



## **Community Governance Review Working Party Meeting Agenda**

Friday, 7 December 2018 at 10.30 am  
to be held in Board Room, Town Hall, Castle Circus, Torquay, TQ1 3DR

### **Membership**

Elected Mayor, Gordon Oliver  
Councillor Steve Darling  
Councillor Chris Lewis  
Councillor Mike Morey  
Councillor Adrian Sanders

Councillor Di Stublely  
Councillor David Thomas  
Councillor John Thomas  
Councillor Alan Tyerman

1. **Apologies for Absence**  
To receive an apologies for absence, including notifications if any changes to the membership of the Working Party.
2. **Minutes** (Pages 2 - 3)  
To approve as a correct record the Minutes of the Community Governance Review Working Party held on 21 November 2018.
3. **Additional Information on Parish Councils and Briefing on the Establishment of Brixham Town Council** (Pages 4 - 35)  
To received additional information requested by the Working Party.
4. **Torbay Community Governance Review Terms of Reference** (Pages 36 - 47)  
To review and provide feedback on draft terms of reference for the Community Governance Review of Torbay.
5. **Community Governance Review - Communication/Consultation Plan** (Pages 48 - 51)  
To review and provide feedback on draft Communication and Consultation Plan for Torbay's Community Governance Review.

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

Lisa Antrobus, **Town Hall, Castle Circus, Torquay, TQ1 3DR**



## **Minutes of the Community Governance Review Working Party**

**21 November 2018**

**-: Present :-**

Councillor Steve Darling, Councillor Chris Lewis, Councillor Di Stubley, Councillor David Thomas, Councillor Alan Tyerman, Councillor John Thomas and Councillor Richard Haddock

(Also in attendance: Councillor Barbara Lewis, Anne-Marie Bond and June Gurry)

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### **1. Election of Chairman/woman**

Councillor Thomas (D) was elected Chairman of the Working Party for the remainder of the 2018/29 Municipal Year.

### **2. Apologies for Absence and Introduction of Association of Electoral Administrators Consultant**

An apology for absence was received from Elected Mayor Oliver (represented by Councillor Haddock) and Councillor Morey.

The Chairman introduced John Williams, Association of Electoral Administrators Consultant, who was supporting the Council with its Community Governance Review.

### **3. Terms of Reference**

The Working Party noted its terms of reference as set by Council.

### **4. Introduction to Community Governance Reviews**

At the invitation of the Chairman, John Williams gave a presentation on Community Governance Reviews. It was noted Community Governance Reviews were introduced under the Local Government & Public Involvement in Health Act 2007 and gave principle councils responsibility for governance arrangements at a parish level, which included the creation of Town Councils.

During the presentation, Members queried the ability of the Council to direct Town Councils to deliver services which it intended to cease due to financial constraints. Members were advised that the Council could determine to cease services and request Town Councils to take them over, however, it would be for the Town Council to determine whether it wished to deliver them. Members also discussed the arrangements for establishing Town Councils, including shadow arrangements

and setting of initial precepts. It was considered information on the establishment of Brixham Town Council and best practice from other authorities would assist the Working Party. Therefore, it was resolved (unanimously):

In order to assist the Working Party in reviewing the Terms of Reference for Torbay's Community Governance Review, the Director of Corporate Services to provide a briefing on the arrangements for establishing Brixham Town Council and details of best practice from other principle councils for transferring of services to new and existing Town Councils.

**5. Torbay Community Governance Review Terms of Reference**

At the request of the Chairman, consideration of this item was deferred to enable the Working Party to receive the further information as outlined in Minute 4 above.

**6. Community Governance Review - Communication/Consultation Plan**

At the request of the Chairman, consideration of this item was deferred to enable the Working Party to receive the further information as outlined in Minute 4 above.

## TORBAY COUNCIL

### COMMUNITY GOVERNANCE REVIEW WORKING PARTY - 7 DECEMBER 2018

#### ADDITIONAL INFORMATION AND CASE STUDIES

##### 1. INTRODUCTION

- 1.1 The Working Party at its first meeting on 21 November 2018 deferred consideration of the terms of reference and the communication/consultation plan for the Torbay Community Governance Review. To assist in their consideration of these items, the Working Party requested information on the process that had been followed when Brixham Town Council was established in 2007 and on the existing arrangements for parish and town council governance and devolution in Cornwall. During the meeting members also sought clarification of a number of points in connection with the process of a community governance review and potential creation of new parish/town councils.
- 1.2 This paper sets out additional information on a number of the issues raised, together with the requested briefing on the position in Cornwall and a range of case studies of recent community governance reviews that have resulted in the establishment of new councils and/or instances of principal councils devolving significant assets and services to parish/town councils and the transitional and preparatory steps taken.
- 1.3 Information on the establishment of Brixham Town Council is set out in a separate paper.

##### 2. ADDITIONAL INFORMATION ON PROCEDURAL ISSUES

###### **(a) Setting a precept/budget requirement for a new Council**

- 2.1 In most cases a new parish/town council will not be established in time to set its own precept for its first year of operation. The Local Government Finance (New Parishes) (England) Regulations 2008 therefore require the principal council to anticipate a precept for the new parish council for that first year and to state in the reorganisation order the budget requirement for the parish/town council (this will be the same figure as the precept). In doing so the principal council will take into account the likely costs of establishing and running the new council and any services that it expects the new council to provide.
- 2.2 Once established the new council may not set a budget requirement for the year any greater than the amount in the reorganisation order. In theory it could set a lower figure, but this is unlikely as council tax bills will already have been issued (and re-billing would cost a significant sum which the principal council could recover from the parish/town council). If the precept turns out to be more than the new council needs in its first year, it may retain any surplus for its reserves.

**(b) Commencement date for a new council, elections and possible interim arrangements**

- 2.3 The Guidance on Community Governance Reviews ('the Guidance') issued by the Secretary of State under the Local Government and Public Involvement in Health Act 2007 ('the 2007 Act) and to which the 2007 Act requires a principal council to have regard, states (at paragraph 30) '... for administrative and financial purposes (such as setting up the parish council and arranging its first precept), the order should take effect on the 1 April following the date on which it is made'.
- 2.4 However as will be seen from two of the case studies later in this paper, some new councils have been established on dates prior to 1 April in order to allow more time for preparation and negotiations with the principal council. The Council may wish to seek legal advice on this point.
- 2.5 Section 89 of the 2007 Act requires a principal council to make recommendations about the electoral arrangements for any new parish/town council, including the year in which ordinary elections are to be held. This will be the normal year of local elections in the area following the making of a reorganisation order (i.e. in Torbay, 2019, 2023 and so on). However, section 98 allows the principal council to vary this arrangement, for example to hold the first elections in an earlier year if the normal year is some way off. In this case the parish/town councillors elected in the first elections would serve a shortened term of office to enable the electoral cycle to return to normal from the second elections onwards. Any revised parish/town electoral arrangements would not apply to a by-election occurring before the date of ordinary elections set out in the reorganisation order.
- 2.6 Whichever year the elections are held in, section 37 of the Representation of the People Act 1983 act sets the ordinary day of election for councillors as the first Thursday in May. There is therefore likely to be a period of at least a month or (depending on decisions taken on the above) possibly significantly longer, between the establishment of a new parish/town council and the first elected members taking their places on that council. During this period the principal council may appoint persons (e.g. the principal council members for the relevant wards) as interim members of the parish/town council.

**(c) Transferring assets and liabilities to a parish/town council**

- 2.7 Section 98 of the 2007 Act provides that a reorganisation order may include provision with respect to the transfer and management or custody of property; the transfer of functions, property, rights and liabilities; and/or the transfer of staff. Taken together with the setting of the precept above, the principal council may therefore equip the new council to carry out the activities that it expects it to undertake from year one.
- 2.8 Subject to the terms of any contract(s) transferred, the principal council cannot bind the new council in relation to any future decisions that it may take about its activities

once it has been established. However, Section 99 of the 2007 Act provides for public bodies affected by a reorganisation order to make agreements with respect to any property, income, rights, liabilities and expenses of, and any financial relations between, the parties to the agreement. Such an agreement may provide for the transfer or retention of any property, rights and liabilities, for the joint use of any property, and for the making of any payments by any party to the agreement in respect of such matters. Clearly an agreement with a new council under Section 99 can only be made once the new council is in existence.

#### **(d) Community Governance Petitions**

2.9 Section 80 of the 2007 Act provides for electors to submit a petition to a principal council asking for a community governance review to be undertaken. In order to be valid, a petition must be signed by a certain number of local electors as follows:-

- For a petition area with fewer than 500 local electors – at least 37.5% of those electors
- For a petition area with between 500 and 2,500 local electors – at least 187 of those electors
- For a petition area with more than 2,500 local electors – at least 7.5% of those electors

2.10 The above figures were introduced by Order in 2015, amending the previous levels of 50%, 250 and 10% respectively. However, the Guidance has not been re-issued since this change so still shows the former (now incorrect) figures.

#### **(e) Local polls**

2.11 There is no power under the 2007 Act or other legislation for a principal council to use the electoral register for the purpose of consulting local electors on a community governance review. However, section 116 of the Local Government Act 2003 provides that a local authority may conduct a poll to ascertain the views of those polled about any matter relating to (i) services provided in pursuance of the authority's functions, or (ii) the authority's expenditure on such services; or any other matter relating to the authority's power to promote well-being of its area.

### **3. TOWN AND PARISH COUNCILS IN CORNWALL**

3.1 A briefing paper on Cornwall Council and the town and parish councils within that county is attached. In summary, Cornwall has 213 civil parishes, each with its own governance body. These include a city council, 28 town councils, 168 parish councils, a community council and 15 parish meetings. The levels of precept (Band D) range from zero in a small number of cases to £269 for Bodmin and £236 for Truro, with the majority under £100.

3.2 Cornwall Council, created as a unitary authority in April 2009 when the former county council and six district councils were abolished, is committed to locally

devolving services to the parish/town councils. It has a dedicated Localism Team and has developed a 'Framework for Town/Parish Councils and Community Groups to have an Increased Role in Service Delivery' which may be viewed [here](#). The framework notes that the current reality is that many community-based services will only continue if town/parish councils are supported to play a more active role in their design and delivery. It sets out five options for greater local involvement:-

1. Influencing and monitoring local service delivery
2. Joint delivery / service enhancement
3. Agency agreements, management agreements, licenses and sponsorship
4. Delegation of service delivery
5. Transfer of a service

3.3 Examples, key financial implications and a process for involvement are given for each option. Certain services that are high risk or require a county-wide approach or specialist skills are excluded from the approach. The criteria against which requests are assessed are stated as 'quality, cost, practicality, local views, capability and capacity, equality/diversity/safeguarding and service user needs'.

