Tuesday, 13 October 2015

Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Rosetor Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 22 October 2015** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

Steve Parrock
Executive Director of Finance and Operations

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

Working for a healthy, prosperous and happy Bay

For information relating to this meeting or to request a copy in another format or language please contact:
**June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207012**
Email: governance.support@torbay.gov.uk
www.torbay.gov.uk

Meeting of the Council
Agenda

1.   Opening of meeting

2.   Apologies for absence

3.   Minutes   (Pages 4 - 15)
To confirm as a correct record the minutes of the meeting of the
Council held on 24 September 2015.

4.   Declarations of interests

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

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

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

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

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

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

6.   Members' questions   (Page 16)
To respond to the submitted questions asked under Standing Order
A13.

7.   Notice of Motion - Future Forms of Governance   (Pages 17 - 42)
To consider the attached motion, notice of which has been given in
accordance with Standing Order A14 by the members indicated.

8.   Transfer of PLUSS to a Community Interest Company   (Pages 43 - 57)
To consider the submitted report on the above.

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

Agenda Item 3

TORBAY
COUNCIL

Minutes of the Council

24 September 2015

-: Present :-

Chairman of the Council (Councillor Hill) (In the Chair)

The Mayor of Torbay (Mayor Oliver)

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

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53   Opening of meeting

Members observed a minutes silence as a mark of respect in memory of the late Councillor Ruth Pentney who passed away after losing her battle with motor neurone disease and who will be greatly missed. The Chairman's Chaplain then opened the meeting with a prayer.

54   Apologies for absence

An apology for absence was received from Councillor Brooks.

55   Minutes

The Minutes of the meeting of the Council held on 23 July 2015 were confirmed as a correct record and signed by the Chairman.

56   Declarations of interests

Councillor O'Dwyer declared a non-pecuniary interest in Minute 67 as he was a Board Member of Sanctuary Affordable Housing Limited.

Caroline Taylor and Richard Williams declared a personal interest in Minute 61 as their posts were affected by the proposals.

57   Communications

The Chairman thanked Tor2 for organising the Bay Blooms Awards Event held on 23 September 2015 and those Councillors who attended to receive awards on behalf of the communities they serve. The Chairman paid particular thanks to

Councillor David Thomas for being the compere and master of ceremonies at the event.

The Mayor:

(a)   updated members on the commitment of the Council in providing support to those affected by the situation in Syria. Members were advised that the Council would work with other local authorities in the south west, partners and local people to provide an appropriate response, in particular to orphans and unaccompanied children. The Mayor added that the Council was awaiting confirmation from the Government of its funding commitment for the longer term so as not to impact upon services to local people. Members noted a senior officer was leading the Council's response and an implementation plan and briefings would be arranged as more information became available; and

(b)   referred to the Adoption Activity report included on this meeting's agenda. Whilst the report was for noting and no debate, the Mayor took the opportunity of recognising the excellent work of the Adoption team in Children's Services. The number of adoptions secured over the past three years had increased and were opposite to the national trend which had seen a significant decline in numbers.

The Overview and Scrutiny Co-ordinator updated members on a number of scrutiny meetings that had been held and a training event on effective overview and scrutiny held with neighbouring authorities. The Overview and Scrutiny Co-ordinator also advised members of a number of sessions being arranged with partners who deliver commissioned services in preparation for the budget setting process and invited all back-bench members to attend.

58   Petition - Stop housing discrimination against homeless people with pets

In accordance with Standing Order A12, the Council received a petition requesting housing discrimination against homeless people with pets to be stopped (approximately 70 signatures).

It was noted that the petitioners had requested their petition to be submitted direct to the decision-maker and it would be referred to the Assistant Director of Community and Customer Services for consideration in consultation with the Executive Lead for Community Services.

59   Members' questions

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

Verbal responses were provided at the meeting. Councillor Mills responded to Question 4 as the Mayor had an interest in the matter. Supplementary questions were then asked and answered in respect of the questions.

60   Notice of motion - Tackling Housing Need and Poor Quality Housing in Torbay (Mayoral Decision)

Members considered a motion in relation to tackling housing need and poor quality housing in Torbay, notice of which was given in accordance with Standing Order A14.

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

This Council notes that Torbay faces the following housing challenges:

- One of the lowest levels of social housing stock in the Country for an urban authority at 7% of the local housing stock.
- A low wage economy with high property prices excluding many local people from the housing market.
- A higher than average private rented market resulting in a minority of poor quality rented accommodation which results in anti social behaviour and some criminal activity.
- 1921 households on Torbay Council's housing register.

This Council notes that part of the solution could be establishing a private sector leasing scheme.

It is common practice amongst local authorities for them to develop private sector leasing schemes. However, the scale and range of each scheme varies widely.

Such schemes can consider either self contained accommodation or a combination of self contained properties and shared accommodation.

A private sector leasing scheme means that the Council would lease accommodation from landlords on a long term basis (circa 5 years), the Council would issue non-secure tenancies and then manage the property for the duration of the term. (A different arrangement through licences would need to operate in shared accommodation.)

The Council's objectives for developing such a scheme would include:

- To contribute to dealing with the housing supply issue in Torbay;
- Tackling waiting lists for social housing and homelessness;
- Deal with the impacts of welfare reforms;
- Improve property conditions and management standards;
- Shift the reliance on social sector to meet the needs for affordable housing;
- To generate a financial return to the Council; and
- To ensure a mix of housing, in terms of type, size and tenure, best matched to the needs of Torbay;

There is a real opportunity for Torbay to deliver quality, well located and managed private rented sector stock to those in need, who will have the reassurance that their landlord is reputable and providing a good quality service.

By developing a private sector leasing scheme the Council will secure a place in the local housing market.

This Council agrees in principle for the Assistant Director of Community and Customer Services to compile a business plan for a private sector leasing scheme based upon the ability to use up to £10 million of prudential borrowing or appropriate capital funding. That the Assistant Director of Community and Customer Services demonstrates what could be achieved by the investment of either £2 million, £5 million or up to £10 million to be presented to a future Council meeting.

In accordance with Standing Order A14.3(a), the motion stood referred to the Mayor. The Mayor rejected the motion as proposals for future housing provision were being prepared for consideration by a future meeting of the Council.

61   Joint Commissioning Team - Rationalisation of Statutory Roles

The Council considered the submitted report on a proposal to combine the statutory roles of the Director of Children's Services and the Director of Adult Services (Director of Joint Commissioning). It was noted the proposal ensured that the Council was fit for purpose to perform its commissioning role and fulfil its statutory duties for children's, adults and public health services. A revised officer recommendation was circulated at the meeting.

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

(i)   that the proposal to combine the statutory duties of the Director of Children's Services and the Director of Adult Services be approved and the Council moves to the recruitment stage immediately; and

(ii)   that the required "test of assurance" structure set out at Appendix 2 to the submitted report be agreed and the annual review process (involving the Chairs of the Adults' and Children's Safeguarding Board) is put in place for the future to include a new performance dashboard be developed by the Assistant Director of Corporate and Business Services, to be introduced within three months following the appointment of the new Director of Joint Commissioning, to monitor the 'test of assurance' through the Overview and Scrutiny Board on a programmed basis.

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

62   Corporate Plan 2015-19

The Council considered the draft Corporate Plan 2015-2019 on the strategic ambitions for the Council and the principles within which the Council will operate. It

was noted the Plan was designed to provide an overarching framework for the ambitions of the Council and delivery plans would be formulated to underpin the Plan.

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

(i)   that the Corporate Plan 2015-2019 set out in Appendix 2 to the submitted report be approved; and

(ii)   that the Council notes that the Corporate Plan Delivery Plans will be prepared and presented to Council for approval along with the budget in February 2016.

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

63   Referendum on Future Forms of Governance

The Chairman reported that this item had been withdrawn to enable further research to be undertaken.

64   Review of Policy Framework Documents

Following the resolution of the Council on 23 July 2015, the Council considered the submitted report on a review of the Council's Policy Framework.

It was proposed by Councillor Lang and seconded by Sykes:

that the review of the Council's Policy Framework (as set out in Appendix 1 to the submitted report) be approved and the Policy Framework be updated to comprise the following documents:

a)   Communication, Engagement and Consultation Strategy;
b)   Corporate Plan incorporating Equalities Objectives;
c)   Economic Regeneration Plan incorporating Tourism Strategy; and Cultural Strategy;
d)   Housing Strategy incorporating Homelessness Strategy; and Housing Allocations Policy;
e)   Gambling Act Policy/Statement of Principles;
f)   Joint Health and Wellbeing Strategy incorporating the Children's and Young People's Plan; Older Persons Strategy; and Supporting People Strategy;
g)   Licensing Policy;
h)   Local Transport Plan incorporating the Parking Strategy;
i)   Plans and Strategies which together comprise the Development Plan incorporating the Port Masterplan;
j)   Strategic Agreement between Torbay and Southern Devon Health and Care NHS Trust and Torbay Council /Torbay and South Devon Clinical Commissioning Group; and
k)   Waste Management Strategy.

