



## Minutes of the Council

27 September 2012

-: Present :-

**Chairman of the Council (Councillor Stringer) (In the Chair)**  
**Vice-Chairman of the Council (Councillor Parrott)**

The Mayor of Torbay (Mayor Oliver)

Councillors Addis, Amil, Baldrey, Bent, Brooksbank, Butt, Cowell, Davies, Darling, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hill, James, Kingscote, Lewis, Mills, Morey, Pentney, Pountney, Pritchard, Richards, Scouler, Stockman, Thomas (D), Thomas (J) and Tyerman

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### 50 Opening of meeting

Members observed a minute's silence as a mark of respect in memory of Geoff Ingram who lost his life after the Sarah Jayne, a 49ft beam trawler, capsized off Berry Head on 11 September 2012 and John Davies and Frances Johnson, both past Mayors, who had also recently passed away.

The meeting was then opened with a prayer.

### 51 Apologies for absence

Apologies for absence were received from Councillors Barnby, Hytche, McPhail and Stocks.

### 52 Minutes

The Minutes of the meeting of the Council held on 12 July 2012 were confirmed as a correct record and signed by the Chairman.

### 53 Communications

The Chairman:

- (i) on behalf of the Council, expressed his thanks to the RNLI, the Coastguard and all the fishing vessels involved in the air and sea search for the local fisherman, Geoff Ingram, who sadly lost his life at sea off Brixham;
- (ii) congratulated both the Council and community groups involved in winning 33 awards at this year's Royal Horticultural Society (RHS) South West in Bloom competition. Paignton achieved the Royal Horticultural Society Gold award

and gold flag, with Torquay and St. Marychurch and Babbacombe both achieving the silver gilt award. Three cups were received for the landscaping of Royal Terrace Gardens, best horticultural display for Torre Abbey and the Serco Cup for the Geo Park, Paignton and 27 awards were achieved under the Neighbourhood section; and

- (iii) advised that the Mayor and him welcomed the MV Artania cruise ship on its visit to Torbay on 16 September 2012. The ship brought over 800 passengers to Torbay and approximately 50% stayed inside the Bay to visit our attractions.

The Mayor advised that, on behalf of the Council and the people of Torbay, he had written a letter of condolence to Chief Constable Shaun Sawyer following the recent murders of two policewomen in Manchester.

#### **54 Order of Business**

In accordance with Standing Order A7.2, the order of business was varied to enable agenda item 9 (Social Fund) and item 11 (Capital Budget Monitoring 2012/13 (1st Quarter)) to be considered after item 12 (Revenue Budget Monitoring 2012/13 – Quarter 1).

#### **55 Petitions**

In accordance with Standing Order A12, the Council received a petition requesting the Council to cut back the trees at the Monastery to a reasonable size (approximately 32 signatures).

At the invitation of the Chairman, Councillor Pentney addressed the Council on behalf of the residents in relation to the petition.

It was noted that the petition would be referred to the Executive Head Residents and Visitor Services for consideration in consultation with the Executive Lead for Safer Communities and Transport.

#### **56 Members' questions**

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

Verbal responses were provided at the meeting. Supplementary questions were then asked and answered on all the questions submitted.

#### **57 Notice of motions - Civil Marriage**

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

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

On behalf of the lesbian, gay, bi-sexual and transgender residents of Torbay, this Council welcomes the Government's commitment to introduce equal civil marriage before 2015, and the positive message it gives to our young people. This Council believes that all people should be treated equally regardless of race, religion or sexuality and requests the Mayor to write to the Prime Minister and local MP's outlining our support.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor advised that, although he supported the statement, he felt it was premature and would defer consideration of the motion to allow wider debate on the issue.

