



## **Minutes of the Council**

**23 July 2015**

**-: 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, Lang, Lewis, Manning, Mills, Morey, Morris, O'Dwyer, Parrott, Robson, Stockman, Stubley, Sykes, Thomas (D), Thomas (J), Tolchard, Tyerman and Winfield

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### **25 Opening of meeting**

The meeting was opened with a prayer.

### **26 Apologies for absence**

Apologies for absence were received from Councillors Kingscote, Pentney, Stocks and Stringer.

### **27 Minutes**

The Minutes of the Annual Council and Adjourned Annual Council meetings held on 1 June 2015 were confirmed as a correct record and signed by the Chairman.

### **28 Declarations of interests**

Councillor Tyerman declared a non-pecuniary interest in Minute 42 as he is a Director of the Trust.

### **29 Communications**

The Chairman thanked those who attended his civic dinner and was pleased to announce that the event had raised over £1,000 for the Chairman's charities.

### **30 Order of Business**

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable agenda Item 15 (Capital Investment Plan Update) to be considered before Item 10 (Integrated Care Organisation).

### 31 Members' questions

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

Verbal responses were provided at the meeting. Councillor Mills responded to Question 3 as the Mayor had an interest in the matter and the Mayor responded to Question 6 as it related to the budget. Supplementary questions were then asked and answered in respect of the questions.

### 32 Notice of Motion - Devolution

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

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

There has recently been a great deal of interest in the promise of powers and greater financial freedoms for English Local Authorities through Devolution.

Devolution can provide;

- **Fiscal Powers** – greater freedom for local authorities to share incentives and raise a greater proportion of revenue through local taxation, plus a call to establish a system of place based, multi annual financial settlements giving local authorities a stable platform on which to secure improved outcomes for residents and communities;
- **Governance Arrangements** – new models of joint governance that ensure effective accountability and the delivery of outcomes in local areas; and
- **Powers and Duties** – HM Government can consider specific proposals on a range of devolution options that promote local decision making, increase local accountability and give greater funding certainty without the need for structural or organisational change.

It is known that all of the other authorities in the area have already commenced such discussions with each other, and in some circumstances with central government. Torbay Council has extreme budgetary challenges ahead, and cannot afford to be left behind. It is critical that all members are involved in progressing the devolution agenda, as any decision will ultimately be a matter for Full Council.

Therefore, this Council resolves:

That a politically balanced Devolution Working Party be established, comprising of seven members (political balance to include the Mayor and the three Group Leaders), tasked with exploring the opportunities for devolution,

and report back to the Council meeting in September 2015, on their progress, and any recommendations.

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

**33 Notice of Motion - Constitution Amendment: Forward Plan Timescales**

Members considered a motion in relation to timescales for Council key decisions published on the Forward Plan, notice of which was given in accordance with Standing Order A14.

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

The Mayor and the Council are required to publish forthcoming key (major) decisions in a Forward Plan. The current timescales for key decisions to be published in the Forward Plan is the statutory minimum of twenty eight days and the Forward Plan is published monthly. However it is considered that these timescales do not allow for a strategic and planned approach, which results in a reactive approach when making key decisions.

Therefore the Council resolves:

that the Monitoring Officer be requested to amend the Constitution to require Council key decisions to be included in the Forward Plan normally at least three months prior to the decision being made, with any request for a reduced period of entry to be determined by the Executive Director, in consultation with the Overview and Scrutiny Co-ordinator.

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

**34 Notice of Motion - Referendum on Future Forms of Governance**

Members considered a motion in relation to the future governance arrangements of the Council, notice of which was given in accordance with Standing Order A14.

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

Whilst recognising that the current mayoral system of governance cannot be changed until 2019, there is a ground swell of opinion that the Council should review its current mayoral system of governance, from both the community and a number of elected members on the Council. The referendum can only specify one alternative system of governance (either a move to a Leader and Cabinet or a move to a Committee system). This motion is presented at an early stage to determine that a referendum should be held and to enable full consultation as to which alternative system should be included in the referendum, with a view to holding a referendum to coincide with the Police and Crime Commissioner Election in 2016. Holding the referendum on the same date as the Police and Crime Commissioner Election will save money and lead to a higher turnout.