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

> that d) includes the words 'affordable housing' after 'housing allocations policy'.

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

The original motion was then put to the vote and declared carried.

65   Proposed Amendments to the Audit Committee Terms of Reference

The Council considered the recommendation of the Audit Committee in respect of its terms of reference.

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

> that the amendments to the Audit Committee Terms of Reference set out at Appendix 1 to the submitted report be approved.

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

66   Treasury Management Outturn 2014/2015

The Council considered the submitted report on the performance of the Treasury Management function. It was noted that the Treasury Management function supported the provision of Council services in 2014/15 through management of cash flow, debt and investment operations and the effective control of associated risks.

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

> (i)   that the Treasury Management decisions made during 2014/15, as detailed in the submitted report be noted; and

> (ii)   that the Prudential and Treasury Indicators as set out in Appendix 1 to the submitted report be approved.

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

67   Capital Investment Plan Update - 2015/16 Quarter 1

The Council considered the submitted report setting out an overview of the Council's approved Capital Investment Plan for quarter one. The report provided details of capital expenditure and funding for the year compared with the latest budget position reported to the Council in February 2015.   A revised officer recommendation was circulated at the meeting.

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

(i)   that the latest position for the Council's Capital expenditure and funding for 2015/16 as set out in the submitted report be noted;

(ii)   that the remaining £0.106 million Condition Funding allocation to Children's Services be approved. (The 2015/16 Department for Education allocation is £0.506 million, of which £0.4 million has previously been approved for Furzeham Primary improvements – Council February 2015.);

(iii)   that the allocation of 2017/18 Basic Need grant allocation of £4.229 million, (of which £1.363 million previously approved), together with an additional £2 million of future year (2018/19) allocations to Children's Services to enable the provision of a new Primary School in Paignton and provide additional Secondary School places in Torquay be approved; and

(iv)   that £0.3 million be reallocated from the sale of assets and/or any underspend in the current capital programme, excluding any funds allocated to affordable housing, to expand and regenerate the Strand in Torquay.

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

(Note 1: The Mayor and Councillor Mills accepted the amendment tabled by Councillor Darling and Carter in the original motion.)

(Note 2: During consideration of Minute 67, Councillor O'Dwyer declared his non-pecuniary interest as set out in Minute 56.)

68   Devolution Update

The Council noted the submitted report on an update of the work undertaken by the Devolution Working Party and details of key meetings undertaken with local authorities across the south west region.

69   Clinical Governance Framework (Mayoral Decision)

The Council considered the following recommendation to the Mayor:

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

that the Clinical Governance Framework set out at Appendix 1 to the submitted report be approved for a period of 3 years, whereupon it will be reviewed and updated.

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

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

70   Corporate Parenting Strategy (Mayoral Decision)

The Council considered the following recommendation to the Mayor:

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

>   that the Corporate Parenting Strategy set out in Appendix 2 to the submitted
>   report be approved.

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

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

71   Revenue Budget Monitoring 2015/16 - Quarter One (Mayoral Decision)

The Council noted the forecast for the 2015/2016 revenue budget position.

72   Adoption Activity Report (Mayoral Decision)

Members noted the submitted report in respect of adoption agency activity.

73   Composition and Constitution of Executive and Delegation of Executive Functions

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

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

Members noted the submitted report setting out the executive decisions taken (namely: awarding of contract for youth homelessness accommodation and support services outreach and accommodation; and the procurement of a service for single homeless people with support needs, within Leonard Stocks building, with an option to move to alternative location) to which the call-in procedure did not apply.

Chairman

Record of Decisions

Clinical Governance Framework

Decision Taker

Mayor on 24 September 2015

Decision

That the Clinical Governance Framework set out at Appendix 1 to the submitted report be approved for a period of 3 years, whereupon it will be reviewed and updated.

Reason for the Decision

The adoption of the clinical governance framework will provide assurance in respect of clinical interventions and provide a hierarchy of clinical bodies to which clinical issues can be escalated.

Implementation

This decision will come into force and may be implemented on 7 October 2015 unless the call-in procedure is triggered (as set out in Standard Orders in relation to Overview and Scrutiny).

Information

As part of public health, the Council is responsible for commissioning several clinical services (including sexual and reproductive health, drug and alcohol treatment services and lifestyle services) and the clinical governance of those services. Clinical governance ensures that public health services are cost-effective, high quality, safe and represent best value for money. Managing a robust clinical governance framework is part of the Council's obligations when it commissions clinical services. The framework had already been approved by Torbay Clinicians and the adopting of the framework ensures that the document is ratified by the Council. The submitted report set out the Clinical Governance Framework.

The Mayor considered the recommendations of the Council made on 24 September 2015 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

None

Published

29 September 2015

Signed: _____   Date: 29 September 2015

                      Mayor of Torbay

Record of Decisions

Corporate Parenting Strategy

Decision Taker

Mayor on 24 September 2015

Decision

That the Corporate Parenting Strategy set out in Appendix 2 to the submitted report be approved.

Reason for the Decision

To ensure the Council meets its statutory requirements to enact its Corporate Parenting responsibilities within the Children Act 1989.

Implementation

This decision will come into force and may be implemented on 7 October 2015 unless the call-in procedure is triggered (as set out in Standard Orders in relation to Overview and Scrutiny).

Information

The submitted report set out the Corporate Parenting Strategy as recommended by the Corporate Parenting Board. The Strategy delivers the Council's statutory responsibilities in respect of Corporate Parenting. Corporate Parenting refers to the collective responsibility of the Council to take strategic responsibility for providing the best possible care and protection for our children looked after.

The Mayor considered the recommendations of the Council made on 24 September 2015 and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

None

Published

29 September 2015

Signed: _____   Date: 29 September 2015
                          Mayor of Torbay

Agenda Item 6

Questions Under Standing Order A13

Question (1) by Councillor Darling (M) to the Executive Lead for Planning, Transport and Housing (Councillor King)	Residents on the Torre Marine development remain concerned about the lack of play provision as part of this development. What deadline are the Council working to, to ensure the developer provides these community facilities?
Question (2) by Councillor Stocks to the Mayor and Executive Lead for Finance and Regeneration (Mayor Oliver)	Despite relatively low levels of unemployment, for Torbay, the draft indices of deprivation demonstrate a worrying trend of increasing deprivation namely : • Levels of deprivation have increased in Torbay • Torbay is amongst the top15% of the most deprived District Authorities in England(46 out of 326) • Torbay is the most deprive district Authority in the South West of England • There has been a 75% increase in Torbay residents living in areas amongst the top 20% most deprived in England • Almost one in three resident live in areas amongst the top 20% most deprived in England. In light of the above, what do you plan to do differently to halt this rise of poverty in the Bay?
Question (3) by Councillor Darling (S) to the Executive Lead for Community Services (Councillor Excell)	I understand that more than 120 penalty notices were issued by the new environmental enforcement officers during September 2015. Only one of these notices were for dog fowling. In light of this will the council consider the approach adopted by Daventry Council who are issuing penalty notices to dog walkers who fail to take a bag to pick up after their dog?
Question (4) by Councillor Darling (M) to the Mayor and Executive Lead for Finance and Regeneration (Mayor Oliver)	Torquay pavilion continues to be empty and residents are concerned that this part of Torquay's heritage is being left to rot. What assurances can you give regarding the frequency of inspections of this community asset and what remedial work has been undertaken to protect this building and who has paid for any subsequent works?
Question (5) by Councillor Darling (S) to the Executive Lead for Corporate Services (Councillor Lang)	Can you please provide to the Council what legal action is currently being taken against the Local Authority whether by suing the Council or judicial review. Who are conducting these actions and how much is being sort?

Notice of Motion – Future Forms of Governance

22 October 2015

This council notes that following the decision of Council on 23 July 2015, for the consultation results on the future form of governance to be considered at the September 2015 Council meeting that this did not occur. This motion is to ensure that the referendum is on the agenda for the next council meeting.