3.4 The briefing paper at Appendix A includes three case studies to illustrate how local devolution to parish/town councils has worked so far in practice, and further examples are on Cornwall Council's devolution web page [here](#). In March 2017 Cornwall Council published a [summary report on its devolution programme](#) which stated that up to 100 projects of varying scope and scale had been successfully delivered, building on the agency agreement with over 70% of the town and parish councils to deliver services such as footpath maintenance on its behalf. The majority of public conveniences were now in local management in addition to a wide range of other facilities including car parks, visitor centres, buildings in community use, sports clubs, green spaces, play areas, allotments, three library and information services, a sea pool, a skate park and a place-based town package with 36 individual elements. In addition further sites were expected to transfer by the end of March 2017 and work was continuing on more than fifty proposals beyond that date.

3.5 The Cornwall experience provides valuable information regarding opportunities and options for devolving services by agreement with parish and town councils that are already in existence.

#### **4. FURTHER CASE STUDIES**

##### **(a) SALISBURY CITY COUNCIL**

4.1 Despite its name, Salisbury City Council is a parish council. It received media coverage in 2018 for the expansion of its services and related 69% increase in its precept (to approximately £3million, or £208 per Band D household, in 2018/19).

4.2 As with the Cornwall example above, Salisbury is not a complete model for the matters to be considered in Torbay as it is not a new council. However, it does

provide an interesting instance of a local council that has taken on devolved services from a principal council.

- 4.3 Salisbury City Council was established in April 2009 when local government in Wiltshire underwent reorganisation. A unitary Wiltshire Council was created, the former Salisbury District Council was disbanded and in those parts of the county that were not already parished, local councils were created. This included Salisbury City Council, a relatively large local council with a population of about 45,000. Following negotiation with Wiltshire County Council and public consultation the City Council took on a mix of services that enabled the precept to be set at a 'reasonable level'.
- 4.4 More recently Wiltshire Council proposed an extensive programme of service devolution and asset transfer driven in part by financial constraints, with unitary authorities capped and prioritising statutory services. Wiltshire Council declared its commitment to devolving services and facilities to local town and parish councils 'that are best placed to deliver local services'.
- 4.5 As part of this programme, transfer of responsibility for a significant package of buildings, facilities and services to Salisbury City Council was agreed, including street cleaning, Shopmobility, grounds maintenance of parks, playgrounds and open spaces; a Wiltshire Council-funded upgraded CCTV system, Section 106 monies for projects within the City boundary; ownership of nine property assets including the Market Place and its public conveniences, monuments and a range of other properties; and the grant of leases and management of three public conveniences in Wiltshire Council's city centre car parks.
- 4.6 Negotiations on the detailed arrangements continued over a number of months and the two councils signed a Memorandum of Understanding in October 2016 prior to the transfer taking place in April 2017.

#### **(b) KIDDERMINSTER TOWN COUNCIL**

- 4.7 The establishment of Kidderminster Town Council is perhaps more closely relevant to possible developments in Torbay subject to the forthcoming review. Kidderminster Town Council was established on 1 December 2015 by Wyre Forest District Council following a community governance review, the consultation arrangements for which included a local poll under the Local Government Act 2003. The recommendations of the community governance review dated 31 May 2015 may be viewed [here](#).
- 4.8 In making its recommendations Wyre Forest District Council stated that 'the creation of the new council for Kidderminster provides an opportunity to enhance local control and responsibility for local assets and services, giving a voice for the town and scope within the new council's overall budget to support activities and initiatives beyond those undertaken by existing organisations' and that 'the concept of transferring assets, rights and liabilities to the new council would be fully in accordance with the Council's stance on localism'. The District Council envisaged



that the new council would have a substantial set of responsibilities that would result in a scale of activity similar to other established town councils in the district.

### **Transfer of assets etc**

- 4.9 Accordingly the order establishing Kidderminster Town Council transferred a range of assets to the new council including Kidderminster Town Hall (freehold transferred but with a lease on the whole building granted back to the District Council, which occupies much of the building); land occupied by the war memorial and various statues; a public convenience; street furniture at a number of locations e.g. benches, boundary signs, bus shelters, poles and holders used for floral displays etc.
- 4.10 The order also transferred the property, rights and liabilities of a charitable education foundation and the contract with a private provider for Christmas lights, in line with equivalent arrangements in the other towns, and provided for an initial precept (Band D £27) and budget (£441k) equivalent to the other town councils to enable Kidderminster, like them, to take devolved control over a number of items of revenue expenditure including the provision of hanging baskets and flower beds in the town centre, a 'lengthsman's scheme' and maintenance of a churchyard.
- 4.11 The District Council envisaged a more substantial transfer of functions to the new Town Council over time as 'the transfer process provides the opportunity for it to secure significant reductions in what it presently spends on what is transferred and that some or all of the related costs would therefore be borne by the new council'. However it noted that 'the new council is not going to be in a position fully to have considered [all relevant] matters ... before the proposed date of transfer' and that to mitigate risks arising from such an approach the arrangements for transfer of further assets/responsibilities should 'support a sustainable and measured transition, including cost sharing and other joint arrangements with the District Council'.

### **Preparation and transition**

- 4.12 The District Council therefore decided to develop with the new council, once established, a long-term funding and service agreement under section 99 of the 2007 Act which would give a higher degree of operational and financial certainty to both councils but with the ability to adjust the precise level of transactions in the light of experience, and allowing time for the new council to make its own decisions about what it wished to do for the future. Subject to the agreements entered into the district council calculated that this process could allow it to reduce its expenditure by up to £250k a year initially.
- 4.13 In relation to transitional and commencement arrangements, although the Guidance states that for administrative and financial purposes the effective date of a re-organisation order should be 1 April in any year, the order for Kidderminster provided for the Town Council to be created on 1 December 2015. Membership of the council from that date until the first elections in May 2016 consisted of the serving district councillors for wards in Kidderminster. The period from December

2015 until April 2016 was used to finalise the long-term funding and service agreement between the two councils as well as conducting the necessary formal business for the new council including adopting standing orders and financial regulations, policies, a detailed budget plan and staffing structure, and conducting the recruitment of a clerk.

#### **(c) SUTTON COLDFIELD TOWN COUNCIL**

- 4.14 The establishment of Sutton Coldfield Town Council in 2016 has similarities in its process to the Kidderminster example above and as the establishment of a new Town Council is also relevant to the potential position in Torbay.
- 4.15 Sutton Coldfield Town Council is the largest town council in England, with over 100,000 residents. Its establishment followed a valid petition to Birmingham City Council in 2014 triggering a community governance review including a postal consultative ballot in the summer of 2015. The recommendations for a new town council were set out in a [report to the Birmingham City Council in September 2015](#) and the reorganisation order establishing the town council was approved by the city council's Council Business Management Committee in December 2015.
- 4.16 As in the Kidderminster example, Sutton Coldfield Town Council was established earlier than 1 April in the relevant year (in this case on 1 March 2016) to enable additional time for preparatory work, and the principal council agreed that it would seek to negotiate over time a long-term funding and service agreement with the new town council separately from the reorganisation order, under section 99 of the 2007 Act. This would set out any property, income, rights, liabilities and expenses and any financial relations between the parties rather than endeavouring to settle all these matters before the order was made and the town council elected.
- 4.17 In Sutton Coldfield's case, the reorganisation order itself therefore did not include the transfer of any land, property rights, liabilities or services from the city council to the town council. The order set a budget requirement for the town which was based on the national average precept of £50 per Band D property.

#### **Preparation and transition**

- 4.18 In relation to the transitional and commencement arrangements for Sutton Coldfield Town Council, immediately following agreement to the recommendations, a Steering Group of key local stakeholders was established to act as a consultative body and take forward the planning and implementation of the new council. This Steering Group included two city councillors from each of the wards in Sutton Coldfield constituency as well as community representation (three representatives from the Town Council Referendum Group, one from the Sutton Coldfield Business Improvement District and one from the Sutton Coldfield Charitable Trust).
- 4.19 From the formal commencement date for the new council (1 March 2016) until councillors were elected in May 2016, the members of the Steering Group became

the members of the interim parish council (with all the statutory powers of the new council). The councillors elected in May 2016 then served a two-year term of office with further elections taking place in 2018 and every four years thereafter to reflect the new Birmingham City Council electoral arrangements arising from a Boundary Commission Review.

#### **(d) WEYMOUTH TOWN COUNCIL AND CHRISTCHURCH TOWN COUNCIL**

- 4.20 Town Councils will be established in Weymouth and Christchurch, and other changes made to community governance in some neighbouring areas, on 1 April 2019 following community governance reviews conducted by Weymouth and Portland Borough Council and Christchurch Borough Council respectively.
- 4.21 The two borough councils mentioned will both be abolished on 31 March 2019 when local government in Dorset is reorganised. From 1 April 2019 new unitary councils will be established serving Dorset (including the area of Weymouth and Portland BC) and Bournemouth, Christchurch and Poole. The community governance reviews proposed the creation of local councils in previously unparished areas, potentially to take over certain assets and services from the outgoing borough councils.

#### **Weymouth**

- 4.22 In relation to Weymouth, an initial reorganisation order was made just to establish the town council and set the warding arrangements and councillor numbers so that these could be taken into account in the LGBCE's considerations of warding arrangements for the new unitary Dorset Council. A Shadow Town Council was established in October 2018 in order to advise on which assets and services currently owned and operated by Weymouth & Portland Borough Council could transfer to the new town council when it comes into existence in April 2019. The Shadow Town Council comprises of the 29 members of the borough council for wards in Weymouth. It is a committee of Weymouth & Portland Borough Council and has no decision making powers but may comment on any proposals in relation to the establishment of the town council including what services it should initially provide. They have been doing this against
- 4.23 This preparatory work is seeking to ensure the establishment of a financially sustainable town council whilst complying with the provisions of a spending protocol and principles on asset transfers developed by the Shadow Dorset Council. The final decision about which assets and services will transfer to the new town council, and the level of its budget and precept, will be made at Weymouth & Portland Borough Council's full Council meeting in early 2019. A second reorganisation order will then be made including these details.
- 4.24 Therefore no firm decisions have yet been made on assets or areas of service to transfer but the areas being considered were set out in a [report to the Shadow Town Council in October 2018](#). The principles driving this work are that services to transfer should be traditional town council services, services not provided by the unitary

council and services that support Weymouth rather than a wider area; and that there should be no financial detriment to the unitary council. Examples include the council offices; parks, gardens and cemeteries; beach and seafront including esplanade lighting, festivals and events; community development, clocks and monuments, public toilets and the Weymouth Museum Collection.