Therefore, this Council resolves:

- (i) That the holding of a referendum on the Council's governance arrangements be approved and that the Council's Returning Officer be requested to seek to combine this with the Police and Crime Commissioner (PCC) elections in 2016. The matter of timings to return to Council for a decision if it is not possible to combine with the PCC election.
- (ii) That the Assistant Director (Corporate and Business Services) undertake a public consultation on the different types of governance, in consultation with the Mayor and Group Leaders, as to the form and content of the consultation.
- (iii) That the Assistant Director (Corporate and Business Services) provides a full report to Council in September 2015 on the different forms of governance, their operation elsewhere and the outcome of the consultation exercise (referred to in (ii) above) to enable the Council to determine which form of governance will be included in the referendum.

An amendment was proposed by Councillor King and seconded by Councillor Excell (shown in bold text):

Whilst recognising that the current mayoral system of governance cannot be changed until 2019, there is a ground swell of opinion that the Council should review its current mayoral system of governance from both the community and a number of elected members of the Council.

**We also need to take into account:**

- **the new political landscape and the Government's Policy for greater powers to larger authorities with elected mayors;**
- **the current work of the Mayor and his Executive in consultation with counterparts across Devon and Cornwall; and**
- **further guidance from central government.**

The referendum can only specify one alternative system of governance (either a move to a leader and cabinet or a move to a committee system **from the current elected mayor system**). This motion is presented at an early stage to determine that a referendum should be held and to enable full consultation as to which ~~alternative~~ system should be included in the referendum, ~~with a view to holding a referendum to coincide with the Police and Crime Commissioner Election in 2016. Holding the referendum on the same date as the Police and Crime Commissioner Election will save money and lead to a higher turnout.~~

Therefore, this Council resolves:

- (i) that the holding of a referendum on the Council's governance arrangements be approved and that the Council's Returning Officer be requested to seek to combine this with the Police and Crime Commissioner (PCC) elections in 2016. The matter of timings to return to Council for a decision if it is not possible to combine with the PCC election, **given the need for the Mayor and his Executive to explore the issues identified above;**
- (ii) that the Assistant Director (Corporate and Business Services) undertake a public consultation on the different types of governance, in consultation with the Mayor and Group Leaders, as to the form and content of the consultation; and
- (iii) that the Assistant Director (Corporate and Business Services) provides **a full an interim** report to Council in September 2015 on the **different forms of governance, their operation elsewhere and the outcome of the consultation exercise (referred to in (ii) above) to enable the Council to determine which form of governance will be included in progress together with a firm date for Council to sign off the arrangements for the referendum.**

In accordance with Standing Order A19.4, a recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: the Mayor, Councillors Amil, Excell, Haddock, King, Lang, Manning, Mills, Morris, Parrott and Stubbley (11); Against: Councillors Barnby, Bent, Bye, Carter, Cunningham, Darling (M), Darling (S), Doggett, Ellery, Lewis, Morey, O'Dwyer, Robson, Stockman, Sykes, Thomas (D), Thomas (J), Tolchard, Tyerman and Winfield (20); Abstain: Councillors Brooks and Hill (2); and Absent: Councillors Kingscote, Pentney, Stringer and Stocks (4). Therefore, the amendment was declared lost.

In accordance with Standing Order A19.4, a recorded vote was then taken on the original motion. The voting was taken by roll call as follows: For: Councillors Barnby, Bent, Bye, Carter, Cunningham, Darling (M), Darling (S), Doggett, Ellery, Lewis, Morey, O'Dwyer, Parrott, Robson, Stockman, Sykes, Thomas (D), Thomas (J), Tolchard, Tyerman and Winfield (21); Abstain: the Mayor, Councillors Amil, Brooks, Excell, Haddock, Hill, King, Lang, Manning, Mills, Morris and Stubbley (12); and Absent: Councillors Kingscote, Pentney, Stringer and Stocks (4). Therefore, the motion was declared carried.

### **35 Notice of Motion - Review of Council's Policy Framework**

Members considered a motion in relation to a review of the Council's Policy Framework, notice of which was given in accordance with Standing Order A14.

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

the Council sets the Policy Framework which includes the major plans and strategies of the Council. It is noted that the current Policy Framework, as

set out in Article 4 of the Constitution, has not be reviewed for some time and a number of the plans and strategies contained in the Framework are out of date or no longer required, plus a number of other major plans/strategies are not included in the Policy Framework.

Therefore the Council resolves:

- (i) that the Executive Director of Operations and Finance undertakes a review of the Council's Policy Framework and presents his findings to the Council meeting in September 2015. The review to include recommendations for additional plans/strategies and removal of any plans/strategies which are no longer required, together with timescales against each policy for Council's approval; and
- (ii) that the Executive Director of Operations and Finance be requested to give priority to reviewing the Housing Strategy to enable it to be presented to the Council meeting in October 2015.