Council needs to consider the report that was on the agenda for the council meeting on 24 September 2015 titled Referendum on Future Forms of Governance which is annexed to this motion and determine to hold a referendum on the future form of governance on 5 May 2016 and further which of the different types of governance, as set out below should be included in the referendum:

Question 1

How would you like Torbay Council to be run?

By a Mayor who is elected by voters. This is how the Council is run now.

OR

By a leader who is an elected councillor chosen by a vote of the other elected councilors. This would be a change from how the Council is run now.

OR

Question 2

How would you like Torbay Council to be run?

By a Mayor who is elected by voters. This is how the Council is run now.

OR

By one or more committees made up of elected councillors. This would be a change from how the Council is run now.

Further Council should determine that the Assistant Director – Corporate and Business Services be authorised to prepare and publicise proposals on the form of governance to be included in the referendum, in accordance with legislation and in consultation with the Mayor and Group Leaders.

Proposed: Councillor Darling

Seconder: Councillor Carter

Appendix 1

TORBAY
COUNCIL

Meeting: Council   **Date: 24 September 2015**

Wards Affected: All

Report Title: Referendum on Future Forms of Governance

Is the decision a key decision? Yes

When does the decision need to be implemented? 1 October 2015

Executive Lead Contact Details: Councillor Andy Lang, Executive Lead for Corporate Services, telephone 01803 612543 and email andy.lang@torbay.gov.uk

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

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1.   Proposal and Introduction

1.1   The Council resolved at its meeting on 23 July 2015 to hold a referendum on the Council's future form of governance and requested the Assistant Director – Corporate and Business Services to undertake a consultation exercise on the different forms of governance. This report provides details of the different forms of governance, their operation elsewhere and the outcome of a consultation exercise to enable the Council to determine next steps and which form of governance will be included in a referendum.

2.   Reason for Proposal

2.1   For the Council to consider the consultation response, to determine whether to go ahead with a referendum on its future form of governance and if so which form of governance will be included in a referendum.

3.   Recommendation(s) / Proposed Decision

3.1   That the Council considers the results of the consultation exercise and, having regard to the outcome of the consultation, confirms whether it wishes to proceed with a referendum on its future form of governance to be held in May 2016;

3.2   That, subject to the decision on 3.1 above, the Council considers the different types of governance, as set out in this report, to determine which question on the form of governance will be included in the referendum, as follows:

Question 1

How would you like Torbay Council to be run?

By a Mayor who is elected by voters. This is how the Council is run now.

OR

By a leader who is an elected councillor chosen by a vote of the other elected councilors. This would be a change from how the Council is run now.

Question 2

How would you like Torbay Council to be run?

By a Mayor who is elected by voters. This is how the Council is run now.

OR

By one or more committees made up of elected councillors. This would be a change from how the Council is run now.

3.3   That, subject to the decision on 3.1 above, the Assistant Director – Corporate and Business Services be authorised to prepare and publicise proposals on the form of governance to be included in the referendum, in accordance with legislation and in consultation with the Mayor and Group Leaders.

4.   Background

4.1   At its meeting on 23 July 2015, the Council resolved the following Notice of Motion:

> 'Whilst recognising that the current mayoral system of governance cannot be changed until 2019, there is a ground swell of opinion that the Council should review its current mayoral system of governance, from both the community and a number of elected members on the Council. The referendum can only specify one alternative system of governance (either a move to a Leader and Cabinet or a move to a Committee system). This motion is presented at an early stage to determine that a referendum should be held and to enable full consultation as to which alternative system should be included in the referendum, with a view to holding a referendum to coincide with the Police and Crime Commissioner Election in 2016. Holding the referendum on the same date as the Police and Crime Commissioner Election will save money and lead to a higher turnout.
>
> Therefore, this Council resolves:
>
> (i)   That the holding of a referendum on the Council's governance
>
> arrangements be approved and that the Council's Returning Officer be requested to seek to combine this with the Police and Crime Commissioner (PCC) elections in 2016. The matter of timings to return to Council for a decision if it is not possible to combine with the PCC election.

(ii)   That the Assistant Director (Corporate and Business Services) undertake a public consultation on the different types of governance, in consultation with the Mayor and Group Leaders, as to the form and content of the consultation.

(iii)   That the Assistant Director (Corporate and Business Services) provides a full report to Council in September 2015 on the different forms of governance, their operation elsewhere and the outcome of the consultation exercise (referred to in (ii) above) to enable the Council to determine which form of governance will be included in the referendum.'

4.2   The Council has operated the Mayoral system of governance since 2005 following a referendum. The total number of "yes" votes in support of the mayoral system was 18,074 (representing 55% of the votes cast) and the total number of "no" votes was 14,682 (representing 45% of the votes cast). The overall voter turnout was 32.1%.

4.3   The first mayoral election was held on 20 0ctober 2005. Following the initial election, the Mayoral term of office is every four years and further elections have been held in 2011 and 2015.

5.   Different Forms of Governance

5.1   The legislation specifies that councils must operate Executive arrangements (either elected Mayor and Cabinet or Leader and Cabinet) or a Committee system or prescribed arrangements in regulations by the Secretary of State. Outlined below are the three main models of governance:

5.1.1   **Directly elected Mayor and Cabinet system.** A directly-elected Mayor is elected by local residents and holds office for four years. The Mayor is in addition to the elected councillors. The Mayor is responsible for making major decisions within the Council's budget and policies which are set by the Council. A cabinet (or executive) of at least two and up to nine councillors, is appointed by the Mayor who may (or may not) delegate decision-making powers. The Cabinet is not required to be politically proportionate. The Mayor is also required to appoint a Deputy Mayor from the Cabinet. Some non-executive functions are reserved for committees (such as Planning or Licensing). The appointment of at least one Overview and Scrutiny Committee is required under this system.

5.1.2   **Leader and Cabinet system.** The Leader is a councillor elected by full Council for a term determined by the Council and leads the Cabinet (or Executive). The Leader (once appointed) has the same powers as an elected Mayor (see above) and is responsible for appointing the Cabinet and delegating decision-making powers to the Cabinet members at his/her discretion. At least two and up to nine councillors can be appointed to the Cabinet and it is not required to be politically proportionate. The Council specifies in its Constitution how the Leader can be removed. Some non-executive functions are reserved for committees (such as Planning or Licensing). The appointment of at least one overview and scrutiny committee is required under this system.

5.1.3 The table below explains the similarities and differences between a Leader and Cabinet model and an Elected Mayor and Cabinet model:

Leader and Cabinet	Elected Mayor and Cabinet
The Leader is an elected councillor chosen by the other elected councillors	The Elected Mayor is elected by local residents
The Leader is elected by the Council for a period of up to four years and can only be removed if there is a vote to do this which is supported by the majority of other councillors	The Elected Mayor holds office for four years and cannot be removed by the Council
There is no additional cost associated with the election of a Leader which would take place at a meeting of the Council	The Elected Mayor is chosen every four years by local residents in a formal election. This would be in addition to the local elections, which would continue to take place.
Each year the Leader and Cabinet present a budget and major policies to the Council. They can be approved by a simple majority. Any changes proposed by the Council also require a simple majority of the Council	Each year the Elected Mayor presents a budget and major policies to the Council. They can be approved by a simple majority but any changes proposed by the Council must have the support of at least two thirds of the Council
The Leader is one of the elected councillors	The Mayor is in addition to the elected councillors

5.1.4 **Committee System.** The Committee system is different from the directly elected Mayor and the Leader and Cabinet systems as no decision making powers are given to any one councillor. All decisions by councillors are made by committees, which comprise councillors from all political groups. The Council appoints the committees and sets their terms of reference. Overview and scrutiny is optional under this model. However, there is a statutory duty on a committee system to scrutinise health, community safety and flood risk management. Three possible frameworks for operating this system are:

1.   All major decisions are made at Council meetings with delegation to service committees representing the departmental structure. There are a number of specific functions that cannot be delegated to a committee or an officer e.g. budget setting. The present 'council function' committees (i.e. licensing, harbours, planning etc) would continue in their present form

2.   All major decisions are made at Council meetings and there are increased delegations to senior officers for all other decisions in consultation with selected councillors depending on the nature and subject of the decision. The present 'council function' committees would remain unchanged.

Page 21

3.   The Council returns to a similar committee system as it operated prior to the requirement in the Local Government Act 2000 for the Council to adopt an executive system of governance. Attached at Appendix 1 is the Committee structure operated by the Council in 2000.