### **Christchurch**

- 4.25 In relation to Christchurch, the final recommendations of the community governance review were reported to the Borough Council's Community Committee on 22.8.18 and may be viewed [here](#).
- 4.26 As for Weymouth, no details have yet been agreed for the transfer of assets, services and precept requirements for year one – these are under consideration by a task and finish Group which will report to the Council and a reorganisation order will be prepared to be effective from 1 April 2019

### **(e) LOWESTOFT TOWN COUNCIL**

- 4.27 Lowestoft Town Council was established by Waveney District Council from 1 April 2017. The first elections to the town council were held in May 2017 when members were elected for a term of two years. Elections will then return to the normal cycle for district elections i.e. 2019 and four yearly thereafter. The establishment of the Town Council followed a community governance review the final recommendations of which were [reported to the district council in November 2016](#).
- 4.29 Lowestoft was at the time the only part of Waveney that was not parished. Waveney District Council stated at the outset of consultation that its preference was for the whole of the district to be represented by town/parish councils, and that it envisaged those councils could budget for priorities which may no longer be supported by their district or county councils but that their residents feel are important to their local area, particularly in the context of a possible future merger of Waveney District Council and Suffolk Coastal District Council (this in fact will occur on 1 April 2019 with the establishment of East Suffolk Council).

### **Budget and transfer of assets etc.**

- 4.30 The reorganisation order establishing the town council, made on 26 January 2017, made provision for a budget in the first year of approximately £1.4 million (Band D precept £117.46), based upon estimates of the costs of administering similar sized councils and the assets that would be transfer to the new council.
- 4.31 The order also included a sizeable list of property, assets and associated services to be transferred, subject in some cases to a leaseback to the district council (although the legislation quoted in relation to the transfer is not appropriate power). The transfer included areas of public open space, parks, gardens, play areas & equipment, public conveniences, a market, allotments, museums, the town hall

(which required significant renovations), a theatre, community centres and CCTV equipment. Contracts transferred included those for the management of the Marina Theatre, grounds maintenance and CCTV services. In addition ownership of the 'Lowestoft Collection' of museum exhibits was transferred subject to it remaining subject to a current loan agreement with the Lowestoft Archaeological and Local Historical Society for at least one further year from 31 May 2017.

- 4.32 Waveney District Council stated during the consultation process that it would intend to transfer as much of Lowestoft's assets and services that would usually be provided by a town/parish council as possible, so that local residents could control and decide exactly what they want for their area, recognising that ultimately it would be for the new council to determine how to spend their budget and to balance its spending between administrative overheads and expenditure on services in order to secure value for money.
- 4.33 No specific shadow or transitional arrangements appear to have been put in place but an interim Town Clerk was appointed in February 2017 to progress the establishment of the new council and support was provided by the district council officers and Suffolk Association of Local Councils.

#### **(f) CENTRAL SWINDON SOUTH PARISH COUNCIL**

- 4.34 Swindon Borough Council carried out a community governance review of the unparished parts of its area in 2016. One of the drivers for this was to enable community empowerment and allow the borough council to extend localism, with any new parishes being able to provide services being deprioritised by the borough council that existing parish councils were providing in other areas of the borough. In 2014 the borough council had estimated that services costing it around £5m per annum could potentially be provided by parish councils in future as there were examples of parishes providing those services across the country. Since that date some parish councils had increased the range and depth of service provision provided in their areas which has been well received as local communities had more influence over local services and priorities. Each parish, as a separate entity, negotiated as to which services would be transferred.
- 4.35 The Council agreed (inter alia) that four new parishes would be created with effect from 1 April 2017; namely, West Swindon, Central Swindon North, Central Swindon South, and South Swindon. The first elections to those councils took place in May 2017.

#### **Preparation and transition**

- 4.36 In order to allow consultation on the details of the reorganisation order and to oversee the work required between the decision to create the parish councils on 10 November 2016 and their establishment on 1 April 2017, shadow parish councils were established, made up of the borough council ward members for each area (and where there were insufficient numbers of ward members available, other borough

councillors subject to the membership reflecting the then political balance of the area). Part of the role of the shadow parish councils was to provide input over the assets that should transfer from the borough council, to set the budget and precept of the new parishes for the 2017-18 Financial Year and to oversee operational arrangements to ensure the safe provision of services from 1 April 2017.

- 4.37 The borough council put in place a transitional team to support the parish councils over service delivery and operational, financial and clerking issues and agreed that in some areas, the borough council would remain the service delivery provider for a transitional period until the parish was established and felt able to manage the services either directly or through a third party.
- 4.38 In order to support the success of the newly created parish councils the borough council took steps to increase their financial resilience from the first day of operation rather than waiting for reserves to be established over time. Accordingly £3m of one-off resources were set aside to fund parish reserves and transitional funding. This support included a payment of 10% of the cost of services that had been provided by Swindon Borough Council that were discontinued with effect from 1 April 2017 and instead provided by parish councils, to be held as a start-up reserve by the parish councils to cover unforeseen costs; and for all parish councils that agreed to provide services previously provided by the borough council, transitional funding was provided for two financial years (50% of the marginal costs savings in 2017-18, reducing to 25% in 2018-19) in order to allow parishes to phase the cost of services into their annual precept over a 3 year period.
- 4.39 Taking Central Swindon South Parish Council as an example, the shadow parish council's budget for 2017/18 showed a total precept requirement, net of the transitional funding above, of just over £2 million which equated to a Band D household equivalent of £114.90. The budget provided for expenditure on a range of services including community support, grants to local organisations and youth groups, library provision and additional hours, eight community centres, grounds maintenance, recreation grounds, four major parks, 14 allotment sites, 17 play areas, two skateparks, emptying of dog bins, waste bins and litter picking, clearance of fly-tipping, removal of graffiti, minor tree works and street sign cleaning.

#### **(g) CITY OF DURHAM PARISH COUNCIL**

- 4.40 City of Durham Parish Council was established on 1 April 2018 with the first elections to the council in May of that year. The community governance review that preceded the establishment of the parish council was undertaken in response to a valid petition and the final recommendations of the review were set out in [a report to Durham County Council in September 2017](#).
- 4.41 The county council set a precept to enable the parish council to function during its first year, with a sum of £150,000 being considered sufficient for the basic operation of the council. This equated to a precept charge for a council tax Band D property of approximately £34.46 per year. No major transfer of assets was made or

transitional/shadow arrangements put in place. The county council report noted that once established it would be for the parish council to set its precept for year two onwards and to determine exactly what services it would provide.

#### **(h) WARWICKSHIRE**

- 4.42 Warwickshire's principal and local councils in 2014 agreed a [Warwickshire Local Councils Charter](#) which includes (inter alia) a commitment by the principal councils to 'consider devolving services to local councils currently provided by principal councils on a case by case basis. Each case will be the subject to its own formal agreement for which a business case will be drawn up enabling an assessment of value, cost, accountability, practicality and any other relevant issues'. In turn the local councils agreed to 'contribute to the development of a business case for the local delivery of services provided by principal councils, in conjunction with neighbouring councils where appropriate.'

#### **(i) OTHERS**

- 4.43 A number of other local councils have received publicity in relation to taking on services and/or significantly increasing precepts but an examination of the circumstances has identified no particular procedural issues of relevance to the current exercise. Examples include:-
- 4.44 **Mountsorrel Parish Council** (Leicestershire) – Services including a library were transferred from Leicestershire County Council and Charnwood Borough Council in 2018 leading to a rise in the council's budget to £540,000 in 2018/19 (up from £207,000) and an increase in its band D precept by 162% from £76 to £199. Mountsorrel is not a newly establish parish council.
- 4.45 **Cranbrook Town Council** (East Devon) – The town council was established in 2015. Its council tax base is projected to rise significantly over the next decade due to new housing development. In April 2018 the council virtually trebled its Band D precept to £256. However, the bulk of this increase relates to the town council's decision to take ownership of a country park that East Devon District Council had not adopted, and as a result residents will no longer have to pay an annual estate charge to a management company for maintaining the areas of open space.
- 4.46 **Leominster Town Council** (Herefordshire) – The town council has been in existence since 1974. In 2015 it significantly increased its service delivery and precept when, following public consultation, it agreed to provide a range of services cut by Herefordshire Council.

Report prepared by: John Williams  
Date: 29 November 2018

## **Cornwall County Council and Town and Parish Councils Briefing Paper**

### **Context**

In December 2007 central government confirmed that Cornwall would move from a county and district council model of local government to a one tier unitary model. Subsequently this was enacted by a statutory instrument in 2009. The change took effect from 1 April 2009 and on that date Cornwall County Council and the six district councils were abolished and were replaced by Cornwall Council. However, the lowest tier of local government in Cornwall which is its civil parishes or town/parish councils remained.

Cornwall has 213 civil parishes, each with its own governance body. These include a city council, 28 town councils, 168 parish councils, a community council and 15 parish meetings. These councils are generally referred to as 'local councils' or 'town and parish council sector'.

### **What can local councils do in Cornwall?**

The parish/town councils in Cornwall are no different to other town/parish councils in other parts of England in that they have a variety of powers and duties given to them by Acts of Parliament. However, not all parish/town councils decide to use all of their powers. The general powers/duties of parish/town councils is detailed in the below appendix 1. However, what is different in Cornwall is the scale, pace and commitment of Cornwall Council to locally devolving services, sites and responsibility to the parish/town councils.

For some activities local councils require the approval of the principal authority e.g. Cornwall Council.

### **How are parish/town councils funded in Cornwall?**

As per the rest of England local councils are funded via a precept which the local council sets each year. This is the total amount they raise through council tax to meet their budget needs.

The levels of precept set in Cornwall as based on a band D property range from zero in a small number of cases to as much as £269 for Bodmin and £236 for Truro. However, the majority are set under £100.

### **How are town/parish councillors elected in Cornwall?**

Councillors in Cornwall are elected by local residents with elections taking place every 4 years in May.

### **What is the Cornwall experience since unitary status?**

Since 2009 Cornwall has fully embraced the local devolution and Localism Act (2011) agenda and has actively sought to work closely with town/parish councils to devolve powers where appropriate.

Cornwall Council has a dedicated Localism Team who work with the town/parish councils and the council has made devolution a key strand of their strategy for 2015-2019. Cornwall Council has also developed a discrete Localism Strategy in 2016 as well as a Framework for Town/Parish Councils and Community Groups to have an Increased Role in Service Delivery. A copy of the Framework is included at Appendix 2 of this report.