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

### **36 Notice of Motion - Right to Buy for Housing Association Tenants (Mayoral Decision)**

Members considered a motion in relation to right to buy for housing association tenants, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Darling (S) and seconded by Councillor Carter:

This Council notes:

the new Government's proposal to extend the Right to Buy to Housing Association tenants, to be paid for by selling off the most expensive Council Housing stock;

- with alarm the shortage of affordable rented homes in Torbay, having less than half the national average of Social housing in Torbay with 1921 households on Torbay council's Housing register and is very concerned that the current government plans risk making matters far worse.
- the recent LGA "First 100 Days" campaign which highlighted there are 1.7 million households on waiting lists for affordable housing across England and that more than 3.4 million adults between 20 and 34 live with their parents;
- that a recent opinion poll showed that just 16% of the public believed that extending Right to Buy to housing association tenants would be the most useful way of tackling the affordability crisis; the public's top choice was to help housing associations or councils to build more affordable homes, selected by 46% of the public; and

- the recent report from June 2015 which shows that there could be a funding gap of over £1 billion to pay for the scheme.

Council opposes the forced sell off of council housing to pay for this plan and is concerned that the Government also:

- Fails to address the situation for many local authorities which no longer have any housing stock to sell as they have transferred theirs to housing associations;
- Fails to address the situation in areas of high housing demand where there are often few suitable sites to build replacement social housing stock;
- Fails to recognise that this means housing associations will simply be trying to catch up with replacing homes rather than building affordable housing to give more people homes they need;
- Fails to recognise that this means that housing Associations will have their financial plans under mined; and
- Fails to recognise that the charity commission are likely to challenge the disposal of a charities assets at less than the market value.

Council notes that even the Conservative Mayor of London has said he did not want to see councils “deprived at a rapid rate of their housing stock” if more homes were not being built to replace them.

Council recognises the desire by many to own their own homes, and suggests that proposals put forward by the Liberal Democrats over a “Rent to Own” model and Shared Ownership housing would represent a better way of reaching this goal.

Council also notes that there are existing routes for housing association tenants to own their own properties – some Housing Association tenants already have the Right to Acquire.

Council resolves:

- to work with other neighbouring authorities and housing associations to oppose the current government proposals; and
- to write to our two MPs for Torbay Unitary Authority asking to support the Council’s position; to speak up in parliament for more social housing and not less and to push for a genuine “one for one” replacement but not at the cost of losing more social housing.

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

The Mayor advised that that he rejected the motion as he supported the Government’s new policies on right to buy.

**37 Notice of Motion - Fair Funding for Devon and Cornwall Police (Mayoral Decision)**

Members considered a motion in relation to funding for Devon and Cornwall Police, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Doggett and seconded by Councillor Darling (M):

This Council notes that:

The current Home Office funding formula systematically disadvantages Devon and Cornwall with its inbuilt bias favoring metropolitan areas.

Further spending cuts are inevitable over the life of this Parliament and Devon & Cornwall constabulary will continue to be hit harder than other forces if this is not addressed.

The existing funding formula does not recognise the additional policing burdens created by:

- Having the largest number of tourist visitors of any force area in the country.
- The rurality and associated levels of deprivation, particularly in Cornwall, Plymouth and Torbay areas.
- High levels of vulnerability resulting from higher levels of mental health issues, an elderly population and low income families.
- Little account taken of our relatively high levels of violent crime, sexual offences and public order offences.
- Additional burdens created by having the longest length of coastline with numerous ports and harbours associated with human trafficking, slavery and illegal movement of goods.

Beyond the police funding formula issues, Government only provides 61% of total funding for policing whereas the national average is 68%. If Devon and Cornwall were simply to be funded to the national average we would require an additional £12m to be added to our budget.

Devon and Cornwall Police resources are stretched to the limit and the unfairness of the national allocation of funds is creating significant additional problems.

Community Policing is at risk if this funding crisis is not resolved.

The Home Office is due to consult on a new funding formula in the coming months.

In light of the above, this Council agrees to:



Write to the two MP's that represent the Torbay Unitary Authority, the Secretary of State for Communities and Local Government and the Home Secretary, advising of the concerns raised in this motion.

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

The Mayor advised that he had already addressed this issue by writing to the Police and Crime Commissioner, Tony Hogg, giving support to the campaign and asking for support in return for Torbay.

