on families; the discovery of 'new' forms of abuse such as child sexual exploitation; the creation of a number of new policy initiatives such as 'staying put' which allow teenagers to stay in their foster care placements; children remanded to custody being treated as children in care; a range of new legal processes such as the 'public law outline' which drive local authorities to put more case decisions before the family courts; a drive by the courts for all cases to conclude within 26 weeks; and finally national policy such as the redistribution of unaccompanied asylum seeking children. Many of these policy initiatives and changes are arguably good things but have; it could be argued, led to higher rates of awareness and activity across a wider range of risk factors leading to higher numbers of children in care.

- the essential arrangements to deliver the significant change in strategy from a low risk - high cost approach towards a focus on exits from care and the redistribution of costs away from residential and independent foster care agencies towards in house foster provision, were not put in place. Most obviously the department had no dedicated placements/contracts team resulting in social workers undertaking placement searches and negotiating costs with no expertise in this area, and little or no central co-ordination of placement activity. This has also contributed to the overall problem with costs due to the use of higher cost independent foster carers, when in house foster carer capacity was available;
- the practice and management culture within Children's Services was not aligned with the change in strategy which has continued to favour placement stability over effective permanence planning. As a consequence, a significant proportion of the CLA population has long term foster care as their permanence plan, with few planned exits from care other than via adoption and age;
- the necessary management oversight and performance arrangements to link practice and placement planning with the development of costs were not in place. This includes the costs and accessibility of specialist education provision, which has resulted in cost being incorrectly aligned to the Higher Needs block of Dedicated Schools Grant (DSG).

3. Key Objectives

3.1 The key objectives of the MTFs over the period 2017 - 2021 are:

- to bring social care staffing and support costs more in line with statistical comparators;
- to bring placement costs and the children looked after population costs more in line with statistical comparators;
- to put in place the management culture, business processes and arrangements to ensure future performance and expenditure compares favourably with statistical comparators on a sustained basis;
- to align activity to reduce expenditure with improvement activity;
- to ensure the children's services budget is stabilised in support of transition to an alternative delivery model (ADM).

4. Links with Improvement Activity

4.1 Torbay Children's Services is currently in DfE intervention with the Chief Executive of Hampshire County Council appointed as the DfE Commissioner, and Hampshire Children's Services acting as improvement partner. A significant element within the improvement journey has been the focus on ensuring that the basics of effective practice are in place from first contact through to permanence.

4.2 The links between improved outcomes for children and sound financial management are obvious. Poor decision making and planning results in delay, a lack of good

quality placement options, drift in progressing the child's journey and the inefficient use of key resources. All of these are features of Torbay Children's Services that are being addressed through the improvement journey, whilst simultaneously supporting the financial strategy. The most significant barrier to achieving the latter is cultural. There remains a lack of financial awareness amongst middle management and permeating downwards, alongside a lack of grip on resource based decision making.

- 4.3** Change in this critical area will be driven by the DCS and Interim Assistant Director Children's Safeguarding as part of the management and governance aspect of the improvement journey. Undoubtedly, this work will require a significant transformation in the way in which social workers are required to work. As well as the work being undertaken to reform the governance of children's social care, significant intellectual resource will need to be applied to develop a new operating model that enables families to be more resilient and able to change in order that more children and young people can be safely cared for in their family rather than brought into care.
- 4.4** The work to secure efficiencies must also be carefully balanced with improvement activity, with the emphasis on building the necessary culture and organisational infrastructure for both, being the key priority for 2017/18. This will be an important consideration for the DfE Commissioner.

5. Priority Area for Actions

- 5.1** The key savings elements within the MTFs will arise across 4 key themes:
- the re-profiling of costs within the CLA population to reduce proportionate and absolute expenditure on residential and independent foster care placements;
 - the gradual reduction of the CLA population to bring it in line with statistical comparators at an achievable rate;
 - the reduction of social care staffing and support costs to bring these in line with statistical comparators;
 - savings from other areas of activity, primarily from commissioned activities.
- 5.2** The MTFs takes a phased approach with the immediate priority placed on the balance of costs within existing CLA population levels and reviewing the costs of existing residential placements to ensure these provide value for money. Savings from reducing the CLA population and reduced staffing and support costs will become more significant as the improvement journey becomes embedded, from 2018/19 onwards. Each of the key themes is set out in more detail below.
- 5.3 Re-profiling of Placement Costs**
- 5.3.1** Both the CIPFA peer review team and Peopletoo, commissioned by the LGA, have identified that the numbers of residential placements and use of Independent Fostering Agencies are higher than statistical comparators. Not only are CLA numbers exceptionally high, unit costs and the number of residential placements for those children are also high. Spending on the 28 children currently in residential placements costs around £5.3m per annum, with the costs per child ranging from £377k per annum for one child, with an average placement cost of £190k per annum. However, it is important to note that Torbay's proportionate use of residential 12% is