The Localism Act 2011 seeks to pass powers from central government to local authorities as well as the local communities giving them freedom and flexibility to achieve their own ambitions. The main components of the Act are:

- New freedoms and flexibilities for local government
- New rights and powers for communities and individuals
- Reform to the planning system to make it more democratic
- Reform to ensure that decisions about housing are taken locally.

In particular two community rights are included in the Act:

- Right to Bid – town/parish councils and local voluntary groups have the right to nominate local land or buildings which they believe is important to the communities well being
- Right to Challenge – provides an opportunity for voluntary groups, community bodies, charities, town/parish councils as well as 2 or more employees of the local authority to submit an expression of interest to run local authority's services if they can do so better and differently

### **How has devolution actually been delivered in Cornwall?**

To understand the Cornwall experience on local devolution to parish/town councils the following case studies illustrate how it has worked so far in practice.

#### Case Study 1 – Lafrowda Car Park, St. Just

Cornwall Council was in the process of reviewing the council car parks it owned that were free with the view to introducing car parking charges to aid the council's budget position. However, St. Just Town Council worked with Cornwall Council and agreed to pay a fee to Cornwall Council to keep the car park free and to avoid the introduction of ticket machines. One of the key objectives of the town council was to keep parking off the main shopping roads and to maintain a free flow of traffic in the town.

#### Case Study 2 – Shevioc Parish Council

Cornwall Council and Shevioc Parish Council agreed that the following services would be devolved to Shevioc Town Council:

- Public Toilets – on a 99 year lease
- Car Park – on 99 year lease
- Flower beds
- Management of Portwrinkle Harbour.

This has enabled Shevioc to control/manage issues without constant referrals to Cornwall Council. It has also allowed Shevioc to determine their own levels of service/maintenance on the areas they control and has also enabled the employment of local people to deliver these services. It is generally agreed that the initiative is popular with local residents.

#### Case Study 3 – Killacourt, Newquay

Killacourt is an open grassed area in Newquay above Town Beach and is used for multiple open air events throughout the year. It is owned and maintained by Cornwall Council but Newquay Town Council have agreed to manage all the events held at Killacourt. Newquay Town Council hold the premises licence for Killacourt and charge a fee to promoters of events to fund the work they

undertake. This initiative has had a significant impact on the size of Newquay Town Council as it now employs 12 staff due to the increased income from events and this now enables them to have the confidence and budget to take on the delivery of public toilets and CCTV in Newquay functions that were previously delivered by Cornwall Council.

These are just 3 case studies that illustrate the relationship between Cornwall council and the parish/town councils and many more can be seen on Cornwall Council's devolution web page.

<https://www.cornwall.gov.uk/community-and-living/communities-and-devolution/devolution/devolution-within-cornwall/completed-devolution-projects/>

Cornwall Council has recently reported on its devolution programme in March 2017 and this report is attached at Appendix 3.

Appendix 1 – What Local Councils Do

[https://www.cornwall.gov.uk/media/3623778/what\\_can\\_local\\_councils\\_do.pdf](https://www.cornwall.gov.uk/media/3623778/what_can_local_councils_do.pdf)



what\_can\_local\_councils\_do.pdf

Appendix 2 - Framework for Town/Parish Councils and Community Groups to have an Increased Role in Service Delivery

<https://www.cornwall.gov.uk/media/13154151/Devolution-Framework-for-Town-Parish-Council-and-Community-Groups-March-15.pdf>



Devolution-Framework-for-Town-Parish

Appendix 3 – Cornwall Council Report on Devolution March 2017

<https://www.cornwall.gov.uk/media/25626282/devolution-summary-report-march-2017.pdf>



devolution-summary-report-march-2017

**Mark Hammett**

**Strategic Support Manager**

**15 September 2017**

### Briefing Note on how Brixham Town Council was established

#### Timescales

Description	Date
Council approved the submitted proposals in relation to the establishment of a town council for Brixham for submission to the Office of the Deputy Prime Minister (now DCLG) and the Electoral Commission.	23 November 2005
Submission sent to DCLG	30 November 2005
Brixham Town Council working party considered key issues for determination in establishing the new Brixham Town Council.	6 July 2006
The Department for Communities and Local Government notified the Council that the Secretary of State had made an order (The Torbay (Parish) Order 2006)) for the establishment of a parish council for Brixham.	5 December 2006
The Electoral Commission advised that they had made their order in relation to the electoral arrangements.	5 February 2007
Detailed project plan attached at Appendix 1.	
Election	3 May 2007

#### Shadow arrangements

Torbay Council established a shadow parish Council at the Council meeting on 1 March 2007, comprising the elected councillors for the district wards of the Berry Head with Furzeham and St Marys with Summercombe Ward which was in place up until the day of the elections for the new parish Council on 3 May 2007.

#### Budget

Torbay Council set the initial budget of £212,000 (including £50,000 for grants and projects) which was set out in the Order establishing Brixham Town Council.

This budget was to cover the minimum requirements of setting up the new Town Council. The only service that was transferred was allotments.

The report to Council on 1 March 2007 states:

“Local councils do have a wide range of powers should they decide to use them and may, with the agreement of the relevant unitary/district council, carry out functions normally undertaken by those councils. If for example the parish council expressed a wish to undertake all street cleaning in the Brixham area, then this could only happen with the consent of Torbay Council. In the event that Torbay Council decided to transfer a service then an appropriate budget adjustment would need to be made to reflect that transfer. Initially the parish council’s role with respect to direct service provision will be limited to the provision of allotments, but might evolve and include other services at a later date.”

## **Appendices**

Appendix 1 Project Plan

Appendix 2 Report to Council 1 March 2007 on Establishment of a Parish Council for Brixham

## Establishment of Town Council for Brixham

### Project Plan and Timetable

Date	Time	Venue	Subject Matter	Key Tasks
6 July 2006	6.30 p.m.	Berry Head Hotel, Brixham	Project Plan	<ul style="list-style-type: none"> <li><input type="checkbox"/> To consider introductory report and project plan.</li> <li><input type="checkbox"/> Arrangement of visit to similar town council.</li> <li><input type="checkbox"/> Determination of venue for future meetings.</li> </ul>
15 August 2006	6.30 p.m.	Brixham Rugby Club	Visit to Dartmouth Town Council	<ul style="list-style-type: none"> <li><input type="checkbox"/> To consider feedback from visit to Dartmouth Town Council.</li> </ul>
			Accommodation	<ul style="list-style-type: none"> <li><input type="checkbox"/> To consider options for accommodation having regard to the results of the consultation by the Set Up Team and investigations by the Estates Manager.</li> </ul>
26 September 2006	6.30 p.m.	Brixham Rugby Club	Accommodation	<ul style="list-style-type: none"> <li><input type="checkbox"/> To consider alternative options for accommodation.</li> </ul>
			Staffing	<ul style="list-style-type: none"> <li><input type="checkbox"/> To consider all matters in relation to interim staffing arrangements (appointment of temporary Town Clerk).</li> </ul>
			Budget	<ul style="list-style-type: none"> <li><input type="checkbox"/> To consider the draft budget and make a recommendation to the Council accordingly.</li> </ul>

Date	Time	Venue	Subject Matter	Key Tasks
31 October 2006	6.30 p.m.	Brixham Rugby Club	Accommodation	<input type="checkbox"/> Conclude accommodation arrangements.
			Staffing	<input type="checkbox"/> Finalise arrangements in relation to appointment of interim Town Clerk (advertisement, job description and contractual arrangements). <input type="checkbox"/> To consider permanent staffing arrangements.
			Powers and Duties	<input type="checkbox"/> To consider process for transfer of allotments to town council.
6 December 2006	6.30 p.m.	Brixham Rugby Club	Constitutional Arrangements	<input type="checkbox"/> To receive and consider draft standing orders in relation to meetings. <input type="checkbox"/> To receive and consider draft financial regulations. <input type="checkbox"/> To receive and consider model Code of Conduct and associated matters.
			Logo for town council	<input type="checkbox"/> Initial consideration of design of logo.
			Training	<input type="checkbox"/> Identify training requirements.

Date	Time	Venue	Subject Matter	Key Tasks
30 January 2007	6.30 p.m.	Brixham Rugby Club	Staffing	<input type="checkbox"/> To give final consideration to staffing arrangements (advertisement, job description and contractual arrangements).
			Constitutional arrangements	<input type="checkbox"/> To consider the following protocols/procedures: <ul style="list-style-type: none"> <li>- Planning;</li> <li>- Officer/Member Relations; and</li> <li>- Freedom of Information.</li> </ul> <input type="checkbox"/> To consider civic and ceremonial role of the town council.
20 February 2007	6.30 p.m.	Brixham Rugby Club	Shadow Body	<input type="checkbox"/> To consider the role of Shadow Body.
			Communications	<input type="checkbox"/> To consider communications plan.
			Constitutional Arrangements	<input type="checkbox"/> To consider arrangements for first Annual meeting. <input type="checkbox"/> To consider electoral arrangements. <input type="checkbox"/> To consider process for setting allowances.
			Training	<input type="checkbox"/> Holding of awareness training for potential election candidates.
20 March 2007	6.30 p.m.	Brixham Rugby Club	Outstanding Matters	<input type="checkbox"/> To consider any outstanding matters (by Shadow Body).

Date			Subject Matter	Key Tasks
17 April 2007	6.30 p.m.	Brixham Rugby Club	Outstanding Matters	<input type="checkbox"/> To consider any outstanding matters (by Shadow Body).
May 2007			Annual Meeting	<input type="checkbox"/> Pre-meeting for Annual meeting. <input type="checkbox"/> Annual meeting.



Report No: **55/2007** Public Agenda Item: **Yes**

Title: **Establishment of a Parish Council for Brixham**

Wards Affected: **Berry Head-with-Furzeham and St Mary's-with-Summercombe**

To: **Council** On: **1 March 2007**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Colin Gamble**  
☎ Telephone: **01803 207010**  
✉ E.mail: **colin.gamble@torbay.gov.uk**

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

1.1 To ensure that a parish council for Brixham is established on 1 April 2007 in accordance with the relevant statutory requirements.

**2. Recommendation(s) for decision**

**2.1 That pursuant to the direction of the Secretary of State, the order for the creation of the Brixham Parish Council (as set out in Appendix 1) be made to enable the new body to be established on the 1<sup>st</sup> April 2007; and**

**2.2 That a shadow parish council be established comprising the elected councillors for the district wards of Berry Head-with-Furzeham and St Mary's-with-Summercombe to consider all matters in relation to the creation of the parish council, such shadow body to be in place up to the ordinary day of elections on 3 May 2007.**

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

3.1 The Department for Communities and Local Government notified the Council on 5 December 2006 that the Secretary of State had made an order (The Torbay (Parish) Order 2006)) for the establishment of a parish council for Brixham. On 5 February 2007 the Electoral Commission advised that they had made their order in relation to the electoral arrangements.