### **38 Corporate Plan 2015-19**

The Council considered the draft Corporate Plan 2015-2019 on the strategic ambitions for the Council and the principles within which the Council will operate. It was noted the Plan was designed to provide an overarching framework for the ambitions of the Council. A revised officer recommendation was circulated at the meeting.

It was proposed by Mayor Oliver and seconded by Councillor Lang:

- (i) that the Corporate Plan 2015-2019 set out in Appendix 3 (page 142 'Corporate Plan on a Page') to the submitted report be approved; and
- (ii) that the Council notes that the Corporate Plan Delivery Plans will be prepared and presented to Council for approval.

During the debate and in accordance with Standing Order A16.9, the Mayor withdrew his motion with the consent of Councillor Lang (seconder) and therefore this item was withdrawn.

### **39 Adult Social Care - Local Account and Multi-agency Safeguarding Report**

Members considered the submitted report setting out the fourth Local Account for Adult Social Care. The Local Account highlighted what had been achieved for local people in relation to adult social care, details of the multi agency approach to adult safeguarding, the level of performance for the last financial year and commitment to future service delivery.

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

that, subject to any additional recommendations from the Mayor and Group Leaders and to the inclusion of the commentary from the Overview and Scrutiny Board, the Local Account set out in Appendix 1 to the submitted report, which sets out performance for 2014-2015 and sets out intentions for the Annual Strategic Agreement for services for 2016-17 be approved and

that the multi agency safeguarding annual report set out in Appendix 2 to the submitted report be approved.

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

(Note: During consideration of Minute 39, Councillor Morris left the meeting with the consent of the Chairman.)

#### 40 Capital Investment Plan Update (Outturn 2014/2015) - Subject to Audit

Members considered the submitted report on the Capital Investment Plan and outturn position for the Council's capital expenditure and income. The Plan delivered investment in new and existing assets of the Council and was a key part of the delivery of the Council's outcomes.

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

- (i) that the outturn position for the Council's Capital expenditure and income for 2014/15 be noted;
- (ii) that the action taken by the Chief Finance Officer, under the Officer Scheme of Delegation, to carry forward the unspent budgets for expenditure or work in progress (together with their funding) from 2014/15 to 2015/16 be noted;
- (iii) that the funding of the capital investment plan for 2014/15 as outlined in paragraph 7.1 of the submitted report be noted;
- (iv) that the allocation of £1.020m of the 2015/16 Disabled Facilities Grant, part of the Better Care Fund, to support Disabled Facilities Grants to vulnerable adults and Council re allocates £0.4m of unspent prior years Disabled Facilities Grant to support Infrastructure works be approved. (paragraph 6.19 of the submitted report); and
- (v) that the allocation of £0.461m of the 2015/16 Adult Social Care capital grant, part of the Better Care Fund, to support Adult Social Care expenditure be approved (para 6.25 of the submitted report).

An amendment (shown in bold text) was proposed by Councillor Darling and seconded by Councillor Carter:

- (iv) that the allocation of £1.020m of the 2015/16 Disabled Facilities Grant, part of the Better Care Fund, to support Disabled Facilities Grants to vulnerable adults **be approved;** and Council **defers reallocation of reallocates** £0.4m of unspent prior years Disabled Facilities Grant to support Infrastructure works **until a report is submitted to the Overview and Scrutiny Board, by October 2015, on the pressures facing Disabled Facilities Grants and whether this money should be held in a Disabled Facilities Grant Reserve**

**or used to support Infrastructure works** be approved. (para 6.19);  
and

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

The substantive motion (the original motion with the amended paragraph (iv)) was then before Members for consideration.

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

#### **41 Integrated Care Organisation Funding**

The Council considered the submitted report on arrangements for financial support for the Integrated Care Organisation (ICO) to enable the integration to be approved by the National Health Service for commencement on 1 October 2015. A revised officer recommendation was circulated at the meeting.

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

- (i) that the purchase of the outstanding social care debt held by Torbay and Southern Devon NHS and Social Care Provider Trust be approved, subject to:
  - (a) the Director of Adult Social Services, in consultation with the Executive Lead for Adults, Mayor and Group Leaders, being authorised to agree satisfactory safeguards to include those covered in paragraph 4.7 to the submitted report with South Devon Healthcare NHS Foundation Trust in relation to the collection of the outstanding social care debt; and
  - (b) the Integrated Care Organisation (ICO) being approved by the NHS in a timely manner and the risk share commencing from 1 October 2015; and
- (ii) that, subject to (i) above and the approval of the Capital Investment Plan Update (Outturn 2014/15) recommendation 2.7 (to be considered as a separate report on this agenda), the allocation of £461,000 to the Adult Social Care capital grant be allocated to the ICO to support the investment in integration with the expectation that the ICO will generate efficiencies and savings in future years.