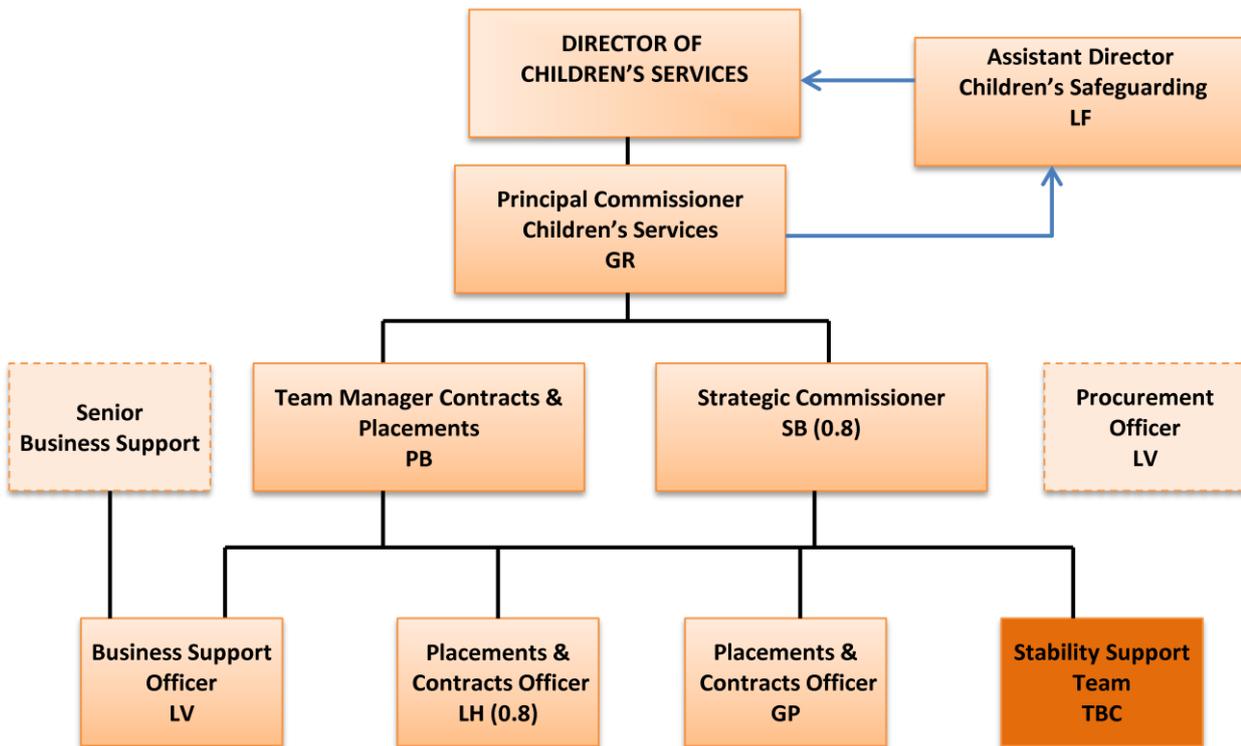
not markedly out of sync with statistical comparators (11%) and national (9%), highlighting the need to address the population numbers.

5.3.2 The MTFS proposes the gradual increase in foster care capacity, across both in house and independent foster carers, and to make better use of in house resources as the means of reducing spend on residential placements, as part of an improved permanence strategy that also delivers better outcomes for children. The growth in capacity is set out in more detail in Appendix 1.

5.3.3 A dedicated placements and contracting team, reporting to the Assistant Director Children's Safeguarding will be in place from 5 December to support this part of the MTFS. The structure for the team, which will take responsibility for all placement work within the department, is set out below. The placements and contracting team will be crucial to the development of a proactive, child centred permanence strategy and undertake the following key functions:

- bringing all elements of Children's Services contracts and commissioning into one place;
- conducting searches for placements and update records with finance, contract and quality data;
- ensuring that placements information is accessible on the child's file with evidence of agreements and authorisations;
- ensuring market development for sufficiency for CLA – meeting with providers and co-commissioners to ensure a diverse range of provision to meet the needs of Torbay children;
- managing relationships with a range of providers;
- working with the Peninsular Group to ensure the needs of Torbay are met through Peninsular market development and commissioning;
- ensuring that there are robust contracts in place for all placements and services, with regular review to ensure these are proportionate to need, achieving best value for the LA;
- ensuring that financial regulations are met through the procurement of all eligible services;
- providing a range of information and data on demand, cost and volume to develop the market position statement and sufficiency strategy;
- providing financial monitoring of the placements budget in conjunction with Finance colleagues.