3.2 Under Section 16 of the Local Government and Rating Act 1997, the Council is now required to make an order for the creation of a parish council as directed by the Secretary of State.

3.3 The order made by the Secretary of State stipulates that until the new councillors for the parish council are elected the new parish shall be represented by the councillors for the district wards of Berry Head-with-Furzeham and St

Mary's-with-Summercombe. To this end, it is proposed that a shadow parish council be established comprising the five Torbay councillors representing the two Brixham wards to consider all matters in relation to the new local council.

- 3.4 Members are asked to note that the order made by the Secretary of State requires the new council to be set up as a parish council. However, under Section 245 (6) of the Local Government Act 1972, the newly formed council, at its first meeting, can decide on whether it should be created as a parish or town council. Parish and town councils both have the same powers and duties, but a town council can choose to elect a "town mayor" and "deputy town mayor" instead of a chairman and vice-chairman.
- 3.5 At the last meeting of council held on 14 December 2006, Members requested that the next report presented to them on the parish council should identify the functions and responsibilities of the new body. Whilst these are largely for the local council to determine, there are a number of activities that it will be required by law to undertake. For example, it will have the responsibility for the management of the allotments within the Brixham area.
- 3.6 A fuller explanation of the roles and responsibilities of the new local council is set out in the supporting information.

**Paul Lucas**  
**Strategic Director (Performance)**

## Supporting information to Report 55/2007

### A1. Introduction and history

- A1.1 At the meeting of Council held on 7 February 2006, Members agreed to set up a Working Party to consider all matters in relation to the formation of a parish council for Brixham. The Working Party has met on a number of occasions to progress the establishment of the parish council and made recommendations on a range of matters. The proposals have been developed in conjunction with the Brixham Parish Council Set-up Team who have been directly involved in the discussions.
- A1.2 **Legal Orders.** At the last meeting of Council, Members received Report 380/2006 which detailed the process for creating the parish council and explained that its establishment was dependent on the making of various legal orders.
- A1.3 A letter has been received from the Department of Communities and Local Government advising that an order has now been made by the Secretary of State to create a new parish council for Brixham. Despite earlier concerns that the Electoral Commission would not be in a position to make their order in relation to the electoral arrangements, notification has been received from the Commission confirming that their order has now been made.
- A1.4 To enable the parish council to be established from 1 April 2007, the Council will be required, as directed by the Secretary, to make its own order under section 16 of the Local Government and Rating Act 1997. This order is set out at Appendix 1 of this report.
- A1.5 The order made by the Secretary of State provides that the five district ward councillors for the Brixham area should represent the new parish up to the date of the ordinary elections. It is therefore proposed that a shadow parish council be created comprising those councillors to consider all matters pertaining to the new local council. This will take the place of the Brixham Parish Council Working Party.
- A1.6 **Powers and Duties.** Parish and town councils have a limited number of duties which include the duty to provide and manage allotments. The responsibility for allotments in Brixham will transfer to the new council once it has been created. It is likely, however, that the allotments will continue to be administered and maintained by Torbay Council in the short term until the new council is in a position to assume full responsibility for their management.
- A1.7 Local councils do have a wide range of powers should they decide to use them and may, with the agreement of the relevant unitary/district council, carry out functions normally undertaken by those councils. If for example the parish council expressed a wish to undertake all street cleaning in the Brixham area, then this could only happen with the consent of Torbay Council. In the event that Torbay Council decided to transfer a service then an appropriate budget adjustment would need to be made to reflect that transfer. Initially the parish council's role with respect to direct service provision will be limited to the provision of allotments, but might evolve and include other services at a later date.

A1.8 The budget for the parish council has been set at £212,000, the majority of which will be needed to meet the initial set-up and running costs. A sum of £50,000 has been included in the budget for grants and projects and can be used for such purposes where it can be demonstrated it is in the interests of all or some of the inhabitants in the Brixham area. It cannot be predicted with any certainty the type of activities that may be undertaken but may include the following:

- Grants to local groups
- Floral displays
- Christmas decorations
- Crime prevention measures
- Preserving heritage
- Developing and promoting local arts and entertainment

A summary of the list of powers and duties of local councils is set out in Appendix 2.

A1.9 It is likely that the new parish council will wish to develop its own Strategic Plan for which it will need to allocate funding to meet the cost of producing that document. Indeed, many of the larger local councils in Devon have developed such plans. The council will need to consider putting in place many new policies and procedures to ensure that the new body is run effectively. It will be required to prepare a Freedom of Information scheme and may wish to give early consideration to the development of a communications strategy.

A1.10 Brixham Parish Council will have an important role in relation to planning applications as it has a right to be consulted on all applications for development in the Brixham area. The council will be recommended to establish a planning committee to consider applications and make recommendations to Torbay Council as appropriate. A local protocol has been developed on the consultation arrangements with Brixham Parish Council in connection with planning applications relating to the Brixham area. This appears elsewhere on the agenda.

A1.11 The parish council is required by law to convene a minimum of four meetings of the Council a year. In reality it is likely that the council will need to meet on a more frequent basis. The inaugural meeting of the council has been arranged for 17 May 2007 and a draft agenda was presented to the Brixham Parish Council Working Party on 22 February 2007. The council will also be required to hold an annual Parish Council meeting involving members of the public. Usually local councils take this opportunity to report what they have done and intend to do as well as listening to the views of local people.

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

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

A2.1.1 The Council has a statutory obligation to make the necessary preparations for the establishment of the new parish council. To this end, a project plan was prepared to ensure all of the relevant issues would be addressed in advance of the date of the formation of the parish council on 1 April 2007. The Working Party has considered most of the key issues and a budget has been approved.

A2.1.2 There was concern expressed at the last meeting of Council that the parish council might not be created given that the Electoral Commission was not prepared to give a guarantee that their order would be made by 1 April 2007. The Commission has, however, now confirmed that it has made its order.

**(Note: A full risk assessment of the proposals is available from the report author.)**

### **A3. Other Options**

A3.1 Do nothing. This is not an option as the Council would be in breach of its statutory obligations.

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

A4.1 There are no direct financial implications for the Council associated with the creation of the parish council as the costs of establishing and running that body will be met entirely through the parish council budget.

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

A5.1 The proposals are consistent with the policies in relation to equalities, environmental sustainability and crime and disorder.

### **A6. Consultation and Customer Focus**

A6.1 The Council consulted widely on its draft proposals in relation to the establishment of the parish council, which were submitted to the Secretary of State in November 2005.

A6.2 The Brixham Parish Council Set-up Team, a representative group of the local community, is now the main means through which consultation is undertaken on matters in relation to the creation of the new parish council. Members of the Set-up Team also have had direct input into the discussions on the proposals before the Working Party for consideration. A public participation session is held at the end of each meeting of the Working Party during which members of the public may put questions to the Chairman and the leader of the Set-up Team.

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

A7.1 Representatives from the Finance and Policy and Performance Business Units are members of the officer group that was formed to assist with the preparations for the parish council.

## **Appendices**

Appendix 1 Draft Torbay Council (Parish Council) Order 2007

Appendix 2 List of duties and powers of parish/town councils

### **Background Papers:**

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

Local Government and Rating Act 1997 and associated guidance.

**Local Government and Rating Act 1997  
Torbay Council (Brixham Parish Council) Order 2007**

Made the        day of                2007

Torbay Council having been directed by the Secretary of State for Communities and Local Government in article 3 of the Torbay (Parish) Order 2006, and in exercise of powers conferred on it by section 16 of the Local Government and Rating Act 1997 and of all other powers enabling in that behalf, hereby makes the following order:

1. This order shall be referred to as the Torbay Council (Brixham Parish Council) Order 2007.
2. It shall come into force on the day after the day on which it was made.
3. The Council hereby establishes a parish council (“the Parish Council”) for the Parish of Brixham.
4. The Parish Council shall be constituted with twelve councillors (“the Parish Councillors”).
5. The twelve parish councillors shall be divided between two wards as follows:

<b>Name of Ward</b>	<b>Number of parish councillors</b>
Berry Head-with-Furzeham	7
St. Mary’s-with-Summercombe	5

6. The ward boundaries for the parish council shall be coterminous with those Torbay Council district wards for Brixham.
7. The Parish Councillors shall be elected on the third day of May 2007. They will come into office on the fourth day after such election.
8. Subsequent elections to the Parish Council shall be held on the ordinary day of election of Parish Councillors in 2011 and every fourth year thereafter, or as statute otherwise dictates.
9. The annual meeting of the Parish Council shall be held on or within fourteen days after the day upon which the first newly elected Parish Councillors take office and shall be convened by the Head of Paid Service of Torbay Council (or in the absence of such person, the Monitoring Officer of Torbay Council).
10. For the purposes of article 3 of the Local Government Finance (Miscellaneous) Provisions (England) Order 1995 (SI 1995/161) and Regulation 3 of the Local Government Finance (New Parishes) Government Regulations 1998 (SI 1998/119) as amended, the sum of £212,000 is specified in relation to the Parish Council as its revenue budget for the financial year 2007 to 2008.
11. For the purposes of section 83(4) of the Local Government Act 1972 the Assistant Director (Democratic Services) of Torbay Council (or in the absence of such person, the Monitoring Officer of Torbay Council) shall act as the proper officer for the purposes of that section and the taking of the initial declarations of acceptance of office.

12. Pursuant to the terms of the Local Government (Parishes and Parish Councils) regulations 1999 all land held or used by Torbay Council for the purposes of the Allotments Acts 1908 to 1950 or any other land held by that Council and used for those purposes shall from the first day of April 2007 transfer to and vest in the Parish.

Given under the Common Seal of Torbay Council on the day above mentioned.