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

#### **42 Torbay Youth Trust Guarantee**

Following the approval of the creation of a Youth Trust, the Council considered a request to approve two guarantees in relation to the transfer of Council staff to the new Youth Trust under TUPE regulations, as set out in the submitted report.

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

- (i) that Torbay Council provides a guarantee to the Local Government Pension Fund in respect of pensions exclusively for the Torbay Youth Trust relating to the staff identified to transfer to the Trust under TUPE regulations for a period of ten years; and
- (ii) that Torbay Council funds the exit costs exclusively of any of the Torbay Council Youth Trust TUPE staff for a period of ten years where they are the direct result of Council imposed budget savings.

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

(Note: Prior to consideration of Minute 42, Councillor Tyerman declared his non-pecuniary interest, details of which are contained in Minute 28.)

#### **43 The English Riviera Tourism Company (ERTC) and the proposed Torbay Retail and Tourism Business Improvement District (TRTBID)**

Members considered the submitted report on the decisions required in relation to the English Riviera Tourism Company (ERTC) (a wholly owned company of the Council) if the Torbay Retail and Tourism Business Improvement District (TRTBID) resulted in a successful ballot in October/November 2015.

It was noted a business plan for the TRTBID had been prepared to assist those taking part in the ballot with their decision on how to vote. The business plan made a number of assumptions in respect of the ERTC and therefore the Council's decisions were required at this stage so it's intentions in respect of the future of the ERTC could be included in the business plan should there be a 'Yes' vote.

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

- (i) that, in the event of a 'Yes' vote for the proposed Torbay Retail and Tourism Business Improvement District (TRTBID) the Executive Director of Operations and Finance, in consultation with the Executive Lead for Business, be instructed to:
  - a) decommission the provision of Destination Tourism Marketing and Visitor Information Services from 1 April 2016, wind up the English Riviera Tourism Company (ERTC) and arrange for the transfer of Destination Tourism Marketing and Visitor Information Services to the new TRTBID Company;
  - b) immediately establish a TRTBID/ERTC Project Transition Board, comprising two Senior Officers, the Executive Lead for Business and two members from the Conservative Group and one member from the Liberal Democrat and Independent Groups, so that the Council's income and assets are properly considered in respect of the ERTC and the Torbay Town Centres Company (TTCC); and that the intellectual property rights of the English Riviera brand are safeguarded;

- c) allow the ERTC/TRTBID Project Transition Board to establish and facilitate the terms upon which the official ERTC brands and logos will transfer, under license, to the new TRTBID Company;
  - d) provide Council support to facilitate the transfer of appropriate ERTC staff (including those in the Local Government Pension Scheme) to the new TRTBID Company;
  - e) negotiate and sign the TRTBID Operating Agreement on behalf of the Council; and
  - f) make an appropriate charge to the TRTBID Company each year for the duration of the TRTBID (5 years) to cover the Council's costs associated with collection of the TRTBID levy;
- (ii) that, in the event of a 'Yes' vote for the proposed Torbay Retail and Tourism Business Improvement District (TRTBID) the Council agrees to:
- a) allocate sufficient funds to meet the TRTBID levy liability, for any applicable Council owned properties, for the term of the TRTBID (5 years);
  - b) provide a cash advance facility to the TRTBID Company, which will be returned once the TRTBID levy payments are received;
  - c) delegate the approval of pension liability arrangements, including a possible guarantee, to the Chief Financial Officer in consultation with the Mayor and the Assistant Director of Corporate and Business Services;
  - d) request that the Overview and Scrutiny Board keep an oversight of how well the new TRTBID Company is meeting its aims and objectives, especially in relation to the functions, which had previously been undertaken by the ERTC and any performance issues arising from the formal Operating Agreement; and
  - e) recognise that the new TRTBID Company will take over responsibility for operating as the official Destination Marketing Organisation (DMO) for Torbay; and
- (iii) that in the event of a 'No' vote for the proposed Torbay Retail and Tourism Business Improvement District (TRTBID) the Executive Head of Business Services, in consultation with the Executive Lead for Business, the Executive Lead for Tourism and the Board of the

English Riviera Tourism Company (ERTC), be asked to provide a report to Council, on or before 10 December 2015, setting out the options for the future of the ERTC, given the expected pressure on the Council's budget in future years; and

- (iv) that post ballot, the Torbay Economic Development Company Limited (TEDC), working with the Executive Head of Business Services, be instructed to prepare and consult with industry stakeholders on a new Tourism Strategy, to be approved by the Council and for this to form part of the development of the Council's Economic Strategy.