Placement, Commissioning and Contracts Team



5.4 CLA Population and Total Costs

5.4.1 The previous financial plan envisaged a rate of reduction in the CLA population (around 30+% in total over 3 years) which was unrealistic, when compared to the performance of other Local Authorities (LA's), and represented a profound shift in the culture of the department which has been focussed on a 'low risk-high cost' strategy for a number of years. Matters were further compounded by underdeveloped permanence planning in which too many children had long term foster care as their only permanence plan.

5.4.2 Permanence can be understood as a framework that comprises emotional permanence (attachment), physical permanence (placement stability) and legal permanence (the carer has parental responsibility for the child). Permanence for individual children can be delivered via a range of options:

- a successful return to the birth family;
- family or friends, preferably supported by a private law order such as Child Care Arrangement Order or Special Guardianship Order (SGO);
- long term foster care, where it is agreed the child will remain with the foster carers until adulthood;
- adoption, for children unable to return to their birth or wider family.

5.4.3 It is important to note that the objectives of the MFTS can only be achieved through high quality, child centred permanence planning as an integral element within Torbay's improvement journey. This will encompass any changes of placement for children remaining in care, through what might be termed 'step downs', alongside planned exits from care. Put simply, children cannot and will not be moved between placements or subject to change in their legal status solely to achieve cost savings.

5.4.4 Effective permanence planning requires the combined work of social care and educational practitioners and Independent Reviewing Officers (IRO), whose role is to ensure that care planning is subject to challenge and scrutiny. Analysis of the CLA population and of the wider processes/resources to deliver effective permanence planning, within the context of the previous 5 year plan, highlighted the following:

- there was an absence for children looked after of a management tool/tracker to connect permanence planning with the development of costs over time. Financial costs for CLA were subject to detailed monitoring but this was not linked to care planning, which in turn lacked a focus on permanence. A tracker has now been introduced which will outline planned exits over each month and enable senior managers to monitor progress and changes in costs;
- there is a lack of evidence of effective permanence planning for a significant number of children currently in long term foster care. There are also a number of older children with limited permanence options and who are likely to remain in care until they are 18 years, but with some older children also suitable for reunification;
- the impact of the IROs as a driving force for effective permanence planning is difficult to discern;
- currently the majority of exits from care in the current year will derive from maturation (18 years) and adoption – rehabilitation/private law orders barely feature. It is also the case that some children exiting care at 18 years will have continuing costs due to their vulnerabilities;
- a lack of clarity around decision making and oversight of placements where there is a significant and specialist educational component.

5.4.5 The CLA population at the end of November 2016 is at **279**. The review of the current CLA population recently completed at the request of the DCS has identified around **49 planned exits** for 2017/18 (not net reduction). As such, although the rate of new entrants to care is now in line comparators, the potential for immediate and significant reductions in the CLA will be limited until a more proactive approach towards permanence planning becomes embedded over the coming months.

5.4.6 The MFTS proposes a net reduction of between **10-15** per year for each year of the strategy commencing 2018/19 which is a more realistic and achievable target given the barriers to change identified above. A reduction in the population may well occur during 2017/18 but it would be prudent to progress the revision of our permanence strategy before setting targets for that year. The proposed reduction will bring

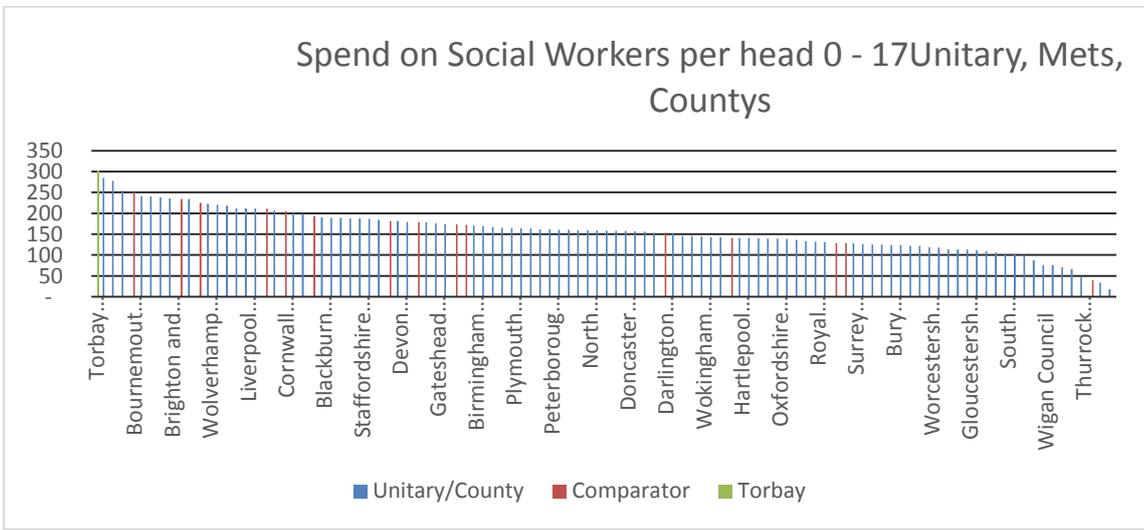
Torbay closer to the statistical neighbour average but will occur within the context of a general rise in CLA populations across the country.