THE COMMON SEAL  
OF TORBAY COUNCIL  
was hereunto affixed in  
the presence of

Director of Law and Support



**Powers and duties of parish councils**

(this is not an exhaustive list)

<b>Function</b>	<b>Powers &amp; Duties</b>	<b>Statutory Provisions</b>
Access land	Power to enforce byelaws made by another authority	Countryside and Rights of Way Act 2000, s. 17
Allotments	Duty to provide allotments (if there is demand). Power to improve and adapt land for allotments, and to let grazing rights	Small Holdings & Allotments Act 1908, ss. 23, 26, and 42
Baths and washhouses	Powers relating to provision of public baths, washhouses and bathing huts	Public Health Act 1936, ss. 221 - 223 and 225 - 227
Burial grounds, cemeteries and crematoria	Power to acquire and maintain Power to provide Power to agree to maintain monuments and memorials Power to contribute towards expenses of cemeteries	Open Spaces Act 1906, Ss 9 and 10; Local Government Act 1972, s. 214; Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970, s. 1 Local Government Act 1972, s. 214(6)
Bus shelters	Power to provide and maintain shelters	Local Government (Miscellaneous Provisions) Act 1953, s. 4
Bye-laws	Power to make bye-laws in regard to pleasure grounds Cycle parks Baths and washhouses Open spaces and burial grounds Mortuaries and post-mortem rooms Public Conveniences	Public Health Act 1875, s. 164 Road Traffic Regulation Act 1984, s.57(7) Public Health Act 1936, s.223 Open Spaces Act 1906, ss.15 and 12 Public Health Act 1936, s.198 Public Health Act 1936, s. 87
Clocks	Power to provide public clocks	Parish Councils Act 1957, s.2
Closed churchyards	Powers as to maintenance	Local Government Act 1972, s.215
Commons	Power for parish council to contribute to expense relating to scheme for the regulation and management of a common	Commons Act 1899, s.5
Common pastures	Powers in relation to providing common pasture	Smallholdings and Allotments Act 1908, s.34
Conference facilities	Power to provide and encourage the use of facilities	Local Government Act 1972, s.144
Community centres	Power to provide and equip buildings for use of clubs having athletic, social or recreational objectives	Local Government (Miscellaneous Provisions) Act 1976 s.19
Crime prevention	Powers to install and maintain equipment and establish and maintain a scheme for detection or prevention of crime	Local Government and Rating Act 1997, s.31
Drainage	Power to deal with ponds and ditches	Public Health Act 1936, s.260
Entertainment and the arts	Provision of entertainment and support of the arts	Local Government Act 1972, s.145
Financial assistance	Duty to require information	Local Government Act 1972, s.137A
General powers	Power to incur expenditure for certain purposes	Local Government Act 1972, s. 137
Gifts	Power to accept	Local Government Act 1972, s.139

<b>Function</b>	<b>Powers &amp; Duties</b>	<b>Statutory Provisions</b>
Highways	<p>Power to maintain footpaths and bridle-ways</p> <p>Power to light roads and public places</p> <p>Provision of litter bins</p> <p>Powers to provide parking places for bicycles and motor-cycles, and other vehicles</p> <p>Power to enter into agreement as to dedication and widening</p> <p>Power to provide roadside seats and shelters</p> <p>Consent of parish council required for ending maintenance of highway at public expense, or for stopping up or diversion of highway</p> <p>Power to complain to highway authority as to unlawful stopping up or obstruction of highway or unlawful encroachment on roadside wastes</p> <p>Power to provide traffic signs and other objects or devices warning of danger</p> <p>Power to plant trees and lay out grass verges etc. and to maintain them</p>	<p>Highways Act 1980, ss.43,50</p> <p>Parish Councils Act 1957, s.3;</p> <p>Highways Act 1980, s.301</p> <p>Litter Act 1983, ss.5,6</p> <p>Road Traffic Regulation Act 1984, ss.57,63</p> <p>Highways Act 1980, ss.30,72</p> <p>Parish Councils Act 1957, s.1</p> <p>Highways Act 1980, ss.47,116</p> <p>Highways Act 1980, s.130</p> <p>Road Traffic Regulation Act 1984, s.72</p> <p>Highways Act 1980, s.96</p>
Investments	Power to participate in schemes of collective investment	Trustee Investments Act 1961, s.11
Land	<p>Power to acquire by agreement, to appropriate, to dispose of</p> <p>Power to accept gifts of land</p>	<p>Local Government Act 1972, ss.124, 126, 127</p> <p>Local Government Act 1972, s.139</p>
Litter	Provision of receptacles	Litter Act 1983, ss.5,6
Lotteries	Powers to promote	Lotteries and Amusements Act 1976, s.7
Mortuaries and post mortem rooms	Powers to provide mortuaries and post mortem rooms	Public Health Act 1936, s.198
Open spaces	Power to acquire land and maintain	<p>Public Health Act 1875, s.164</p> <p>Open Spaces Act 1906, ss.9 and 10</p>
Parish documents	Powers to direct as to their custody	Local Government Act 1972, s.226
Public buildings and village hall	Power to provide buildings for public meetings and assemblies	Local Government Act 1972, s.133
Public conveniences	Powers relating to provision of public conveniences	Public Health Act 1936, s.87
Recreation	<p>Power to acquire land for or to provide public walks, pleasure grounds and open spaces and to manage and control them</p> <p>Power to provide gymnasiums, playing fields, holiday camps</p> <p>Provision of boating pools</p>	<p>(see Local Government Act 1972, Sched.14 para.27)</p> <p>Public Health Act 1875, s.164</p> <p>Public Health Acts Amendment Act 1890 s.44</p> <p>Open Spaces Act 1906, ss.9 and 10</p> <p>Local Government (Miscellaneous Provisions) Act 1976, s.19</p> <p>Public Health Act 1961, s.54</p>
Town and country planning	Right to be notified of planning applications	Town and Country Planning Act 1990, Sched.1, para.8
Tourism	Power to encourage visitors and provide conference and other facilities	Local Government Act 1972, s.144

<b>Function</b>	<b>Powers &amp; Duties</b>	<b>Statutory Provisions</b>
Traffic calming	Powers to contribute financially to traffic calming schemes	Highways Act 1980, s.274A
Transport	Powers in relation to car-sharing schemes, taxi fare concessions and information about transport Powers to make grants for bus services	Local Government and Rating Act 1997, s.26, 28 and 29 Transport Act 1985, s.106A
War memorials	Power to maintain, repair, protect and alter war memorials	War Memorials (Local Authorities' Powers) Act 1923, s.1; as extended by Local Government Act 1948, s.133
Water supply	Power to utilise well, spring or stream and to provide facilities for obtaining water from them	Public Health Act 1936, s.125

## TORBAY COUNCIL

### LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

#### COMMUNITY GOVERNANCE REVIEW OF TORBAY

##### TERMS OF REFERENCE

#### 1. INTRODUCTION

- 1.1 Torbay Council ('the Council') has resolved to undertake a community governance review ('the review') of the whole area of Torbay.
- 1.2 The review will consider whether any changes should be made to existing community governance arrangements within Torbay, including whether new parishes should be created in areas that are currently unparished (i.e. Torquay and Paignton) and if so, whether new town councils should be created for those areas and the electoral arrangements for those councils.
- 1.3 In undertaking this review the Council will have regard to the Guidance on Community Governance Reviews issued in March 2010 by the Secretary of State for Communities and Local Government and will comply with Part 4 of the Local Government and Public Involvement in Health Act 2007 ('the 2007 Act'), the relevant parts of the Local Government Act 1972 and regulations issued under those acts.
- 1.4 These terms of reference set out the aims of the review, the matters that it will address and policies that the Council considers relevant to the review. The terms of reference will be published on the Council's website and in hard copy and will be made available at the Council offices and at other venues within the area under review.

#### **Parish and town councils**

- 1.5 Parish and town councils<sup>1</sup> are the most local tier of government in England. They are democratically elected and can play an important role in representing their local community, delivering services to meet local needs and promoting community wellbeing. They are a statutory consultee on planning applications. They may

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<sup>1</sup> **Note re: terminology:** A principal (i.e. unitary or district) council may, following a community governance review create, abolish, or alter the area of, any parish within its area and may establish a parish council to serve a newly-created parish. A parish council serving an urban area may be called a town council. There is no difference between a parish council and a town council in terms of powers or duties. Brixham is currently the only parished part of Torbay and has a town council. It is anticipated that any parish councils established for Torquay and Paignton would also be called town councils. This document therefore uses the term 'parish' to describe any sub-area within Torbay that is or may be created for local government purposes 'town council' to describe any council to serve that parish.

exercise a variety of powers and duties including the delivery of a number of specific local services and may also enter into discussions with the principal council (i.e. Torbay Council) about the transfer of services, budgets and assets subject to mutual agreement. Parish and town councils are funded principally through an annual precept – an additional amount added to the Council Tax in their area.

### **Reasons for the review**

- 1.6 The Council is undertaking the review at this time because it considers that the establishment of town councils may promote community engagement, effective local government and the provision of local services for local people that Torbay Council may be unable to sustain due to resource pressures.
- 1.7 In addition, Government guidance states that it is good practice for principal councils to conduct a community governance review every 10-15 years, except in areas with very low populations. No such review has been undertaken in Torbay since the establishment of Brixham Town Council in May 2007.

### **Community governance reviews**

- 1.8 A community governance review is a review of the whole or part of a principal council's area to consider one or more of the following:
- Creating, merging, altering or abolishing parishes;
  - The naming of parishes and the style of new parishes;
  - Whether a parish/town council should be established for a new parish area;
  - The electoral arrangements for parishes (the ordinary year of election; council size; the number of councillors to be elected to the council, and parish warding), and/or
  - Grouping parishes under a common parish council or de-grouping parishes.

### **The aims of the review**

- 1.9 In accordance with the 2007 Act the Council will have regard to the need to secure community governance within the area under review which:-
- Is reflective of the identities and interests of the community in that area;
  - Provides for effective and convenient local government; and
  - Takes into account any other arrangements for the purposes of community representation or community engagement in the area.
- 1.10 In accordance with Government guidance, when considering the above criteria the Council will take into account the impact of community governance arrangements on community cohesion and the size, population and boundaries of a local community or parish; and will seek to make recommendations that bring about improved community engagement, better local democracy and result in more effective and convenient delivery of local services.

## **Responsibility for the review**

- 1.11 As the relevant principal authority, Torbay Council is responsible for conducting any community governance review within its electoral area and for deciding whether to give effect to the recommendations of the review.
- 1.12 In accordance with regulations issued under the Local Government Act 2000, functions relating to Community Governance Reviews are not to be the responsibility of an authority's executive.
- 1.13 The management of the review will be the responsibility of a project manager appointed by the Director of Corporate Services. The review will be overseen by the Community Governance Review Working Party to which Councillors are appointed by the Council. The Council itself will agree the draft and final recommendations and make any Reorganisation of Community Governance Order.