### **58 Notice of Motion - Homophobic Bullying**

Members considered a motion in relation to homophobic bullying in schools, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor James and seconded by Councillor Cowell:

In light of horrifying statistics on homophobic bullying in schools and the particular vulnerability of lesbian, gay, bi-sexual and transgender (LGBT) young people outlined in research by the Stonewall organisation, this Council asks the Mayor and the Executive Lead for Children, Schools and Families to commission work to:

1. investigate, with the utmost sensitivity, the extent of homophobic bullying in our schools and to engage with the Stonewall organisation, LGBT young people and/or other relevant organisations, to understand the issues around homophobic bullying;
2. to discover what is currently being done by schools and youth organisations in the Bay to combat homophobic bullying amongst young people and to find out whether teachers and non-teaching staff in schools feel equipped to deal with it;
3. to ensure that all organisations that work with young people in the Bay, including schools and youth organisations have strategies to combat homophobic bullying towards LGBT young people; and
4. to draw up a Bay wide strategy for combating homophobia across all age groups.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor advised he would refer the motion to the People (Children) Policy Development Group to allow the matter to be examined further.

### **59 Notice of Motion - Localisation of Council Tax Support**

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

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

This Council:

- Opposes the Government's plans to localise council tax benefit from 2013 if it continues to include the £500 million reduction in funding currently proposed.
- Notes the warning of the Local Government Association that the poorest will bear the brunt of these changes and that local authorities which have a high level of deprivation, including Torbay, will be hit disproportionately.
- Notes research by the Institute for Fiscal Studies which indicates that the working poor will be hit hardest by the cuts to council tax benefit, completely contradicting the Government's stated aims in its welfare reform programme.
- Recognises that past experience with the poll tax shows that it will be very difficult to try to collect this tax from low income households that are not used to paying it and that it is therefore likely that many will be unable to pay.
- Believes that this is unfair, immoral and unethical towards the 10,000 residents of Torbay who will be affected by these changes, including a thousand young people.
- Resolves to ask the Mayor to write to the Government opposing this draconian policy.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor acknowledged the motion at the meeting and advised that due to the economic and national debt crisis he did not believe a letter from the Council would have any effect, therefore he decided to take no action on this motion.

## **60 Notice of Motion - Exploring a Living Wage**

Members considered a motion in relation to exploring a living wage, notice of which was given in accordance with Standing Order A14.

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

Council notes:

- A 'living wage' was first established in the UK in 2001.
- It has political support from the leaders of the Labour Party and Conservative Party.
- Many large private sector employers such as Holiday Inn, Barclays and KPMG are accredited Living Wage employers, reflecting best practice in the private sector.
- Currently the living wage rate is £7.20 per hour outside of London and £8.30 within London. The rate for outside London is calculated using incomes and

prices data on a system developed and maintained by the Centre for Research in Social Policy at Loughborough University.

- According to charity Barnardo's and over 58 per cent of children who live in poverty in the UK have at least one parent in paid work.
- Local authorities such as Preston and Oxford have incorporated living wage clauses within their public sector procurement strategies.
- The Living Wage Foundation estimates over 10,000 families have been helped out of working poverty across the UK as a result of a living wage.

Council believes:

- Torbay Council has a duty to be a good employer, and live up to the obligation we set ourselves in the Inclusion Charter which affirms our duty to reduce disadvantage and poverty.
- The procurement strategy of Torbay Council can influence and encourage behaviour in the private sector, ensuring that our partners uphold the same commitment to equality as we do.
- Many people are unaware how many workers employed by Torbay Council are paid below the living wage; according to a Freedom of Information Request to the Council, 125 Torbay Council workers are earning less than the Living Wage.
- There is a strong case for exploring the viability and benefits of Torbay Council becoming a living wage employer.

Council requests the Mayor:

- To perform an audit of Torbay Council workers to establish how many are currently paid less than the living wage and to break down these findings by gender, ethnicity and disability.
- To meet with the Living Wage Foundation, trade unions and other stakeholders to discuss the merits of a living wage.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor advised he supported the 'living wage' and would refer the motion to the Council Business Policy Development Group to allow the matter to be examined further.

## **61 Notice of Motion - Regional and Local Public Sector Pay**

Members considered a motion in relation to regional and local public sector pay, notice of which was given in accordance with Standing Order A14.

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

Council notes:

- The Chancellor of the Exchequer announced in the 2012 Budget the Government's desire to introduce 'more market facing' public sector pay. This could mean regional or local public sector pay.

- There has been no independent assessment of the impact and consequences this policy could have for public services or the economies of low pay regions.
- The New Economics Foundation believes that regional and local pay could cost the South West economy up to £1.2bn per year and 12,471 jobs.
- Up to 20 South West NHS Trusts are using arguments for regional pay to justify exploring reduced pay, terms and conditions for health workers in the South West.