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

#### **44 Order of Business**

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable agenda Item 13 (Call-in Establishment of Policy Development Groups Report of the Overview and Scrutiny Board) to be considered at the end of the meeting.

#### **45 Provisional Revenue Outturn 2014/2015 - Subject to External Audit**

The Council considered the submitted report on the provisional revenue outturn for 2014/2015 which provided a summary of the Council's expenditure throughout the financial year and recommendations on the use of any uncommitted resources. It was noted that the submitted report had been updated to respond to the comments made by the Overview and Scrutiny Board.

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

that it be recommended to the Council that:

- (i) a sum of £0.253m is approved as carry forward into 2015/16 to the Crisis Support Fund to support vulnerable members of the community;
- (ii) the revenue underspend of £14,000 is transferred to the Council's general fund reserve; and
- (iii) Members to note that the transfers outlined in (i) to (ii) are subject to the final audit of the Council's accounts.

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

**46 Composition and Constitution of Executive and Delegation of Executive Functions**

Members noted the submitted report which provided details of changes made by the Mayor to his Executive as set out in the revised report circulated on 17 July 2015.

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

Members noted the submitted report setting out the executive decision taken (the awarding of a contract for youth homelessness accommodation and support services supported lodgings) to which the call-in procedure did not apply.

**48 Urgent Decisions Taken by the Executive Director of Operations and Finance**

Members noted the submitted report which provided details of urgent decisions taken by the Chief Executive in respect of: the appointment of the Health and Wellbeing board; and the relocation of Mayfield Special School's Post 16 provision and to increase the school's admission number.

**49 Pier Point Restaurant New Lease to Allow Investment (Mayoral Decision)**

The Council considered the following recommendation to the Mayor:

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

that the Council enters into an Agreement for Lease to allow the existing tenants of the Pier Point Restaurant to carry out works to extend the ground floor and to create a first floor to the existing restaurant premises and, upon completion of these works, to grant a 125 year lease to the existing tenants on terms previously agreed with the Mayor, Chief Executive of the Torbay Development Agency and the Council's Chief Accountant.

During the debate and in accordance with Standing Order A16.11(viii), it was proposed by Councillor Stockman and seconded by Councillor Darling:

that the press and public be formally excluded from the meeting on the grounds of the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended)

On being put to the vote, the procedural motion was declared carried. The press and public were then excluded from the meeting.

On being put to the vote the original motion was declared lost.

The Mayor considered the matter at the meeting and the record of his decision, together with further information, is attached to these Minutes.

**50 Environmental Crime Enforcement Pilot (Mayoral Decision)**

At this juncture the meeting had lasted four hours. In accordance with Standing Order A11.2, the Monitoring Officer advised that the remaining business on the agenda needed to be transacted at this meeting and the meeting continued.

The Council made the following recommendation to the Mayor:

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

That the Mayor be recommended:

- (i) that a preferred bidder be appointed, following the outcome of a competitive tendering process, in order to commence the environmental crime enforcement pilot project outlined in the submitted report; and
- (ii) that the Assistant Director (Community and Customer Services) be given delegated authority, in consultation with the Executive Lead for Community Safety, to progress the appointment of a preferred bidder to undertake the environmental crime enforcement pilot project.

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

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

**51 Care Trust Properties (Mayoral Decision)**

The Council made the following recommendation to the Mayor:

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

- (i) that the Torbay and Southern Devon Health and Care NHS Trust be granted a 2-year excluded lease from 1 December 2015 on acceptable terms with the inclusion of a tenant and landlord rolling 6-month break clause for Hollacombe Community Resource Centre (CRC);
- (ii) that the Torbay and Southern Devon Health and Care NHS Trust be granted a 2-year excluded lease from 1 December 2015 on acceptable terms with the inclusion of a tenant and landlord rolling 6-month break clause for St Edmunds Centre;
- (iii) that the Torbay and Southern Devon Health and Care NHS Trust be granted a 2-year excluded lease from 1 December 2015 on