5.4.7 Cost savings from a net reduction in CLA numbers will vary depending on the children’s placement type within care and their subsequent destination. A child leaving residential care to return home would deliver the greatest saving based on average costs but is also the most unlikely in practice terms, albeit that there will be some opportunities. Most of our children looked after are in foster care and continuing support through a SGO will feature in many exits from care, thereby involving the continuation of costs albeit at a reduced rate. As a consequence, the MFTS takes a cautious approach towards savings from CLA reductions at least until the tracking systems recently established are embedded and able to provide a fuller appreciation of any changes in cost to senior managers. It is also the case that projected savings will have a wide upper and lower range, due to the number of permutations and combinations of placement type and routes out of care. This is reflected in the Action Plan at Appendix 1.

5.5 Social Worker Staffing and Support Costs

5.5.1 In July, the incoming DCS took action to address the in year budget pressure through the freezing of vacant posts and reduction of agency spend which delivered around £420K in 2016/2017 and £780K for the full year 2017/18. The CIPFA data which has indentified Torbay as an outlier in terms of spend will not account for these reductions or conversely, the additional investment in Business Support Posts put in place in 2016/17. Notwithstanding the factoring in of these changes, it is acknowledged that Torbay’s staffing and support costs are higher than comparators.

5.5.2 The graph below shows spend on social workers in population terms. Torbay is represented in grey as the highest proportionate spender on the far left, its comparator group in orange, other unitaries, counties and metropolitan authorities in blue (London Boroughs excluded). This shows the highest spend on social work per head of population (0-17 years) outside of London, which will required to be unpicked through a detailed review of social care staffing and support costs, which is proposed within the Action Plan attached at Appendix 1. This process will need to factor in the very high levels of demand in Torbay to ensure caseloads remain within acceptable limits.



5.5.3 The freeze on vacancies and agency spend introduced by the DCS in August 2016 will have a full year value of around £780k for 2017/18. This will deliver around £260k of net savings in that year, when allowance is made for the vacancy management target of £520k built into the 2016/17 budget. There are also around 7 business support posts on 12 month contracts will cease during 2017/18 and it is likely these will not be replaced delivering a further saving of around £129k.

5.5.4 The DCS and Interim Assistant Director Children's Safeguarding will be undertaking a detailed review of social care structures to identify the potential for further staffing efficiencies to be implemented from 2018/19 onwards, as improvement becomes embedded. Acknowledging that the service is in intervention there are no detailed, costed proposals to further reduce social care staffing during 2017/18, until improvement is embedded and populations and caseloads allow for this. The MTFs does, however, propose a managed reduction in agency spend from 2017/18 alongside the staffing savings identified above.

5.6 Other Savings' Proposals

5.6.1 It is proposed to increase the timeliness and number of adoptions to bring these more in line with statistical comparators as part of our improved permanence planning. Currently we are planning for 22 adoptions in 2016/17. Peopletoo have modelled a saving of around £174k per annum based on reducing adoption timescales by 75 days, based on average daily care costs. Current projections suggest we are on target to exceed this reduction but further analysis is needed to determine the extent of savings.

5.6.2 Early help arrangements are not clear and consequently form a key element within the improvement plan. It is not possible to model savings at this stage which will arise from the prevention of cases escalating to high cost services and cases stepped down successfully.

5.6.3 Peopletoo has suggested that a range of commissioned services could be redesigned and/or re-procured to deliver efficiencies. These are identified within the action plan at pages 14/15 of the Action Plan. A number of these elements also appear within the Draft Revenue Budget currently subject to consultation and as such further work will be needed to align both sets of proposals.