6.   Financial and Legal Implications

6.1   Legislative background and requirements

6.1.1   The Local Government Act 2000 introduced a separation of powers between the Executive and Council in all but the smallest local authorities with the aim of making council decision-making more efficient, transparent and accountable. The Act required most local authorities to change governance arrangements from the committee system to an executive-scrutiny model.

6.1.2   The Localism Act 2011 increased the governance options for local authorities as follows:

- executive arrangements (leader and cabinet or directly elected mayor and cabinet);
- a committee system; or
- prescribed arrangements.

Provision was included in secondary legislation which meant the Council was unable to change its governance arrangements without approval at a referendum. This referendum could not be held for 10 years from the referendum that triggered the adoption of the mayoral system of governance (i.e. after 14 July 2015).

6.1.3   If councils propose their own system of prescribed arrangements this will require the approval of the Secretary of State. At the least any such prescribed arrangements would need to be an improvement on the current arrangements, demonstrate "efficient, transparent and accountable" decision-making, and be appropriate for all other councils to consider adopting. To date, no councils have proposed such arrangements.

7.   Financial implications

7.1   The costs associated with each system are as follows:

7.1.1   **Directly elected Mayor and Cabinet system**. The election for a directly elected Mayor is held in addition to the local councillor elections, although the two elections are held at the same time. The approximate cost of a Mayoral election at a combined election is £80,000 and this is reduced if more than two elections are held on the same day. In addition to the election costs, the law requires the Council to produce a mayoral booklet which is posted to each voter on the electoral register. The cost of the mayoral booklet in the 2015 elections was £34,000 and each mayoral candidate was required to make a £1,000 contribution to appear in the booklet.

The elected Mayor is in addition to the Council's 36 councillors. The Mayor is paid the same basic allowance as councillors (currently £8,167), plus a special

responsibility allowance which is currently £54,446. Under the Mayoral system the Mayor is required to appoint a councillor as Deputy Mayor and the special responsibility allowance for this role is currently £20,227. Secretarial resources are also provided to the Mayor.

Under the current system the elected Mayor has chosen to take his decisions at Council meetings following a recommendation from all councillors. This means that there are approximately 9 Council meetings per year compared to 6 in 2000. He has also set up Policy Development Groups to enable cross party discussion on development of policies and other executive decisions. The cost in officer time supporting this model is approximately £116,900 per annum.

7.1.2 **Leader and Cabinet system.** There are no additional election costs under the Leader and Cabinet system as the leader is elected by the Council from the 36 councillors.

The Leader would be paid a basic allowance as all the other councillors (currently £8,167), plus a special responsibility allowance. Leaders' allowances of other authorities, with whom we benchmark our allowances against, currently range between £13,158 (South Hams District Council) and £31,102 (Plymouth City Council). The Council will determine the level of special responsibility allowance for the Leader (taking account of any recommendations made by the Independent Remuneration Panel) if it changes to a Leader and Cabinet system. Secretarial resources will also be available to the Leader.

Based on the governance arrangements in 2000 and 12 Cabinet meetings the cost in officer time supporting this model is approximately £94,600 per annum.

7.1.3 **Committee system.** There are no additional election costs associated with the Committee system. The main costs relate to implementing and ongoing support for a committee system which are considered to be higher than those incurred in supporting a directly elected Mayor or Leader and Cabinet systems. However, this would depend on the framework of decision-making that the Council adopted if it changed to a Committee system e.g. the number of Committees that would be established and any sub-committees (as outlined in paragraph 5.1.4 above). Implementing the Committee system would require the greatest change to the Council's governance arrangements and would involve increased member and senior officer time in preparing for this system. There could be many more meetings as a result of the committee system which would require more support from officers resulting in higher staffing costs. However, under a committee system there would be no legal requirement for an overview and scrutiny function and therefore savings could follow from this, but there is a statutory duty on a committee system to scrutinise health, community safety and flood risk management.

Based on the governance structure of 2000 but excluding the meetings likely to operate under all models of governance (e.g. Civic Committee, Development Control Committee, Scrutiny Committee) an average of 40 committee meetings were held at a cost of approximately £314,000 per annum and 23 sub-committees at a cost of approximately £111,300 in terms of officer time.

Changes would also be made to members' allowances to align with the additional Chairman/woman roles and responsibilities under a committee system (the role of chairing committees is substantially different from that of a Mayor/Leader or cabinet member). The Chairman of each committee will receive a special responsibility allowance and currently the special responsibility allowance attracted for Chairman of Development Management Committee, which would be comparable to the responsibility required under the Committee system, is £6,742.

7.2   The costs of holding a referendum when combined with the Police and Crime Commissioner Election is estimated at £80,000 based on previous election costs. The Council's Elections reserve provides budgets for elections, but does not include provision for additional costs associated with local referendums. Therefore, the costs associated with holding a governance referendum in 2016 will result in a budget pressure for 2016/17.

7.3   A summary of the approximate costs for the differences between the governance arrangements of each system is set out below:

Cost	Elected Mayor	Leader and Cabinet	Committee
Election and Mayoral Booklet	£114,000	£0	£0
Mayoral Allowance and additional Basic Allowance	£62,613	£0	£0
Deputy Mayor Allowance *	£20,227	£0	£0
Officer Time in Supporting meetings	£16,900	£94,600	£425,300
Leader of the Council Allowance	£0	£31,102	£0
Total	**£213,740**	**£125,702**	**£425,000**

*Note the current Deputy Mayor only takes £15,000 of his allowance.

8.   Trends in other authorities

8.1   The national picture of unitary authorities' governance arrangements is set out below:

Number Unitary Authorities	Elected Mayor	Committee System	Leader and Cabinet
56	5 (9%)	6 (11%)	45 (80)%

8.2   A guide on governance change, 'Rethinking governance – practical steps for councils considering changes to their governance arrangements' published jointly by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) in January 2014, identified nine local authorities that changed governance arrangements to move to a committee system in 2012/2013. An additional seven local authorities adopted hybrid arrangements in the same period without changing from the Leader and Cabinet systems (e.g. adopting cabinet committees which

make recommendations to the Cabinet or policy development groups mapped to cabinet portfolios support executive decision making – see paragraph 8.4 below for more information). Two authorities considered changing their governance arrangements to a committee system but decided not to.

8.3   Most authorities operate the Leader and Cabinet system. In some councils, individual members of the Executive have decision-making powers; in others, decisions are made by the whole Executive. The term of office of leaders vary with some councils electing their leader for a term determined by the Council itself or on a four yearly basis.

8.4   Some councils operate a hybrid approach; typically, this is a hybrid between Leader and Cabinet model and the Committee system (with such an approach usually seen legally as being a modified version of the Leader and Cabinet system, and therefore not requiring a formal change under the Localism Act).

9.   Consultation

9.1   Consultation was carried out between Monday 3 August and Monday 31 August 2015. A survey was published online and paper copies were made available through all libraries across Torbay and the Connections offices. Residents on the Council's Viewpoint Panel were also invited to take part in the survey and four consultation events were held in the 4 weeks the consultation was open across Torbay.

9.2   The purpose of the consultation was to gauge public feedback on whether residents wanted a referendum to take place as well as asking their views on which governance system should be included in the referendum. Therefore the first question residents were asked was 'Do you want to keep the current system (Directly Elected Mayor) without holding a referendum?' and the second question related to preferred options for the governance system. The full consultation report is provided in Appendix 2, with a summary below.

9.3   In total there were 904 responses to the consultation:

   • The majority of respondents (97.1%) to the consultation lived in Torbay.

   • The majority of respondents (74.7%) answered **no** to question 1: Do you want to keep the current system (Directly Elected Mayor) without holding a referendum? Compared with 21.8% who answered **yes**, they wanted to keep the current system.

   • In answer to question 2, just over half of respondents (53.8%) chose Option 2 - Committee System, as their preferred option. Almost a quarter of respondents (23.6%) chose Option 1 - Leader / cabinet System.

   • Respondents were also given the opportunity to feedback any comments they had about the governance systems, themes included how democratic different systems appear, how much the different systems would cost, views specifically

in relation to the Mayoral system and views about how decisions are made. More detail is provided in the consultation report provided in Appendix 2.

9.4 While the results from this consultation exercise must be taken into account in reaching a decision about which alternative system should be included in the referendum, the results from this consultation are not binding for the local authority. The Council must, when taking its decision, take into consideration any other relevant factors which are included within this report.