Council believes:

- The Government's case is based on the claim that public sector pay is 'crowding out' the private sector. This is not supported by evidence, particularly at a time of high unemployment. There are currently 5 JSA claimants for every job vacancy in Torbay.
- This approach also ignores the real reasons for the differences between public and private sector pay. For instance, there are more high skilled workers in the public sector (such as teachers and nurses), and a smaller pay gap between top and bottom earners and a smaller gender pay gap.
- Public sector employers already have some flexibility to adjust pay in response to local conditions, and higher rates are paid in London and the South East.
- All other English regions and devolved nations stand to be affected by this, with the possibility of years of pay falling behind the cost of living.
- Workers in living in Torbay are paid £91 less per week than the British average.
- 65% of public sector workers are female.

Council further believes:

- Regional or local public sector pay would have a harmful effect on the South West of England.
- It will make it harder for schools and other public services to recruit and retain good quality professionals who could earn more for doing the same job elsewhere.
- There are 17,500 public sector workers across Torbay and reducing their real terms pay each and every year will dramatically reduce spending power and have a negative impact on the private sector.
- This policy will not improve the pay of private sector workers but instead could encourage further depression of wages in all sectors.
- We do not want to be forever defined as a 'low pay' region and this policy is therefore counter to our area's vision and ambitions for the future.

Council requests the Mayor:

- To write to the Chancellor of the Exchequer and Chief Secretary to the Treasury stating this Council's opposition to plans for regional and localised public sector pay.

- To write to all local MPs outlining concerns about the impact that this policy would have on services and the local economy.
- To sign up to the Pay Fair campaign and raise awareness of the implications and risks of this policy locally, regionally and nationally.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor advised he supported the motion and the record of his decision is attached to these minutes.

## **62 Notice of Motion - Affordable Residents Parking Permit Scheme**

Members considered a motion in relation to affordable residents parking scheme, notice of which was given in accordance with Standing Order A14.

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

This Council asks the Mayor to request the Executive Lead for Safer Communities and Transport to bring forward proposals for the introduction of an affordable Resident's Parking Permit Scheme that will:

- i) Be valid in any Council owned car park;
- ii) Have a pay-monthly option; or
- iii) A monthly ticket to be purchased from machines.

Council recognises that there is a need to support residents during this tough economic climate and to endeavour to support our town centres.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor advised he would refer the motion to the Transport Working Party to allow the matter to be examined further.

## **63 Notice of Motion - Scrap the Annual Car Park Permit for Members**

In accordance with Standing Order A16.9, Councillor Cowell advised that he wished to withdraw his motion in relation to scrapping the £50 annual car park permit for members, as a result of further negotiations which were being held. Councillor Morey, as seconder, gave consent to withdraw the motion.

## **64 Covenant Protecting Paignton Green Against Development - Mayoral Decision**

The Council made the following recommendation to the Mayor:

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

that the Council enters into a deed covenanting with the residents of Paignton as follows:-

“Torbay Council covenants with all inhabitants of the wards of Blatchcombe, Clifton with Maidenway, Goodrington with Roselands, Preston and Roundham with Hyde (“the Paignton Wards”) that for a period of 100 years beginning on the date of this deed it will not on the land shown edged red on the plan attached erect or permit the erection of any permanent structure without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of councillors for any of the Paignton Wards and are registered as local government electors at an address within the Paignton Wards. For the purposes of this covenant ‘permanent structure’ shall mean any structure intended to remain on the land for a period greater than 6 months in any period of 12 consecutive months. This covenant shall not apply to the installation, construction or renewal (whether by statutory undertakers or otherwise) of any media for the supply or removal, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media”.

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

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

#### **65 Revenue Budget Monitoring 2012/13 - Quarter 1 - Mayoral Decision**

The Council noted the current projected outturn for the Revenue Budget 2012/2013 based on quarter 1 information, as set out in the submitted report.