6. Action Plan

6.1 A detailed action plan setting out how savings will be realised is attached at Appendix 1 with a summary of savings set out in Appendix 2. This draws heavily on the work undertaken by Peopletoo, who were commissioned by the LGA as part of their broader support to Torbay Council. It has also been shared with the CIPFA peer review team who have advised that it is a reasonable and credible plan, based on their own assessment of Torbay Children's Services expenditure.

6.2 A number of the savings relating to CLA costs are based on a precise number of additional placements delivering a change in the proportionate split of residential, independent and foster care placements. Increases in the numbers and timeliness of adoption and an increase in the use of SGO's are further features. The savings totals are estimates based on current average costs and reflect the balance of

placement costs within the existing population. A number of the savings are already contained within the draft Revenue Budget (2017/18) currently subject to consultation and further work will be needed to ensure the proposals within the MFTS are aligned. The 2017/18 savings figure has also been adjusted by 50% to allow for the gradual implementation of savings proposals over the year. The figures have also been rounded to the nearest £1k.

7. Monitoring and Review

- 7.1** Progress to deliver the savings outlined within the MFTS will be monitored through a variety of mechanisms. It will be a standing item on Children's Services Senior Leadership Team (SLT), with regular updates to Corporate SLT, alongside regular review via the one to one meetings between the DCS and Chief Executive and Executive Lead Member.
- 7.2** The Members Monitoring Group, comprising of elected member representatives from all political groups, will also work with the DCS to monitor progress and, when appropriate, make recommendations to further develop or amend the overall strategy. The MFTS will also feed into the corporate quarterly cycle of budget and performance reporting to Mayor's Executive Group and full Council.

8. Conclusions

- 8.1** Children's Social Care has two significant areas of expenditure that are key to unlocking the potential for substantive efficiencies and integral to our improvement journey. The population and consequential spend on CLA (circa £13.9m) are comparatively high as are our staffing and support costs (circa £11.9m). Torbay Children's Services are therefore expensive and underperforming when compared with statistical neighbours – a situation that has occurred due to a complex set of historical and situational factors. Practice, care planning and management oversight have all been weak compounded by the failure to direct the required resources, both within the department and corporately, to the points of maximum impact and need.
- 8.2** As a consequence, the MFTS takes a measured approach towards these two major areas of spend to ensure the necessary infrastructure and culture is put in place during 2017/18 to secure the delivery of a sustainably improved level of performance in subsequent years. The redistribution and overall reduction of CLA costs will not occur until permanence planning is effective, including concurrent planning for unborn children in appropriate cases. Staffing and support costs will reduce in 2017/2018 however a detailed review of social care and early help staffing structures will be necessary, alongside a sustained improvement in performance, before a definite view of future costs can be determined with confidence.
- 8.3** The Action Plan attached at Appendix 1 sets out a range of proposals whose pace and scale have been aligned with a measured journey towards the performance of statistical comparators. A number of the proposals, such as the development of in-house or partnership residential provision, will require further more detailed business cases to be developed. As such, the MFTS will continue to mature over time and careful consideration will be needed to determine how savings proposals will be captured within the Council's budget planning cycle. This will also encompass how and when the department will be in a position to return the £3.4m investment from Council reserves.

Andy Dempsey

Director of Children's Services

(Rev 2: 11 January 2017)

Torbay Children's Social Care Financial Action Plan – November 2016

Activity	Additional Resources / Actions Required	Planned Saving (link with Financial Improvement Plan)
<p>PLACEMENT MANAGEMENT: RE PROFILING OF EXPENDITURE</p> <p>Strategic Aim:</p> <p>Strengthen our Permanence Planning and Sufficiency Strategy to ensure there is a robust, efficient and effective plan in place to meet the demands of Torbay's CLA population going forward.</p> <p>Operational Objectives</p> <ul style="list-style-type: none"> • Increase the capacity in-house foster care placements thereby reducing the usage of IFA placements for less complex cases, realigning the current split of 70% In House placements to 30% IFAs to 80% / 20%. • Improve the percentage of children leaving care as a result of placing within a connected person or via an SGO placement to a level in line with statistical neighbours. • Develop of a clear strategy to increase the capacity of higher skilled IFA placements that can support wrap around Foster Care placements and hence reduce the usage of residential provision. • Explore the development of in house/partner managed residential provision to reduce the cost of procuring external placements. • Ensure the sufficiency strategy takes account of appropriate educational provision within placement decisions and capacity building. • Refresh decision making processes and management 	<p>A dedicated contracting/placements team has been established (commencing 5.12.16) to progress the capacity development necessary to deliver these elements.</p> <p>This proposal will require a detailed business case and engagement with local housing/residential care providers. There may well be some capital expenditure required.</p>	<p>Reduction in usage of Independent Fostering Agency Placements. <i>Proposal based on moving from a 2016/17 split of 70%-30% In House to IFA to 80%/20% - total increase of 20 In House Placements over 3 years:</i></p> <p>2017/18: £129k (5 placements) 2018/19: £181k (7 placements) 2019/20: £207k (8 placements)</p> <p>Reduction in externally provided residential placements through development of higher skilled IFAs with wrap around care. <i>The difference in annual cost of a residential placement versus a high end IFA is £126,705. Proposal is to transition 10 young people from Residential to IFAs over 3 years.</i></p> <p>2017/18: £253k (2 placements) 2018/19: £506k (4 placements) 2019/20: £506k (4 placements)</p> <p>Create 3 x 2 bed in-house homes as a replacement for high cost placements. <i>Based on the average annual cost of the 5 most expensive placements minus the estimated cost of running 3 x 2 bed in house homes (£1,582k - £840k = £742k saving).</i></p> <p>Implementation by 2019/20</p>