10. Timeline and next steps

10.1 The Local Government Act 2000 sets out the procedure if a council wishes to consider changing its present arrangements. As set out above, a change in governance arrangements has to be approved in a referendum, the result of which would be binding on the Council and the Council would not be able to resolve to change its governance arrangements again for a further 5 years. An indicative timeframe for the steps required to be taken is set out below:

2015	
24 July 2015	Notice of Motion passed by Council calling for a referendum to decide the future form of governance arrangements and consultation on different forms of governance.
1 to 31 August 2015	Consultation on different forms of governance and the need for a referendum.
31 August 2015 to 14 September 2015	Evaluation of consultation outcomes and prepare report for Council.
24 September 2015	Report outcome of consultation to Council. Council determines whether or not to proceed to a referendum and determines which system of governance it proposes to change to.
Not fewer than 56 days before the date of the referendum	Subject to decision of Council on 24 September 2015, preparation of proposal document to include: • Proposals for the change. • Timetable for the implementation of the proposals. • A statement that the changes in governance arrangements are subject to approval in a referendum.
At least 14 days prior to the notice detailed above	Proposal document made available for inspection by the public and publish in Herald Express a notice which advised that proposals have been drawn up and where they can be inspected.

2016 Election Timetable	Referendum to run in parallel with Police and Crime Commissioner Elections.
5 May 2015	Date of poll/election
Within 28 days of the referendum being held	If the referendum approves a change in governance, a Special Council meeting is convened for Council to pass a resolution to change. If there is a no vote, the vote must be recorded, but the Council cannot change its governance model. A notice must be published in the Herald Express summarising the proposals and stating that the referendum did not approve the proposals, and that the existing model [i.e. Mayor and Cabinet] will continue to operate.
2019	If a yes vote, then the new arrangements are implemented at the end of the term of office of the current Mayor

11.   Risks

11.1   If the Council does not make a decision as to the holding of a referendum and the question to be asked in the same, there is the possibility of a petition being received from the electorate which will determine these issues.

12.1. Alternative Options

12.1   No one option is recommended by officers as it is for the Council to determine how it wishes to proceed. The options are outlined throughout this report which can be summarised as follows:

- • Progress to holding a referendum and prepare proposals for a Leader and Cabinet system of governance; or

- • Progress to holding a referendum and prepare proposals for a Committee system of governance; or

- • Decide not to proceed with a referendum and do nothing, leaving the current Elected Mayor and Cabinet system in place.

Appendices

Appendix 1: Torbay Council Committee Structure 2000
Appendix 2: Consultation results

Background Documents

'Rethinking governance – practical steps for councils considering changes to their

governance arrangements' published jointly by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) -
http://www.local.gov.uk/documents/10180/5854661/Rethinking+governance+-+practical+steps+for+councils+considering+changes+to+their+governance+arrangements/6f1edbeb-dbc7-453f-b8d8-bd7a7cbf3bd3

COMMITTEE STRUCTURE 2000

COUNCIL

BEACON COMMITTEE

SCRUTINY COMMITTEE

HOUSING TRANSFER COMMITTEE

CIVIC COMMITTEE

EDUCATION COMMITTEE

SOCIAL SERVICES COMMITTEE

ENVIRONMENT SERVICES COMMITTEE

POLICY COMMITTEE

STRATEGIC SERVICES COMMITTEE

DEVELOPMENT CONTROL COMMITTEE

CHILDRENS SERVICES COMMITTEE

Grants & Contracts Sub - Committee

Transport Sub-Committee

Harbours Sub - Committee

Area Development Committee (North)

Lifelong Learning Sub- Committee

Consumer Protection Sub - Committee

Area Development Committee (Central)

Area Development Committee (South)

Appeals Sub - Committee

Estates, Sports & Parks Sub - Committee

Working Parties	Task Force Working Parties	Working Parties	Task Force Working Parties	Working Parties	Task Force Working Parties	Working Parties	Task Force Working Parties	Working Parties	Task Force Working Parties

Policy, Performance and Review Team

Mayoral Referendum Consultation Report

August 2015

Method of response	Number of questionnaires
Total on-line	340
Total returned via post	129
Total from Brixham event	27
Total from Paignton library event	27
Total from Torquay event	79
Total from Paignton Asda event	24
Total from library and Connections boxes	278
Total responses	904

This consultation was open between Monday 3rd August and Monday 31st August 2015.

CONTENTS

1. Introduction

The Council intends to hold a referendum in May 2016 on how the Council is run from 2019 onwards. The referendum will ask whether the Council should continue to be run as it is now by a Mayor who is elected by Torbay's voters or by one of two alternatives:

- A Leader and Cabinet System

- A Committee system

While the wording on the ballot paper for a referendum is set by law, the Council wanted to hear from local residents on which alternative option should be included for the referendum. The options are:

Option 1	Option 2
How would you like Torbay Council to be run? By a mayor who is elected by voters. This is how the council is run now. Or By a leader who is an elected councillor chosen by a vote of the other elected councillors. This would be a change from how the council is run now.	How would you like Torbay Council to be run? By a mayor who is elected by voters. This is how the council is run now. Or By one or more committees made up of elected councillors. This would be a change from how the council is run now.

2. Methodology

This consultation was open between Monday 3rd August and Monday 31st August 2015. An on-line survey was published on the Torbay Council website, and paper versions were made available in all four Torbay Libraries and the three Connections Offices.

The survey was also posted or e-mailed to 600 Torbay residents who are members of the Viewpoint Panel.

Four consultation events were held to raise awareness of the survey and answer any of the public's questions regarding a Mayoral referendum. There were three daytime events at Brixham Library, Paignton Library and Torquay's Union Street, as well as one evening event at Paignton Asda.

The consultation, its survey and events, were publicised in the local press and on social media sites.

3. Summary of results

- 675 respondents (74.7%) answered **no** to question 1: Do you want to keep the current system (Directly Elected Mayor) without holding a referendum? Compared with 197 (21.8%) who answered **yes**.

- In answer to question 2, just over half of respondents chose **Option 2** - Committee System, as their preferred option, 486 (53.8). Almost a quarter of respondents chose **Option 1** - Leader / cabinet System at 213 (23.6%).

- The vast majority of respondents 878 (97.1%) **live in Torbay**

- Just over half 477 (52.8%) of respondents **work in Torbay**. 384 (42.5%) ticked no or stated that they were retired.

- Question 5 allowed respondents to make **written comments**. There were 307 comments made. These have been categorised into popular themes for this report. The numbers in brackets within the tables indicate the number of responses in that theme. Individual comments may be classified under more than one theme.

4. Results

1. Do you want to keep the current system (Directly Elected Mayor) without holding a referendum?

	Number	Percent
Yes*	197	21.8%
No	675	74.7%
No response	32	3.5%
Total	**904**	**100%**

*If respondents answered yes to question 1, they were asked to go to question 3.

2. What would be your preferred option for what should be included on a referendum ballot paper?

	Number	Percent
Option 1 - Leader / cabinet System: Voters elect councillors to their ward and a leader would be chosen by the 36 elected councillors, the leader would have the same powers as the Mayor, but can be replaced at any time with another councillor.	213	23.6%
Option 2 - Committee System: Voters elect councillors to their ward. No decision making powers would be given to any one councillor and all decisions would be made at Council or committees or sub committees where Council agrees to this.	486	53.8%
No response	205	22.7%
Total	**904**	**100%**

21 respondents (2.3%) answered yes to question 1, but also answered question 2. Of these respondents, 16 (1.8%) chose option 1 and five (0.6%) chose option 2.

22 respondents (2.4%) answered no to question 1 but did not provide an answer to question 2.

Seven respondents did not provide an answer to both question 1 and question 2.

3. Do you currently live in Torbay?

	Number	Percent
Yes	878	97.1
No	10	1.1
No response	16	1.8
Total	**904**	**100%**

4. Do you work in Torbay?

	Number	Percent
Yes	477	52.8
No*	384	42.5
No response	43	4.8
Total	**904**	**100%**

* 'No' figure includes respondents who indicated they are retired.

4 respondents (0.4%) did not provide an answer to both question 3 and question 4.

5. Are there any further comments you would like to make?

This question allowed respondents to make written comments. These comments have been categorised into popular themes. The numbers in brackets indicate the number of responses in that theme. Individual comments may be classified under more than one theme.