#### **66 Social Fund Support**

The Council considered the new social fund responsibilities as part of the Welfare Reform Act 2012. It was noted the Act abolishes the current system of discretionary payments from the Social Fund and from April 2013, the support provided to households via Community Care Grants and Crisis Loans for Living Expenses will cease. Local Authorities would receive financial support to enable them to develop and implement ‘successor models’. The submitted report set out a replacement scheme that had been developed to provide welfare assistance for those most in need.

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

- (i) that the transfer of the additional responsibilities to deliver the replacement Social Fund scheme to the Revenues and Benefits service, resulting in; saving administrative costs due to the pooling of resources, consistency in the assessment procedure and a more responsive, integrated service be approved; and
- (ii) that the Executive Head for Finance will, in consultation with the



Mayor and the Executive Lead for Finance agree the final scheme in January 2013, thus providing a three month period to allow the new service to become properly established prior to the new arrangements coming into force.

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

**67 Capital Budget Monitoring 2012/13 (1st Quarter)**

The Council considered the submitted report setting out an overview of the Council's approved Capital Investment Plan for the quarter ending June 2012. The report provided details of expenditure and funding of service and community assets within the Council's approved Capital Plan.

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

- (i) that Council notes the latest position on the Capital Investment Plan;
- (ii) that Council approve an allocation of £0.250m for the purchase of replacement Council use vehicles. Approval of individual vehicle asset purchases to be delegated to the Director of Place and Resources, in consultation with Chief Finance Officer and the Asset Super Client officer; and
- (iii) that Council approve that the Council's Chief Finance Officer, in consultation with the Executive Lead for Finance, is authorised to agree loans to linked organisations, (such as academy schools, housing associations, Council associate and subsidiary companies).

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

**68 Constitution Amendments**

The Council considered proposed amendments to the Constitution relating to the Employment Committee terms of reference and response to members questions within Standing Orders in relation to Council Meetings which could not be agreed by the Mayor and Group Leaders.

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

that the Monitoring Officer be requested to amend the Constitution (as set out at Appendix 1 and 2 to the submitted report) to: a) remove the appointment of directors of Council controlled companies from the Employment Committee terms of reference and delegate this to the Chief Operating Officer to streamline the process; and b) update the requirement for written responses to members questions within Standing Orders in relation to Council meetings.

An amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

- (ii) that, in addition to the amendments to the Standing Orders in relation to members questions, the Monitoring Officer further amends the Constitution (for consultation with the Group Leaders), to achieve a system similar to Plymouth City Council, for members to lodge written questions with the Governance Support Manager and written responses provided on the Council's website within 10 working days.

On being put to the vote, the amendment was declared lost.

A further amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

that the Council's Standing Orders in relation to members' questions, as set out in Appendix 2 of the submitted report, are not amended.

On being put to the vote, the amendment was declared lost.

The original motion was then before Members for consideration.

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

## **69 Appointment of the Chief Operating Officer**

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

that, following the decision of the Council (Minute 46(i) and (ii)/7/12), the Council be recommended to appoint Caroline Taylor as Interim Chief Operating Officer.

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

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Chairman

# Minute Item 61

## Record of Decisions

### Notice of Motion - Regional and Local Public Sector Pay

#### Decision Taker

Mayor on 27 September 2012

#### Decision

That the motion be supported.

#### Reason for the Decision

To respond to the Motion.

#### Implementation

This decision will come into force and may be implemented on Wednesday, 10 October 2012 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

#### Information

At the Council meeting held on 27 September 2012, Members received a Motion, as set out below, notice of which had been given in accordance with Standing Order A14 by Councillors Cowell and Ellery:

Council notes:

- The Chancellor of the Exchequer announced in the 2012 Budget the Government's desire to introduce 'more market facing' public sector pay. This could mean regional or local public sector pay.
- There has been no independent assessment of the impact and consequences this policy could have for public services or the economies of low pay regions.
- The New Economics Foundation believes that regional and local pay could cost the South West economy up to £1.2bn per year and 12,471 jobs.
- Up to 20 South West NHS Trusts are using arguments for regional pay to justify exploring reduced pay, terms and conditions for health workers in the South West.