oversight arrangements to ensure placement decisions take account of the costs of educational provision.	Increasing exits from care will form a key element within the department's revised permanence strategy.	2019/20: £742k Improve the percentage of children leaving care as a result of placing with a Connected Person or SGO. <i>Current percentage 8% against SN average and national average of 11% (2014/15 figures). To reach target of 11% would equate to moving 9 children to CP/SGO placements, based on average foster care costs.</i> 2017/18: £49k (3 placements) 2018/19: £98k (6 placements)
Activity	Additional Resources required	Planned Saving (link with Financial Improvement Plan)
<p>ADOPTION: SCALE AND TIMELINESS</p> <p>Strategic Aim</p> <p>Review and strengthen the Adoption Strategy to grow capacity to ensure there is a robust, efficient and effective plan in place to meet the demands of Torbay's LAC population in respect of adoption as a positive outcome from care.</p> <p>Operational Objectives:</p> <ul style="list-style-type: none"> • Increase the number of children who leave care as a result of adoption to a level in line with statistical neighbours. • Accelerate the pace of adoption from entering care to becoming adopted to a level in line with statistical neighbours. 	<p>Our timeliness of adoption is already improving from the baseline identified by Peopletoo 623 days (3 yr rolling average). Based on current projections this will reduce to 516 at end of 2016 and 447 at end of 2017.</p>	<p>Improving the percentage of children leaving care as a result of adoption. <i>Based on increasing the percentage leaving for adoption from 16% to SN average of 23% (2014/15 figures), equating to 20 additional placements. Saving based on average foster care placement cost at 70%/30% current In House / IFA split.</i></p> <p>2017/18: £85k (3 placements) 2018/19: £141k (5 placements) 2019/20: £141k (5 placements) 2020/21: £197k (7 placements)</p> <p>Acceleration of Adoption from the point of entering care. <i>Based on reducing the time from care to adoption by 75 days to become in line with statistical neighbours. Saving based on average foster care placement cost at 70%/30% current In House / IFA split.</i></p> <p>2017/18: £174k</p>

Activity	Additional Resources required	Planned Saving (link with Financial Improvement Plan)
<p>EARLY HELP</p> <p>Strategic Aim:</p> <p>Reconfigure the approach to Early Help so that there is a clear and understood approach which supports prevention activity.</p> <p>Operational Objectives</p> <ul style="list-style-type: none"> • Reconfigure the “front door” to Early Help and Children’s Social Care into a single first point of access. • Re-define the remit of the in house services under Early Help to ensure that they are focussed on priorities and that their remit and criteria is fully understood. • Re-evaluate the approach to supporting partners to fully play their part in the delivery of Early Help. • Review Children’s Centre provision, including Health Visitors and School Nurses, to ensure that provision is targeted at and effective for those most in need. • Further develop the Early Help / Community Hub model to support self-help and community resilience as part of a preventative approach. • Further develop processes within social care planning to support an effective Early Help approach. • Align the Troubled Families programme with the revised Early Help strategy to maximise impact on families crossing both cohort boundaries. 	<p>A TSCB Task and Finish Group chaired by the Assistant Director: Safeguarding will commence the work to reconfigure the local strategy in December 2016.</p>	<p>There are no direct financial targets attached to this activity but an effective Early Help service will support a reduction in the numbers of children requiring statutory social care intervention.</p> <p>It is not realistic at this stage to model this saving, but as and when demand reduces, such modelling could be done as part of a review of the resource needed to manage lower levels of demand.</p>