Category	Comments made by respondents
Mayor / Mayoral System (85)	*"Elected Mayor system more democratic as they are voted in by the public."* *"Find the mayoral system confusing for voters."* *"Hundreds of towns and boroughs manage to do without a Mayoral System and they manage extremely well. Torbay doesn't need a Mayor and the money saved from that could be spent where it is really needed in the area."* *"I believe an elected mayor provides greater public accountability."* *"I have not been happy with the elected mayor system, but will option 2 cost more money?"*

	"Mayor brings long term stability. Before we had councillors kicking out their leader every few months so nobody knew who was in charge." *"I think the current system works perfectly well and should not be tampered with just to appease certain members of the council who disagree with some of the decisions made by our Mayor."* *"The committee system will save ratepayers money by reducing red tape and staffing costs by removing the mayor and all of his staff. In these times of financial restriction placed on Local Councils by central government, the money saved will enable more staff to be employed where they are really needed."* *"The existing system is not beyond redemption but if it should be retained it is important that the person holding the office genuinely works for the whole bay, and works with all of his council to deliver programmes following meaningful consultation with the electorate affected."* *"Torbay is too small to have an elected mayor system."*
Decisions (51)	*"A committee system to make the decisions in a fairer way."* *"Committee system - Time Consuming, expensive, decisions take too long to get made."* *"Decisions should be made by multi-party councillors or similar so that there is a broader view over decisions made where all people in the bay are considered."* *"Ultimately there needs to be a decision maker. In my experience committees do not make quick decisions and procrastinate. Committees also suffer from group think. Committees are good for fact finding and putting forward suggested ways forward, but ultimately an elected person needs to make a decision, based on the best interests of the bay, now and in the future. That person is accountable and can be elected out."* *"The previous system failed Torbay because political infighting interfered with the decision making process"* *"Any contentious decisions, ideas made public before it becomes a fait accompli."* *"Decisions should not be taken on council affairs by any one person. All council decisions should be taken by elected councillors put in place by Torbay residents."* *"Hadn't realised the amount of power the Mayor has to make decisions. Committee system would be fairer."* *"……I would not trust councillors collectively making a decision (they would never agree and nothing would get done) and I certainly wouldn't trust the councillors deciding who the leader should be….."*

6

	"I believe that a committee system, with NO leader to be the most democratic way to run the council. That way everything will be decided on a majority basis with no-one having a decisive or casting vote."
Other (39)	*"A simple yes or no to an elected mayor would seem simpler."* *"Option 2 is untried and without further information on how it would be envisaged to work, it is not possible to determine who would ultimately take charge. Rather reminds me of the concept of designing a camel by committee!"* *"I do not work because I am retired."* *"Vote by local's system only"* *"Council is a multi-million pound business, needs to be run by people who have the expertise - with forward thinking ideas."* *"Hold election along with referendum"* *"I do not understand the full implications of options 1 and 2"* *"If a referendum is to be held, my preferred option is for option 1 - leader/cabinet system."*
Cost / Finances / Savings (36)	*"Are there many financial benefits to the local council tax payer? Can money be saved using a system without an elected Mayor?"* *"Debate also needs to consider what Torbay Council will look like by 2019 given £33m cuts. Also consideration should be given to the number of councillors needed in a modern world."* *"I do not believe one person should be able to make major decisions which affect so many residents' lives and also waste valuable funding."* *"I think the Mayoral system has been a very expensive mistake and I believe voters have been apathetic and not interested in voting in a Mayor. I wonder how much a Mayor, his office and staff have cost us?"* *"The cheapest option would probably make sense."* *"While I was never in favour of having a directly elected Mayor, I'm prepared to put up with the current system simply to avoid ANOTHER referendum. They are so costly for an already cash strapped Local Authority."* *"I presume any leader would not get paid a Mayoral salary."*
Councillors (35)	*"All Councillors should be independent and party politics should play no part in local government"* *"Bring back the civic Mayor. We need younger councillors, too many over 65 councillors on Torbay Council. We need Councillors who work and live in the real world!!!"*

	"Decisions should not be taken on council affairs by any one person. All council decisions should be taken by elected councillors put in place by Torbay residents". *"No need to waste funds on voting for a mayor, then being stuck with him/her for a set time. Much better to discuss in groups/committees and have full council voting, so more councillors can be properly involved."* *"Councillors used to chop and change leader all the time in the past so we never moved forward under strong leadership. I prefer the public deciding who should lead them not a few people secretly doing it behind closed doors."* *"Reduce the number of councillors by 50% allowing those left to do a more productive job."* *"Option 1 only perpetuates the current system and furthermore it takes the power of electing the mayor out of the hands of the public and gives it to councillors."*
Power (27)	*"An "all powerful" Mayor) or like person can be manipulated by an individual resident for personal gain - as has happened against the opposition of other residents, causing resentment. Such a powerful individual may make decisions against Council Policy. How are they held to account?"* *"I think under the current system the mayor has too much power and of course is the cost of his/her post public purse, and maybe some things pushed through would seem a bit odd to say the least. The public should be more involved in what is best for Torbay not just a few people who think they know best. Conflict of interest comes to mind."* *"The council needs a leader with powers who can make decisions otherwise we will return to the past where nothing is done as the civil servants clog everything up in eternal surveys and the only thing that goes up is their salaries………."* *"I think that the reason for introducing a Mayoral System has been overlooked. That reason was to move on from the constant inter-party bickering and lack of action from the previous system. Better to have a Mayor with decision making powers."* *"Mayor system of one man holding all the power is totally wrong, democracy is dead in the bay while this system is in operation."*
Democratic (23)	*"Committee system more democratic & responsive. More responsive to rapidly changing Torbay demography, with better ethnicity and culture, less sudden shocks & changes of direction makes less conflict, better cross party relations, agreement before hitting press."*

	"Decisions adopted on behalf of voters should not be capable of being taken up by one person's opinion only, this is not democratic. Important decisions should only be made by appointed committees, this should lead to a better chance of correct decisions being made & by a group of dedicated local people, living in the bay, and who should be aware of the facts first hand."
	"In my opinion, Option 1 is too similar to the current system. Option 2 provides a clearer alternative which, I feel, is also more democratic in its processes."
	"I believe in a greater democratic system than we now have"
Unitary (20)	*"Have a referendum on abolishing Torbay unitary status, go back to Devon County Council. Abolish Torbay unitary in the referendum in May 2016"*
	"As a unitary authority Torbay is too small to attract the necessary calibre in staff and councillors, it should unite with Devon. It is the worst authority I have ever worked or lived in!"
	"Torbay is too small to be a successful Unitary Authority. The Local Government reorganisation of 1976 resulted in Torquay having a disproportionate influence on the social, cultural, economic activities of Torbay. Torbay Councillors do not have the skills or integrity to ensure equal distribution of resources throughout all sections of the Borough. Far better for Torbay to be subsumed into Devon County Council and so avoid some of the inequalities and duplication of functions that hinder the development and prosperity of Torbay area."
	"We should give up unitary status as we are too small an area to govern ourselves and it has been disastrous for the area. Residents were dissatisfied with the way the council was run after becoming unitary so the elected mayoral system was brought in, it has also proved disastrous so we should now reunite with Devon County Council."
Listen to the people of Torbay (17)	*"I feel very strongly a lot of decisions are made personally at present - without a listening ear to either fellow councillors or their electorate. The other system could be more advantageous. Thank you for this opportunity to voice my opinion."*
	"The committee system would only work well if councillors didn't waste time on irrelevant discussion or get caught up in political arguments. Concentrating on genuine debates that lead to well thought out decisions actually being made and truly representing voters interests will be key. Good luck!!"
	"The existing system is not beyond redemption but if it should be retained it is important that the person holding the office genuinely works for the whole bay, and works with all of his council to deliver programmes following meaningful consultation with the electorate affected."

This Consultation (17)	*"I am disappointed how little publicity has been given to this on line consultation - it does suggest the council have a hidden agenda already. Let's hope enough people see it"* *"Why can't we choose between mayor, leader and committee systems?"* *"You have forced me to vote yes to question one when, in fact, I would like a referendum in which I would vote in favour of keeping the current system. Your questionnaire is clearly flawed"*
Change (15)	*"Changing the system will not give us stronger candidates. We have had behind closed door council decisions and didn't like it so moved to a Mayor, We didn't like the politicising and perceived lack of accountability that that brought and now we seek to change it all again"* *"I feel that if we revert to option 2 it will be a retrograde step."* *"We need to change the system urgently!"*
Figurehead / leadership (13)	*"A Mayor is directly elected by the people, I prefer this method because a leader can be a favourite of the councillors. Having a Head is important for discussion making."* *"It seems obvious that a leader elected by the councillors themselves would co-operate better"*
Brixham (12)	*"I would like to see Brixham under the control of Brixham Council, with Torbay Council having no authority over Brixham."* *"Brixham Council should be included in ballot - whether they stay or go."*
Accountability (10)	*"I believe an elected mayor provides greater public accountability."* *"I feel Torbay Council lacks credibility, transparency and clarity. Decisions by the few effect Torbay and Torbay needs to be brave, develop and grow. Torbay needs decent jobs to attract people of working age. Torbay Council needs to modernise and be fully accountable for its actions."*

5. Conclusion

Most respondents do not want to keep the current system of a Directly Elected Mayor

Option 2 – Committee System is the preferred option to be included on a referendum ballot paper by the majority of respondents.