- acceptable terms with the inclusion of a tenant and landlord rolling 6-month break clause for Bay Tree House;
- (vi) that the Torbay and Southern Devon Health and Care NHS Trust be granted a 2-year excluded lease from 1 December 2015 on acceptable terms with the inclusion of a tenant and landlord rolling 6-month break clause for St Kilda's Residential Care Home;
  - (v) to note that the Council has the option of providing a grant to cover all or part of the market rent for the properties set out in (i) to (iv) above which will be dealt with as per the Council's Constitution and reviewed annually; and
  - (vi) that, in turn, Sandwell Community Caring Trust be granted a two year (less three days) excluded sub-lease from 1 December 2015 on acceptable terms with the inclusion of a tenant rolling 6-month break clause for St Kilda's Residential Care Home. In the event that the Trust exercise a break option the sub-lease is to terminate on a co-terminus basis with the head lease.

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

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

## **52 Call-in Establishment of Policy Development Groups Report of the Overview and Scrutiny Board**

At its meeting held on 22 June 2015, the Overview and Scrutiny Board considered the Notice of Call-in of the decision of the Mayor on the establishment of two Policy Development Groups and their working arrangements, together with a decision-making route for policy development. The Board resolved that the decision of the Mayor be referred to Council for consideration. The Council considered the submitted report on the findings of the Overview and Scrutiny Board regarding the Mayor's decision. A copy of the Mayor's Record of Decision and appendices was circulated prior to the meeting.

It was proposed by Councillor Lewis and seconded by Councillor Darling (S):

that, having considered the proposal within the report "The principles of overview and scrutiny in Torbay", the following amendments to the Operational Guidance for the Policy Development Groups be made:

- a. an Executive Lead and an Overview and Scrutiny Lead should fulfill the roles of Chairman and Vice-chairman of the Policy Development Groups;

- b. the Policy Development Groups should carry out their work both in private and in public according to the nature of the issue being considered with the presumption that they conduct as much of their work as possible in public;
- c. the Work Programme (and therefore the agendas) for the Policy Development Groups to be determined in consultation with the Mayor, Executive Leads, Overview and Scrutiny Leads and the Executive Director ensuring that there is a focus on those issues of critical importance to the Council moving forward. The Chairman and Vice-Chairman of the Policy Development Group will each have the right to include items on the agenda;
- d. the Chairman and Vice-Chairman of the Policy Development Group will jointly have the authority to “sign-off” reports from the Group prior to the reports being forwarded to the Mayor (or appropriate decision maker);
- e. items going through Route 2 to be agreed by the Executive Director in consultation with the Mayor, Executive Leads and the Overview and Scrutiny Co-ordinator; and
- f. the Members able to vote at the Policy Development Group will be the Chairman, Vice-chairman and the five members nominated in accordance with political balance.

The Council believe that these amendments make a package of measures which will make the Policy Development Groups more effective enabling inclusion of all of the members of the Council in policy development.

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

At the invitation of the Chairwoman, the Mayor indicated he would respond to the resolution of the Council within ten working days.

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Chairman

## Record of Decisions

### Pier Point Restaurant, Torbay Road, Torquay (Mayoral Decision)

#### Decision Taker

Mayor on 23 July 2015

#### Decision

That the Council enters into an Agreement for Lease to allow the existing tenants of the Pier Point Restaurant to carry out works to extend the ground floor and to create a first floor to the existing restaurant premises and, upon completion of these works, to grant a 125 year lease to the existing tenants on terms previously agreed with the Mayor, Chief Executive of the Torbay Development Agency and the Council's Chief Accountant.

#### Reason for the Decision

To improve the appearance and design of Pier Point Restaurant, enhance the built environment along the busy seafront and Torbay Road and improve the restaurant offer for residents and visitors.

#### Implementation

This decision will come into force and may be implemented on 5 August 2015 unless the call-in procedure is triggered (as set out in Standard Orders in relation to Overview and Scrutiny).

#### Information

The submitted report set out details in respect of the existing tenants of the Pier Point Restaurant wishing to invest in their business and extend the ground floor and add a first floor at their own cost. In order to secure the funding to cover these extensive works they require a longer lease of 125 years.

They have a 40 year protected lease of the premises, with 34 years remaining and an automatic right to a new lease afterwards, unless the Council is able to satisfy certain grounds and recover possession. As such, the tenants are the only people that can carry out this work and this investment until their lease expires and the Council is able to recover possession of the premises.