Activity	Additional Resources required	Planned Saving (link with Financial Improvement Plan)
<p>COMMISSIONING</p> <p>Strategic Aim</p> <p>Support a review of the corporate approach to commissioning to ensure that it is joined up, focussed on priorities and promotes value for money.</p> <p>Operational Objectives (for Children's Services)</p> <ul style="list-style-type: none"> Engage existing providers in a dialogue around future service provision Re-procure/model services as necessary 	<p>Commissioning is a corporate activity and hence any proposal to review commissioning processes will require the engagement of Council stakeholders outwith Children's Services.</p>	<p>Careers South West <i>Based on a proposed reduction to contract to reflect a pay per activity approach.</i></p> <p>2017/18: £25,000 2018/19: £40,000 2019/20: £10,000</p> <p>Review Children's Centre Provision <i>Based on a reduction to contract through further emphasis on a targeted approach.</i></p> <p>2017/18: £57,500 2018/19: £69,000 2019/20: £103,000</p> <p>Young People's and Young Parents' Supported Accommodation</p> <p>2017/18: £75,000 2018/19: £40,000 2019/20: £10,000</p> <p>Youth Homelessness <i>Based on a proposed reduction to contract</i></p> <p>2017/18: £116k</p>
Activity	Additional Resources required	Planned Saving (link with Financial Improvement Plan)
<p>SPECIAL EDUCATIONAL NEEDS PROVISION</p> <p>Strategic Objective</p> <p>Ensure the Special Educational Needs Offer provides value for money whilst meeting the needs of young people and their families</p>	<p>The Contracting and Placements Team will be undertaking a review of commissioned activity and usage. This will encompass the interface between social care and educational decision making to ensure costs are not merely shunted from social care to the higher needs block (Dedicated</p>	<p>No direct financial targets attached at this stage – this requires scoping out of existing thresholds spend and contractual arrangements.</p>

<p>Operational Objectives</p> <ul style="list-style-type: none"> • Review criteria for the access to provision to ensure that the needs of the most vulnerable are met whilst achieving value for money. • Review arrangements of the contracting of SEND provision • Review and accelerate the process for the transition from statements to ECH Plans 	Schools Grant).	
<p>HOME TO SCHOOL TRANSPORT</p> <p>Strategic Objective</p> <p>Develop a formal Home to School Transport Strategy which outlines the approach taken with a focus on how young people will be supported where appropriate to increase their independence.</p> <p>Operational Objectives</p> <ul style="list-style-type: none"> • Develop a formal Independent Travel Training programme • Consider the introduction of a transport buddies programme (utilising existing escorts) as an alternative to taxis. • Undertake a review of routes where the numbers remain low on a particular vehicle to establish if there is further opportunity for route optimisation, underpinned by the use of route optimisation software. 	<p>The change process will aim to optimise routes and maximise independent travel by young people.</p> <p>These will be capital costs in the procurement of route optimisation software and changes to capita which are estimated to be in the region of £50k</p>	<p>Implement Independent Travel Training and Transport Buddies programme for children with disabilities.</p> <p><i>Analysis of the current cohort has identified 25 young people who, with support, and successful training, could travel independently over the next two years. Average saving per child £3,735 minus bus pass of £540 per person</i></p> <p>2017/18: £39k 2018/19: £39k</p> <p>Develop usage of external escorts to support more independent travel for children with disabilities. <i>Based on a 5 hour saving to the Council per week x 38 weeks plus on 20% costs – using living wage £9</i></p> <p>2017/18: £20,520 (10 additional escorts – total 20) 2018/19: £21,520 (10 additional escorts – total 30)</p> <p>Adopt a route optimisation model to ensure high levels of occupancy and limit the number of routes in use.</p>

Activity	Additional Resources required	Planned Saving (link with Financial Improvement Plan)
<p>LEAVING CARE SUPPORT:</p> <p>Strategic Objective</p> <p>Review the Leaving Care policy to ensure that there is an efficient and cost effective approach taken to the provision of Leaving Care packages.</p> <p>Operational Objectives</p> <ul style="list-style-type: none"> • Map out on an individual basis the young people who are receiving Leaving Care packages, to establish an exact picture of both spend and provision • Undertake a value for money exercise on each case to establish where more cost effective options could be explored. 		<p>Exact identification of saving requires coping out pending a review of individual cases. Benchmarking data with statistical neighbours is not yet available.</p> <p>The budget for 2016/17 is correctly projected at an overspend of £197,086 from a budget of £250,000.</p> <p>The proposed savings to bring this budget back into line are therefore scoped below:</p> <p>2017/18: £67k 2018/19: £80k</p>
Activity	Additional Resources required	Planned Saving (link with Financial Improvement Plan)
<p>AGENCY STAFFING:</p> <p>Operational Objective</p> <p>Reduce the numbers of social care agency staff to bring in line with statistical neighbours.</p>	<p>The DCS and Assistant Director Safeguarding will undertake a fundamental review of social care staffing structure, working closely with finance colleagues. This will seek to reduce agency usage as part of the change process.</p>	<p>The proposal envisages a net reduction in agency staffing of</p> <p>2017/18: £101k (4 staff) 2018/19: £51k (2 staff)</p> <p><i>Based on a further reduction of 6 agency social workers over 2 years, based on the average difference between an agency and permanent social worker being £25,267 per annum</i></p>