For further information please contact the Policy Performance and Review team on 01803 207227 or email consultation@torbay.gov.uk

The information used to collate this report has been collected and processed in accordance with the Data Protection Act, 1998.

Referendum on Future Forms of Governance – Revisions to original officer report

Council 24 September 2015

7.3 A summary of the approximate costs for the differences between the governance arrangements of each system is set out below:

Cost	Elected Mayor	Leader and Cabinet	Committee**
Election and Mayoral Booklet	£28,500 (pro rata) (4 yearly cost totals £114,000)	£0	£0
Mayoral Allowance and additional Basic Allowance	£62,613	£0	£0
Deputy Mayor Allowance *	£20,227	£0	£0
Officer Time in Supporting meetings	£116,900 (based on current system including Policy Development Groups)	£94,600 (based on 12 Cabinet meetings per year)	£425,300 (based on 40 committee and 23 sub-committee meetings per year)
Leader of the Council Allowance	£0	£31,102 (based on Plymouth City Council as a unitary authority)	£0
Secretarial Support (x 2 officers)	£43,960 (including on costs e.g. pensions)	£43,960	£0
Total	**£272,200**	**£169,662**	**£425,300**

*Note 1 the current Deputy Mayor only takes £15,000 of his allowance.

** Note 2 based on the committee structure operated in 2000 save those Committees which would remain in existence under all three systems e.g. Planning Committee and two timed/project specific Committees namely Beacon Committee and Housing Transfer Committee.

TORBAY
COUNCIL

Meeting: Council Meeting   **Date:** 22 October 2015

Wards Affected: All

Report Title: Transfer of PLUSS to a Community Interest Company

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Councillor Julien Parrott, Executive Lead for Adults and Children, julien.parrott@torbay.gov.ukl

Supporting Officer Contact Details: Caroline Taylor, Director of Adult Services, caroline.taylor @torbay.gov.uk

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1. Proposal and Introduction

1.1 Approval is sought from the Council to relinquish its ownership of PLUSS to allow PLUSS to convert to a Community Interest Company (CIC).

1.2 Subject to the other three local authority owners approving a report in the same terms as this report.

2. Reason for Proposal

2.1 Members will recall receiving a report at the 5th December 2013 meeting of Council at which it was agreed to dispose of PLUSS to Turning Point on the terms as outlined in the report. The transaction with Turning Point did not proceed as Turning Point withdrew from negotiations in February 2014. Since that time there has been further discussions with the Board of PLUSS (which contains directors appointed by the local authority owners) about its future and this report seeks to update members on the current position and asks for approval for the Council to relinquish ownership of PLUSS so that it may become a Community Interest Company.

2.2 The decision to relinquish ownership of PLUSS is dependent on the other three local authority owners also agreeing and reports will be taken to the respective decision making forums of Plymouth, Somerset and Devon Councils during October 2015.

2.3 Prior to August 2005, Devon, Plymouth and Torbay Councils provided a range of employment and training programmes for people with disabilities and operated an equipment store. Known as the Industrial Services Group (ISG) this service was overseen by a Joint Social Services Committee but the management of the service was unwieldy. Following a review it was concluded that there was a need for change to ensure that the service could be delivered in a more cohesive and efficient manner.

2.4   The upshot of the review process was that in August 2005, Devon, Plymouth and Torbay Councils formed PLUSS, a local authority controlled company, limited by guarantee. PLUSS effectively took over what had hitherto been undertaken by ISG. It delivered services to the three member Councils through a series of service contracts as well as providing services to other external organisations, including the Department for Work and Pensions (DWP).

2.5   In June 2006, Somerset County Council transferred like services to PLUSS and became a member alongside the three existing member authorities.

2.6   PLUSS has since established itself as one of the leading organisations of its type in the country. Over the years the value of its contracts with the four local authorities has reduced such that it no longer carries out the bulk of its work for the four member Councils. It does, however, have a number of significant contracts with other public sector bodies.

3.   Recommendation(s) / Proposed Decision

3.1   That the Council relinquishes its ownership of PLUSS to enable PLUSS to convert to a Community Interest Company;

3.2   That Council notes that its approval in 3.1 above is subject to the other three local authority owners approving a report in the same terms as this submitted report; and

3.3   That the Assistant Director of Corporate and Business Services be authorised to sign all documents necessary in order to facilitate the process of the Council relinquishing its ownership of PLUSS and PLUSS converting to a Community Interest Company.

Appendices

Appendix 1: Report laying out the reason for the proposal and background
Appendix 2: Equality Impact Assessment
Appendix 3: Financial Information Exempt

Background Documents

None

22nd October 2015

Joint Report of the Assistant Director - Corporate and Business Services (Solicitor and Monitoring Officer) and the Section 151 Officer

> *Please note that the following recommendations are subject to consideration and determination by the other Local Authority Owners (Devon County Council, Plymouth City Council and Somerset County Council) before taking effect.*

Recommendation*:* that Council:-

a) gives approval to the Council relinquishing its ownership of PLUSS and PLUSS converting to a Community Interest Company as more particularly outlined in this report;
b) notes that its approval is subject to the other three local authority owners approving a report in the same terms as this report; and
c) authorises the Council's Solicitor to sign all documents necessary in order to facilitate the process of the Council relinquishing its ownership of PLUSS and PLUSS converting to a Community Interest Company.

1. Introduction

1.1 Council members will recall receiving a report at the 5th December 2013 meeting at which it was agreed to dispose of PLUSS to Turning Point on the terms as outlined in that report. In the event, the transaction with Turning Point did not proceed as Turning Point withdrew from negotiations in February 2014. Since that time there has been further discussions with the Board of PLUSS (which contains directors appointed by the local authority owners) about its future and this report seeks to update members on the current position and asks for approval for the Council to relinquish ownership of PLUSS so that it may become a Community Interest Company.

1.2 The decision to relinquish ownership of PLUSS is dependant on the other three local authority owners also agreeing and reports will be taken to the respective decision making forums of Plymouth, Somerset and Devon Councils during October 2015.

2. Background

2.1 Before explaining the current proposal it may be helpful to repeat a little of the history of PLUSS in order to set the situation in context. Prior to August 2005, Devon, Plymouth and Torbay Councils provided a range of employment and training programmes for people with disabilities and operated an equipment store. Known as the Industrial Services Group (ISG) this service was overseen by a Joint Social Services Committee but the management of the service was unwieldy. Following a review it was concluded that there was a need for change to ensure that the service could be delivered in a more cohesive and efficient manner.

2.2 The upshot of the review process was that in August 2005, Devon, Plymouth and Torbay Councils formed PLUSS, a local authority controlled company, limited by guarantee. PLUSS effectively took over what had hitherto been undertaken by ISG. It delivered services to the three member Councils through a series of service contracts as well as providing services to other external organisations, including the Department for Work and Pensions (DWP).

2.3 In June 2006, Somerset County Council transferred like services to PLUSS and became a member alongside the three existing member authorities.

2.4 PLUSS has since established itself as one of the leading organisations of its type in the country. Over the years the value of its contracts with the four local authorities has reduced such that it no longer carries out the bulk of its work for the four member Councils. It does, however, have a number of significant contracts with other public sector bodies.

3. Developments post November 2013

3.1 When PLUSS initially mooted the idea of becoming independent, soundings from within the four member Councils elicited a favourable response, although there was a concern to ensure that any transfer of ownership should be to new owners driven by a sound social purpose thereby enabling the continuation of services of value to local communities.

3.2 This led PLUSS to exploring which organisations would best meet its long term needs and aspirations whilst keeping in mind the concerns expressed by the owners. Turning Point emerged as the best suited, primarily because their core values and vision aligned with those of PLUSS, although in the event Turning Point subsequently withdrew.

4. Post Turning Point developments

4.1 Since the withdrawal of Turning Point there has been regular contact between the Council's representatives being four senior finance officers and the PLUSS Board. The role of the finance officers is to act as a conduit between PLUSS and its owners, deal with any issues that may arise for the owners in relation to PLUSS' activities and ensure by such communication that the interests of the Councils, as owners, are protected.