The Mayor considered the matter following debate at the Council meeting on 23 July and his decision is set out above.

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

To reject the request from the existing tenants.

**Is this a Key Decision?**

Yes – Reference Number: I019823

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

Yes

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

None

**Published**

28 July 2015

## **Record of Decisions**

### **Environmental Crime Enforcement Pilot (Mayoral Decision)**

#### **Decision Taker**

Mayor on 23 July 2015

#### **Decision**

- (i) that a preferred bidder be appointed, following the outcome of a competitive tendering process, in order to commence the environmental crime enforcement pilot project outlined in the submitted report; and
- (ii) that the Assistant Director (Community and Customer Services) be given delegated authority, in consultation with the Executive Lead for Community Safety, to progress the appointment of a preferred bidder to undertake the environmental crime enforcement pilot project.

#### **Reason for the Decision**

The community are concerned about the level of dog fouling and littering across Torbay. The public want to see a more visible presence to act as a deterrent for this type of environmental crime. This pilot provides the opportunity to increase visibility, increase enforcement and re-educate the wider public of the negative impact that dog fouling and littering has on the community.

#### **Implementation**

This decision will come into force and may be implemented on 5 August 2015 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

#### **Information**

The submitted report set out a proposal for an environmental crime enforcement pilot to build upon the work undertaken by officers to maintain the cleanliness of the local environment and street scene throughout Torbay. The pilot will provide additional capacity to issue Fixed Penalty Notices for littering and dog fouling offences.

The Mayor considered the recommendations of the Council made on 23 July 2015 and his decision is set out above.

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

The proposed pilot will be evaluated and may offer future opportunities for the Community Safety Team as an alternative method of delivery of some of their regulatory activities.

If this Enforcement Pilot is not pursued then the current status quo will remain, with no additional enforcement activity being undertaken.

**Is this a Key Decision?**

Yes – Reference Number: I020176

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

Yes

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

None

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**Record of Decisions**

**Care Trust Properties Leases (Mayoral Decision)**

**Decision Taker**

Mayor on 23 July 2015

**Decision**

- (i) that the Torbay and Southern Devon Health and Care NHS Trust be granted a 2-year excluded lease from 1 December 2015 on acceptable terms with the inclusion of a tenant and landlord rolling 6-month break clause for Hollacombe Community Resource Centre (CRC);
- (ii) that the Torbay and Southern Devon Health and Care NHS Trust be granted a 2-year excluded lease from 1 December 2015 on acceptable terms with the inclusion of a tenant and landlord rolling 6-month break clause for St Edmunds Centre;
- (iii) that the Torbay and Southern Devon Health and Care NHS Trust be granted a 2-year excluded lease from 1 December 2015 on acceptable terms with the inclusion of a tenant and landlord rolling 6-month break clause for Bay Tree House;
- (iv) that the Torbay and Southern Devon Health and Care NHS Trust be granted a 2-year excluded lease from 1 December 2015 on acceptable terms with the inclusion of a tenant and landlord rolling 6-month break clause for St Kilda's Residential Care Home;
- (v) to note that the Council has the option of providing a grant to cover all or part of the market rent for the properties set out in (i) to (iv) above which will be dealt with as per the Councils constitution and reviewed annually; and
- (vi) that, in turn, Sandwell Community Caring Trust be granted a two year (less three days) excluded sub-lease from 1 December 2015 on acceptable terms with the inclusion of a tenant rolling 6-month break clause for St Kilda's Residential Care Home. In the event that the Trust exercise a break option the sub-lease is to terminate on a co-terminus basis with the head lease.

**Reason for the Decision**

To provide the Torbay and Southern Devon Health and Care NHS Trust two years to further develop their services and explore alternative options for service delivery of the services provided through these four properties.

## **Implementation**

This decision will come into force and may be implemented on 5 August 2015 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

## **Information**

The submitted report set out details in respect of four properties leased to the Torbay and Southern Devon Health and Care NHS Trust (the 'Trust') which will expire on 1 December 2015. The leases will terminate automatically, without notice and at the end of the term the Trust must give up possession in each instance.

If there is no documentation in place at expiry of the leases, but the Council consents to the continued occupation, then the basis of occupation would be an implied tenancy at will. It is therefore proposed to extend the four leases for two years to give the Trust time to develop alternative options for the sites.

The Mayor considered the recommendations of the Council made on 23 July 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: I019787

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

Yes

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

None

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