Activity	Additional Resources required	Planned Saving (link with Financial Improvement Plan)
<p>REDUCTION IN CLA POPULATION AND ASSOCIATED COSTS:</p> <p>Operational Objective</p> <ul style="list-style-type: none"> Refresh our permanence and sufficiency strategies Implement robust processes to oversee placement and permanence planning to ensure they are child centred and provides value for money. 	<p>The DCS and Assistant Director Safeguarding will be working with Heads of Service to revise our permanence strategy which will be key to bringing the CLA population in line with comparators. A <u>net</u> reduction of between 10 – 15 placements is envisaged for each year commencing 2018/19. In light of the weaknesses in current permanence planning no net reduction is planned for 2017/18. It will also be important to distinguish this Workstream and savings from activity to increase the rate of timeliness of adoptions.</p>	<p>The savings accruing will depend on the child's current placement and route out of care. In some cases such as Special Guardianship there will be continuing costs. Savings for a child leaving foster care for an SGO could be as little as £5k per annum, other routes deliver savings in the range £20k to £40k. The most impacted route of residential to care has not been included as this is likely to be an exceptional occurrence. Reunification may be a route for some older children but this will occur only through the lens of effective permanence planning.</p> <p>Savings based on net reduction of 10/15 per annum would be (£50k/£75k-£400k £600k)</p>
Activity	Additional Resources required	Planned Saving (link with Financial Improvement Plan)
<p>Strategic Aim</p> <p>To bring staffing and support costs in line with statistical comparators.</p> <p>Operational Objective</p> <p>Undertake a comprehensive review and restructure of social care services.</p> <p>Refresh workforce recruitment, development and retention strategy.</p>	<p>The DCS and AD Safeguarding will be working closely with finance and HR colleagues to review existing staffing structures and develop a sustainable staffing base for future provision.</p>	<p>Savings are included for 2017/18 based on the full year impact of the actions taken in August 2016 and non renewal of Business Support posts due to end in year. This will deliver around £389k of savings in 2017/18.</p> <p>Further savings will be identified following the establishment review completed by the DCS and AD.</p>

Financial Improvement Plan 2017/18 – 2020/21

Opportunity	2017/18	2018/19	2019/20	2020/21	TOTAL
	£	£	£	£	£
Reduce usage of Independent Fostering Agency placements and create more in-house placements	129k	181k	207k		517k
Reduction in externally provided residential placement through exploration of wrap around Foster Care placements	253k	506k	506k		1,265m
Explore the creation 3 x 2 bed in-house homes			742k		742k
Improving percentage of children leaving care as a result of placing within an SGO or connected persons placement	49k	98k			147k
Improving percentage of children leaving care as a result of adoption	85k	141k	141k	197k	564k
Acceleration of Adoption in order to reduce spend on Placements	173k				173k
Commissioning – Careers South West*	25k	40k	10k		75k
Commissioning – Children’s Centre Provision	57k	69k	103k		229k
Commissioning – Young People’s / Parents Supported Accommodation	75k	40k	10k		125k
Youth Homelessness*	116k				116k
Implement Independent Travel Training and Transport Buddies programme for children with disabilities*	39k	39k			78k
Develop usage of external escorts to support more independent travel for children with disabilities*	20k	20k			40k
Review of Leaving Care packages	67k	80k			147k
Managed reduction in use of agency staff*	101k	50k			151k
Reduction in CLA population and associated costs		50k-600k	50k-600k	50k-600k	150k-1.8m
Staffing and Support Costs*	389k	TBC	TBC	TBC	389k
TOTAL	1.578m	1.314m – 1.864m	1,769m – 2,319m	247k – 797k	4.908m – 6.558m
Budget adjustment of 50% to allow for the gradual in year implementation of savings.	789k				

* = Included within revenue budget 2017/18