## **2. CONSULTATION**

- 2.1 In coming to its recommendations in the review, the Council will take account of the views of local people and stakeholders. Legislation requires the Council to consult the local government electors for the area under review and any other person or body who appears to have an interest in the review, and to take the representations that are received into account by judging them against the criteria in the 2007 Act.
- 2.2 The Council wishes to promote community engagement and transparency in decision-making. In relation to the review the Council will:-
- Publish these terms of reference;
  - Publicise the review as widely as possible using printed and electronic means and seek to engage the local media in reporting the issues under review;
  - Consult residents, business organisations, community groups, other local organisations, political parties and elected representatives for the areas under review and Brixham Town Council;
  - Make key documents available at the Council offices and at other venues in the areas under review;
  - Accept submissions by post or via e-mail or the Council's website;
  - Take into account representations received in connection with the review; and
  - Publicise the draft and final recommendations and the outcome of the review.
- 2.3 The Council will consider each matter under review on its merits and on the basis of the information and evidence provided during the course of the review.

## **3. THE TIMETABLE FOR THE REVIEW**

- 3.1 Publication of these terms of reference formally begins the review, which must then be completed within twelve months.

<b>Indicative timetable for the Community Governance Review of Torbay</b>	
<b>Action/stage of process</b>	<b>Proposed dates</b>
<b>Preparation phase</b>	
Consultation on draft terms of reference; preparation of maps, electorate forecasts, consultation materials etc.	Wednesday 21 November 2018 to 31 December 2018
Publication of terms of reference	By Monday 14 January 2019 <i>(formal start of review)</i>
<b>First stage consultation – initial submissions</b>	
Initial submissions invited:- publicity campaign, meetings etc	Monday 14 January 2019 to Friday 15 March 2019
Deadline for initial submissions	Friday 15 March 2019
Consideration of initial submissions/ preparation of draft recommendations	Monday 18 March 2019 to Friday 24 May 2019
Council to agree draft recommendations	w/b 17 June 2019
<b>Second stage consultation – submissions on draft recommendations</b>	
Publication of draft recommendations	Monday 24 June 2019
Submissions invited on draft recommendations:- publicity campaign, meetings etc	Monday 24 June 2019 to Friday 16 August 2019
Deadline for second stage consultation responses	Friday 16 August 2019
Consideration of responses to second stage consultation/ preparation of final recommendations	Monday 19 August 2019 to Friday 30 August 2019
Council to agree final recommendations	19 September 2019
<b>Decisions &amp; implementation</b>	
Publication of final recommendations	Monday 23 September 2019 <i>(formal end of review)</i>
Council Meeting to decide whether to give effect to the final recommendations and to make Reorganisation Order	w/b 14 or 21 October 2019

Revised electoral register published incorporating any amendments	1 December 2019
Order takes effect – implementation of any changes for financial and administrative purposes.	1 April 2020
Elections to new town councils (if any)	7 May 2020 (term of office would run until May 2023)

#### **4. ISSUES FOR CONSIDERATION IN THE REVIEW**

4.1 The map at Appendix A shows the existing town council arrangements within Torbay and the boundaries of the wards (revised with effect from May 2019) of Torbay Council across the whole authority including the currently unparished area.

##### **Parish areas and parish/town councils**

4.2 The review will consider whether any changes should be made to the parish arrangements within Torbay, including:-

- whether there is a need to alter any existing parish boundaries or abolish any existing parish;
- whether or not a new parish or parishes should be created in areas that are currently unparished – either two new parishes, for Torquay and Paignton respectively as initially discussed by the Council, or any other arrangements for some or all of the area that may be suggested during the consultation); and
- in the event that a new parish or parishes are created, whether they should have a town council.

4.3 In considering the above, the review will have regard to current and projected patterns of population, development, community identity and linkages in the area under review; to the viability of potential parish areas and the delivery of local services.

4.4 The 2007 Act provides that where a new parish is created which has 1,000 or more electors, the principal council must recommend that the parish has a council. Where a new parish is created that has between 151 and 999 electors the principal council may decide whether or not it should have a council.

4.5 In relation to previously unparished areas, the 2007 Act requires a principal council in undertaking a review to take into account other (non-parish) forms of community governance that have been, or could be, made for the purpose of community representation or engagement in the area under review. These might include community partnerships/forums, area committees, residents' and tenants' associations, neighbourhood management programmes or community associations. In accordance with Government guidance the review will consider whether such arrangements could be alternatives to, or stages towards, the establishment of town councils. The Council notes however that the guidance also states 'what sets parish



councils apart from other kinds of governance is the fact they are a democratically elected tier of local government, independent of other council tiers and budgets, and possess specific powers' and 'their directly elected parish councillors represent local communities in a way that other bodies, however worthy, cannot since such organisations do not have representatives directly elected to those bodies'.

### **Names and style of parishes**

- 4.6 In the event that a new parish is being created, the review will make recommendations as to the geographical name of the new parish and as to whether or not it should be a parish council or have one of the alternative styles (community, neighbourhood or village). A council that is created as a parish council may decide that it shall have the status of a town council.
- 4.7 Where an existing parish is under review, the Council will make recommendations as to whether the geographical name of the parish should be changed, but it will be for the town council to resolve whether the parish should have one of the alternative styles.

### **Electoral arrangements**

- 4.8 The review will consider what electoral arrangements should apply to any new town council that is created and whether any changes should be made to the electoral arrangements of the existing town council<sup>2</sup>. 'Electoral arrangements' means:-
- The ordinary year in which elections are held;
  - The number of councillors to be elected to the council;
  - The division (or not) of the parish into wards for the purpose of electing councillors;
  - The number and boundaries of any such wards;
  - The number of councillors to be elected for any such ward; and
  - The name of any such ward.
- 4.9 In relation to the year of election, the ordinary election of parish councillors takes place in 2019 and at four-yearly intervals thereafter. If the review results in the establishment of a new town council or councils to which it is appropriate to hold an election for councillors at an earlier date than the next scheduled ordinary elections, the Council may resolve to modify or exclude the application of sections 16(3) and 90 of the Local Government Act 1972 to provide for the first election to be held in an earlier year and the terms of office of any newly elected town councillors will be so

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<sup>2</sup> **Note:** The Local Government Boundary Commission for England (LGBCE) on 20 June 2018 made the Torbay Electoral Changes Order 2018 which included changes to the warding arrangements for Brixham Parish. If, following this review, the Council wishes to alter the electoral arrangements for a parish whose existing arrangements were put in place within the previous five years by an order made by the LGBCE, the consent of the LGBCE will be required.

reduced as to allow the electoral cycle to revert to the normal cycle in Torbay at the next ordinary elections.

- 4.10 In relation to the number of town councillors, legislation provides that the number of councillors for each parish/town council shall not be fewer than five. There is no maximum number. Government guidance is that 'each area should be considered on its own merits, having regard to its population, geography and the pattern of communities'.
- 4.11 In relation to warding of a parish, the 2007 Act requires that in considering whether a parish should be divided into wards the Council should consider (i) whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient; and (ii) whether it is desirable that any area or areas of the parish should be separately represented on the council.

#### **Electorate forecasts**

- 4.12 When the Council comes to consider the electoral arrangements of the town councils in its area, it is required to consider the number of local government electors in the area under review, and any change in that number or the distribution of the electors which is likely to occur in the period of five years beginning with the day when the review starts.
- 4.13 Current electorate figures for each of the wards in both the parished and unparished parts of Torbay will be made published as soon as possible after the publication on 1 January 2019 of the revised electoral register reflecting the amended wards and polling districts that will apply at elections to the unitary council from May 2019.
- 4.14 Electorate forecasts for January 2024, taking into account information on developments underway or planned based on extant planning permissions and the local development framework, will also be published to inform the consultation process as early as possible during the review.
- 4.15 Population estimates will be used to apportion assets where significant changes, including the creation of new parishes, are recommended.

#### **Service provision and council tax precept**

- 4.16 As part of the consultation process the Council will outline the services that it envisages could be provided by parish/town councils and/or any assets or liabilities that could be transferred to them.
- 4.17 The Council will make available information on the Council Tax precept (Band D equivalent) currently applicable for Brixham Town Council and illustrative figures that could apply to any new parish/town council based on the estimated cost of running the council and providing any services that may be transferred to it.

## **Other matters**

- 4.18 The review will consider any other issues raised during the consultation process which are relevant to the review.
- 4.19 In the event that the review recommends the creation of any new council(s), the review will also consider what preparatory and transitional arrangements should apply to the establishment of that council or councils.

## **5. POLICIES THAT WILL GUIDE THE REVIEW**

### **Parishes**

- 5.1 The Council believes that town councils can play an important role in empowering and representing communities and that they can enable the continued resourcing and provision of services that residents value at the local level.
- 5.2 The Council notes the Government's continued commitment to parish and town councils and its guidance that it 'expects to see a trend in the creation, rather than the abolition, of parishes'. Subject to consideration of the submissions received during the review, the Council would see the eventual creation of town councils across the whole of its area as a positive development.
- 5.3 The Council considers that parishes should reflect distinctive and recognisable communities of interest, with their own sense of identity and that electors should be able to identify clearly with the parish in which they are resident. The feeling of local community and the wishes of local inhabitants are therefore important considerations in the review.
- 5.4 The Council wishes to ensure that parishes should be viable as an administrative unit and should possess a precept that enables them effectively to promote the well-being of their residents and contribute to the provision of services in their area in an economic and efficient manner.

### **Boundaries**

- 5.5 The Council considers that the boundaries between parishes should reflect the distinct community identities of the respective areas. Wherever possible boundaries should follow areas of low population between settlements or pronounced physical barriers (either natural or built) such as watercourses, marshland or moorland; parks, canals, railways or major roads.
- 5.6 The Council will give careful consideration both to traditional community identities and to any changes that have happened over time, for example population movements or new development, that may have led to a different community identity in an area.

- 5.7 Should a reorganisation of parish boundaries occur as a result of the review, the Council will aim to select boundaries that are and are likely to remain easily identifiable.

### **Names**

- 5.8 With regard to the geographical names of any parishes/town councils or town wards established within Torbay, the Council believes that these should reflect existing local or historic placenames and there will be a presumption in favour of names proposed by local interested parties

### **The number of town councillors**

- 5.9 When considering the number of councillors to be elected for any town council, in addition to applying the statutory rules described above, the Council will have regard to:-

- the recommended guidance issued by the National Association of Local Councils (NALC) and indicative national data on representation published by the former Aston Business School;
- existing levels of representation, the pattern of existing council sizes which have stood the test of time and the take-up of seats at elections;
- the desirability of a broadly equitable allocation of councillors to town councils across Torbay, whilst acknowledging that local circumstances may on occasion merit variation.