Council believes:

- The Government's case is based on the claim that public sector pay is 'crowding out' the private sector. This is not supported by evidence, particularly at a time of high unemployment. There are currently 5 JSA claimants for every job vacancy in Torbay.
- This approach also ignores the real reasons for the differences between public and private sector pay. For instance, there are more high skilled workers in the public sector (such as teachers and nurses), and a smaller pay gap between top and bottom earners and a smaller gender pay gap.
- Public sector employers already have some flexibility to adjust pay in response to local

conditions, and higher rates are paid in London and the South East.

- All other English regions and devolved nations stand to be affected by this, with the possibility of years of pay falling behind the cost of living.
- Workers in living in Torbay are paid £91 less per week than the British average.
- 65% of public sector workers are female.

Council further believes:

- Regional or local public sector pay would have a harmful effect on the South West of England.
- It will make it harder for schools and other public services to recruit and retain good quality professionals who could earn more for doing the same job elsewhere.
- There are 17,500 public sector workers across Torbay and reducing their real terms pay each and every year will dramatically reduce spending power and have a negative impact on the private sector.
- This policy will not improve the pay of private sector workers but instead could encourage further depression of wages in all sectors.
- We do not want to be forever defined as a 'low pay' region and this policy is therefore counter to our area's vision and ambitions for the future.

Council requests the Mayor:

- To write to the Chancellor of the Exchequer and Chief Secretary to the Treasury stating this Council's opposition to plans for regional and localised public sector pay.
- To write to all local MPs outlining concerns about the impact that this policy would have on services and the local economy.
- To sign up to the Pay Fair campaign and raise awareness of the implications and risks of this policy locally, regionally and nationally.

### **Alternative Options considered and rejected at the time of the decision**

None

### **Is this a Key Decision?**

No

### **Does the call-in procedure apply?**

Yes

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

None

### **Published**

2 October 2012

Signed: \_\_\_\_\_  
Mayor of Torbay

Date: 2 October 2012



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# Minute Item 64

## Record of Decisions

### Covenant Protecting Paignton Green Against Development

#### Decision Taker

Mayor on 25 September 2012

#### Decision

That the Council enters into a deed covenanting with the residents of Paignton as follows:-

“Torbay Council covenants with all inhabitants of the wards of Blatchcombe, Clifton with Maidenway, Goodrington with Roselands, Preston and Roundham with Hyde (“the Paignton Wards”) that for a period of 100 years beginning on the date of this deed it will not on the land shown edged red on the plan attached erect or permit the erection of any permanent structure without any such proposal first obtaining the majority of votes in a referendum of the persons who at the day of the referendum would be entitled to vote as electors at an election of councillors for any of the Paignton Wards and are registered as local government electors at an address within the Paignton Wards. For the purposes of this covenant ‘permanent structure’ shall mean any structure intended to remain on the land for a period greater than 6 months in any period of 12 consecutive months. This covenant shall not apply to the installation, construction or renewal (whether by statutory undertakers or otherwise) of any media for the supply or removal, electricity, gas, water, sewage, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.”

#### Reason for the Decision

The Council could have voluntarily registered Paignton Green as a town or village green, but such registration would bring into question some of the present uses as they are not consistent with lawful uses of a town or village green. By entering into the deed of covenant with the residents of the present Paignton Wards, the Council will be unable to carry out substantial development of the green without first obtaining the consent of the majority of those residents taking part in a referendum on the proposals.

#### Implementation

This decision will come into force and may be implemented on 10 October 2012 unless call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

#### Information

The Council is the landowner of Paignton Green and to enter into a covenant would benefit the residents of all the Paignton wards as it will not permit any permanent structure on the land for the next 100 years without first obtaining the majority of votes in a referendum of the residents.

An application was made in 2010 to register the undeveloped portions of Paignton North, Middle and South Green as town or village green (‘the Application Land’) which was refused on the basis that it failed as a matter of law. However, members across all political groups considered that Paignton Green should be protected for future generations to continue using the green for the uses it is currently put to and similar uses.

**Alternative Options considered and rejected at the time of the decision**

Alternative options were set out in the submitted report.

**Is this a Key Decision?**

Yes – Reference Number: I008659

**Does the call-in procedure apply?**

Yes

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

None

**Published**

2 October 2012

Signed: \_\_\_\_\_  
Mayor of Torbay

Date: 2 October 2012