### **Warding**

- 5.10 The Council notes Government guidance that 'there is likely to be a stronger case for the warding of urban parishes ... [where] ... community identity tends to focus on a locality ... [and] ... each locality is likely to have its own sense of identity'. The Council will however seek to secure that any warding arrangements should have relevance for the electorate, be in the interests of effective and convenient local government and not be wasteful of a town council's resources.
- 5.11 In reaching conclusions on the boundaries between any town wards, the Council will have regard to community identity and interests and will consider whether any particular ties or linkages might be broken by the drawing of particular ward boundaries. The Council will also have regard to guidance by the Local Government Boundary Commission for England (LGBCE) that the principal council ward boundaries should not split an unwarded parish and that no parish ward should be split by such a boundary.

5.12 When deciding the number of councillors to be elected for any town ward, the Council will take into account the view of the LGBCE that it is not in the interests of effective and convenient local government, either for voters or councillors, to have significant differences in levels of representation.

## **6. COMPLETION OF THE REVIEW AND IMPLEMENTATION OF ANY DECISIONS**

6.1 The review will be completed when the Council publishes its final recommendations. The Council will take steps to inform interested parties of the recommendations and outcome of the review. In accordance with Government guidance the Council will issue maps to illustrate each recommendation at a scale not smaller than 1:10,000.

6.2 If the review results in any changes to community governance, at the conclusion of the review the Council will make a Reorganisation of Community Governance Order. Copies of this order, the map(s) that show the effects of the order in detail, and the document(s) which set out the reasons for the Council's decisions (including where it has decided to make no change following the review) will be deposited at the Council's offices, published on its website, and provided to the clerk of any town council affected.

6.3 In accordance with legislation, copies of any order and associated maps will be deposited with the Secretary of State and the LGBCE, and prints of the maps will also be supplied to Ordnance Survey, the Registrar General, the Land Registry, the Valuation Office Agency, the Boundary Commission for England and the Audit Commission.

6.4 Subject to the final recommendations of the review, the provisions of any order will take effect for financial and administrative purposes on 1 April following the adoption of the order. Any revised electoral arrangements for a new or existing town council will come into effect in accordance with the provisions of these terms of reference.

## **7. CONSEQUENTIAL MATTERS**

7.1 A reorganisation order may cover any consequential matters that appear to the Council to be necessary or proper to give effect to the order. These may include the transfer and management or custody of property, the setting of precepts for new parishes, provision with respect to the transfer of any functions, property, rights and liabilities and/or provision for the transfer of staff, compensation for loss of office, pensions and other staffing matters.

7.2 In these matters, the Council will be guided by the relevant regulations issued following the 2007 Act. In particular, the Council notes that the regulations regarding the transfer of property, rights and liabilities require that any apportionments shall use the population of the area as estimated by the proper officer of the Council as an appropriate proportion.

7.3 In relation to the establishment of a precept for any new town council, the Council will comply with the requirements of the Local Government Finance (New Parishes) Regulations 2008.

**Principal area boundaries**

7.4 Any changes made to parish or town ward boundaries as a result of this review will not automatically change the corresponding principal council ward boundaries.

7.5 In the event of a reorganisation order making such a change the Council may recommend the LGBC that the principal council ward boundaries are realigned to coincide with the revised parish or town ward boundaries and it would be for the LGBC to decide if and when these related alterations should be made.

7.6 The LGBC would require evidence that the Council has consulted on the recommendations as part of the review. The Council will therefore seek to include any such draft recommendations for consultation at the earliest possible opportunity should they appear desirable.

**Date of publication of these terms of reference: ... ..... 20.. *to be added***

**Contact details for the review**

Enquiries regarding the review process and/or comments on the matters set out in these terms of reference should be directed to:

**Teresa Buckley, Democratic Services Team Leader,  
Torbay Council,  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR**

**E-mail:** [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

**Telephone:** 01803 207013

## APPENDIX 'A'

The map below shows the existing town council arrangements within Torbay and the boundaries of the wards (revised with effect from May 2019) of Torbay Council across the whole authority including the currently unparished area.

[INSERT MAP]

DRAFT

## TORBAY COUNCIL

### COMMUNITY GOVERNANCE REVIEW OF TORBAY

#### COMMUNICATION/CONSULTATION PLAN

##### STATUTORY CONSULTEES (Local Government and Public Involvement in Health Act 2007, s. 93(3))

- The local government electors for the area under review
- Any other person or body (including a local authority) which appears to the principal council to have an interest in the review

##### AIM OF THIS PLAN

- To ensure that local electors and all stakeholders and persons or bodies who may have an interest in the review are aware of the review, well-informed about the issues to be considered and able conveniently to contribute their views and evidence to the consultation process.

##### FORMAL CONSULTATION CHANNELS PROPOSED

1. **Online:** Dedicated web page on Torbay Council's website giving information on the review, maps and key issues for consideration and the consultation process/timetable. To be updated as necessary during the review. To include an e-form for convenient response and e-mail address for more detailed/free-text submissions.
2. **Paper-based:** Hard copy consultation leaflets giving information on the review, maps and key issues for consideration and the consultation process/timetable. To include response form to complete and return plus contact details for responses via e-mail or letter.
3. **Face-to-face:** Public consultation meetings in the areas under review, discussions at Community Partnerships and one-off events/presence in shopping areas/community venues/public spaces.



PHASES OF COMMUNICATIONS ACTIVITY AND KEY MESSAGES	KEY AUDIENCES AND COMMUNICATION METHODS (ALL PHASES)
<p><b>1. Launch of Review (14 January 2019) and first stage consultation (to 15 Mar 2019)</b></p> <p>Key messages:-</p> <ul style="list-style-type: none"> <li>- The CGR is taking place and Torbay Council wants to know your views</li> <li>- What a CGR is and the possible outcomes</li> <li>- Why the Council is conducting the CGR</li> <li>- Issues to be considered (inc. possible new town councils for Torquay and Paignton, their boundaries and electoral arrangements)</li> <li>- The role and possible benefits of town councils and how they are funded</li> <li>- Timetable for the consultation</li> <li>- How the public can find out more and respond to the consultation</li> <li>- We want to hear from you!</li> <li>- (towards 15 March) reminder of the deadline to respond</li> </ul>	<p><b><u>Key audiences for all phases of communications activity</u></b></p> <ul style="list-style-type: none"> <li>- The general public – persons living, working or studying in Torbay</li> <li>- Electors across Torbay (and in particular in Torquay and Paignton where new town councils may be recommended)</li> <li>- Local media</li> <li>- Businesses and local business groups</li> <li>- Public and third sector organisations</li> <li>- Community groups</li> <li>- Residents’ and tenants’ associations</li> <li>- Elected representatives (local councillors, MPs, MEPs)</li> <li>- Political parties</li> <li>- Brixham Town Council</li> </ul> <p><b><u>Communication methods</u></b></p> <p><b>General publicity:-</b></p> <ul style="list-style-type: none"> <li>- Press releases</li> <li>- Social media posts (weekly during campaign phases) highlighting review/issues, deadlines for responses and link to dedicated web page</li> <li>- E-mails to subscribers to Council news service</li> <li>- Periodic links from front page of Council website to dedicated page (inc. at launch of each phase and as deadline approaches)</li> <li>- Articles in Council newspaper (subject to timing of publication)</li> </ul>
<p><b>2. Publication of draft recommendations (24 June 2019) and second stage consultation (to 16 August 2019)</b></p> <p>Key messages:-</p> <ul style="list-style-type: none"> <li>- Draft recommendations have been published and Torbay Council wants to know your views on them</li> <li>- Reasons for the draft recommendations and what they would mean in practice</li> </ul>	

<ul style="list-style-type: none"> <li>- Key issues raised in first stage consultation and how the Council has responded to them</li> <li>- Timetable for the second stage consultation</li> <li>- How the public can find out more and respond to the consultation</li> <li>- Recap on what a CGR is and why it is being conducted</li> <li>- Have your say!</li> <li>- (towards 16 August) reminder of the deadline to respond</li> </ul>	<ul style="list-style-type: none"> <li>- Staff newsletter/in-house e-communications (as many Council staff will also be local residents)</li> <li>- FAQs on Council website</li> </ul> <p><b>Local public meetings, discussions at Community Partnerships and one-off events/presence in shopping areas, community venues and public spaces.</b></p>
<p><b>3. Publication of final recommendations (23 September 2019)</b></p> <p>Key messages:-</p> <ul style="list-style-type: none"> <li>- Final recommendations have been published</li> <li>- What the final recommendations are and what they would mean in practice</li> <li>- We have listened - key issues raised in second stage consultation and how the Council has responded to them</li> <li>- Where the public can view the final recommendations/maps in detail</li> <li>- Recap on what a CGR is and why it is being conducted</li> <li>- Next steps including date of Council meeting to make the final decision</li> </ul>	<p><b>Distribution of consultation materials (posters/leaflets), including to:-</b></p> <ul style="list-style-type: none"> <li>- Libraries</li> <li>- Council offices/notice boards and service venues</li> <li>- Surgeries/health service providers*</li> <li>- Schools*</li> <li>- Community centres and halls*</li> <li>- Church halls*</li> </ul> <p>(* requested via database mailshot below)</p>
<p><b>4. Final decision and publicising the outcome of the review (mid-late October 2019)</b></p> <p>Key messages:-</p> <ul style="list-style-type: none"> <li>- Reporting outcome of the Council meeting.</li> <li>- Final decisions of the review and what they means in practice</li> </ul>	<p><b>Direct mailshot (letter or e-mail) to ad-hoc consultation database of local organisations including:-</b></p> <ul style="list-style-type: none"> <li>- Residents' &amp; tenants' associations</li> <li>- Community groups, sports &amp; social clubs (including Community Partnerships)</li> <li>- Schools, surgeries, health providers</li> <li>- Public and third sector organisations</li> <li>- Business groups including Chamber of Commerce</li> <li>- Police &amp; Fire service</li> <li>- CAB/advice services</li> <li>- Churches, faith groups</li> </ul>

<ul style="list-style-type: none"> <li>- Reasons for the decisions</li> <li>- What happens now and the timetable for implementation</li> <li>- There have been two stages of consultation – key points raised and how the Council has listened/responded</li> <li>- How the public can view the decisions, reorganisation order, maps and related documents in detail</li> </ul>	<p><b>Direct letters/e-mails to elected representatives, political parties and Brixham Town Council</b></p> <ul style="list-style-type: none"> <li>- Briefing session(s) and Members’ Bulletin item for Torbay Councillors</li> <li>- Offer to attend Brixham Town Council meeting</li> </ul>
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**ACTION BY:** Head of Communications and CGR Project Manager to discuss and agree allocation of tasks

Draft version 1.03  
Dated: 15 November 2018