4.2 The continuing view of both sides is that it would be better for the long term for PLUSS to become independent of the four Councils. The means to achieve this has been discussed between the representatives of both parties and at a meeting held in December 2014 (which involved the local authority appointed directors) the following options were considered. PLUSS was asked to develop the proposal at option 5, whilst the owners would give more consideration to each option:-

- Option 1 – the Councils as owners market PLUSS;
- Option 2 – PLUSS identifies a number of suitable interested parties for the owners to consider;
- Option 3 – the Councils as owners identify one or more parties interested in acquiring PLUSS;
- Option 4 – PLUSS identifies an appropriate organisation; or
- Option 5 – PLUSS moves directly to become an independent entity.

4.3 After further discussion it was agreed that option 5 represented the best of the options and this option is dealt with in more detail in section 5 below.

5. Community Interest Company (CIC)

5.1 The proposal is for PLUSS to convert from its existing legal status as a company limited by guarantee and owned by the four member Councils to a CIC limited by guarantee, based on what is termed a "foundation" structure. The "foundation" structure involves the board of directors being the only members of the company and so membership of the company derives solely from directorship.

5.2 The main benefits/implications of CIC status are summarised below:-

- The conversion to a CIC is a relatively straightforward process that could be achieved in a much shorter timescale than the other options;

- Enhanced external credentials as a social enterprise and a clearer community interest "badge". CICs need to be able to demonstrate that their objectives and activities are for the benefit of the community. This, of course, aligns with and would answer the concerns referred to in section 3.1;
- The assets of the CIC would be asset locked. This means that where assets are sold at full market value the funds raised must go into the CIC. Alternatively, any assets sold at below market value could only be transferred to other bodies that operate with an asset lock;
- CICs are regulated and albeit that the regulatory regime is fairly light touch the Regulator has powers to intervene if there has been a complaint about the operation of the CIC.
- Funders and other stakeholders are likely to be reassured by the fact that a CIC is subject to greater regulation/scrutiny and operates within an asset lock;
- Remuneration for Directors must never be more than what is reasonable and should be transparent. The Regulator may take action if a Directors remuneration appears too high;
- The primary purpose of a CIC is to provide benefits to the community, rather than the individuals who own, run or work for it. Thus there is limited scope for the funds of the CIC to be used for employee benefits.

5.3   The owner representatives are of the view that the option to convert to a CIC is preferable because it will ensure that the community based ethos of PLUSS will be maintained and protected whilst achieving the objective favoured by both owners and PLUSS of independence for the Company.

6.   **Financial and Commercial Issues**

6.1   The conversion of PLUSS into a CIC would not result in the four member Councils obtaining a financial receipt. The last exercise involving the sale of PLUSS would have involved a small cash sum shared across the four members. Given the nature of PLUSS as a local authority controlled company limited by guarantee the owner representatives are of the view that seeking to obtain value for the company is not a key requirement and would be in keeping with the current Memorandum of Association of PLUSS. Rather it is more important to enable the company to pursue independence with a clear community focus whilst at the same time relieving the owners from certain liabilities.

6.2   A valuation of the company has been prepared but is reported as a Part 2 item given its commercial sensitivity. It should, however, be remembered that a company having a certain book value is one thing but actually obtaining a buyer willing to pay that price can be difficult to achieve. Further, seeking out those interested in acquiring ownership of the Company would require a high level of resourcing and be both time consuming and costly.

6.3   PLUSS is no longer a member of the Devon LGPS and, therefore, there are no longer any issues regarding the owners' liability to the pension fund as there were when Turning Point was considering acquiring the Company. In terms of other potential liabilities the owner representatives have made it clear to PLUSS that it would be a pre-requisite of any conversion to a CIC that the owners would no longer act as guarantors in respect of the PLUSS overdraft facility of £650,000. In addition PLUSS has agreed to repay the existing loans provided by the owners at the inception of PLUSS. For Torbay this will secure a repayment of £115,500 and will relieve it of a potential liability of up to £200k in respect of the bank guarantee.

6.4   PLUSS currently occupies one of the Devon County Council's properties and this will continue to be leased on market terms. Existing contracts with PLUSS will continue although in due course such contracts will need to be re-procured. Staff employed by PLUSS would continue to be employed by the Company with its CIC status.

7.   **Legal Considerations**

7.1   If the owners approve this proposal and PLUSS proceeds to convert to a CIC, it would mean that the four local authority members of PLUSS (i.e. the four owners) would resign their

membership and the four owner appointed directors would likewise resign their directorship. PLUSS would continue as a company but would be classified as a CIC and be under the ownership of the new members, with new directors appointed under revised articles of association for the company.

7.2   The local authorities as current owners have been involved in reviewing and approving the CIC statement which is a pre-requisite for obtaining CIC status and also the proposed new articles which have been drafted to reflect the proposed revised membership and board structure as well as the specific CIC legal requirements such as asset lock provisions. An asset lock means that the assets of the company are locked in permanently for the community benefit purposes for which the CIC is established and the asset value cannot be turned over to private gain.

7.3   PLUSS was established as a not for profit company and as such when it was set up it is unlikely that the owners anticipated securing a value for the company in the event of a future disposal. Owner representatives have expressed the view that maintaining a social purpose which enhances community benefit is very important and, as indicated above, believe that it would not be appropriate in the circumstances and the way in which PLUSS is established to seek to obtain some value from the company.

7.4   Clearly, local authorities have a general fiduciary duty in relation to their assets but taking into account general powers of competence under the Localism Act 2011 that does not necessarily mean that the owners have to seek to obtain value.

7.5   State Aid is unlikely to be an issue because the proposed transaction does not inject any more support for PLUSS than currently exists. In fact the proposed transaction would lead to less support being provided by the four owners as the bank guarantees would cease and the current loans would be re-paid.

8.   Equality Issues

An equality impact assessment has been prepared on behalf of the four member Councils and is attached at Appendix 1.

9.   Conclusions

9.1   The creation of PLUSS as a local authority controlled company in 2005 was the right move at that time. Since then with social, political and economic change the need to re-evaluate PLUSS and its future led to the conclusion that the future for PLUSS was more likely to be secured if it moved away from being a local authority company.

9.2   The option proposed by the PLUSS Board represents the best and quickest way forward of allowing PLUSS to become independent of local authority control, with the added advantage to the owners of the release of their present liabilities to the Company. In summary what is being proposed now represents a good opportunity to secure the long term viability of PLUSS, without prejudicing its aims and ethos. From the Councils perspective the liability and risk is removed.

9.3   Accordingly, the proposal for PLUSS to convert to a CIC is being recommended. Assuming everything proceeds smoothly, in particular, that there are no problems with PLUSS' application for CIC status it is anticipated that the formal change in ownership could be effected by the end of this year.

Martin Phillips   Anne-Marie Bond
Section 151 Officer   Solicitor and Monitoring Officer

Electoral Divisions: All

Local Government Act 1972: List of Background Papers

Contact for Enquiries: Lisa Finn
Tel No: 01803 208283

EQUALITY IMPACT ASSESSMENT

Conversion of the Pluss Organisation to a Community Interest Company (CIC)

STAGE 1: What is being assessed and by whom?	
What is being assessed - including a brief description of aims and objectives?	The Pluss Organisation ('the Organisation') is a Local Authority Controlled Company limited by guarantee. Its membership comprises Devon County Council, Torbay Council, Somerset Council and Plymouth City Council. It was set up on 1st August 2005 as a result of the transfer by Devon, Torbay and Plymouth Councils of their respective Industrial Services Group operations to the Organisation. Somerset Council transferred its Industrial Services operations in June 2006 and became a member of the Organisation at this time.
	The Organisation exists for the main purpose of providing services, facilities and premises enabling disabled and other disadvantaged persons to obtain sheltered employment, and other employment opportunities in the community. A significant number of people with disabilities and others facing varying degrees of disadvantage are employed within the Organisation including its manufacturing operations. The member Councils are currently in separate contracts with Pluss for the provision of Supported Employment services and Community Equipment services. The Organisation also provides services to external organisations, including the DWP.
	The Organisation wishes to convert from a company limited by guarantee owned by the four member Councils to a Community Interest Company with ownership and a governance structure to be determined by the Organisation with the member Councils relinquishing their ownership and interest in the Organisation. Operation as a CIC would ensure the Organisation would retain its ethos of benefitting the community as CICs' are set up and regulated for that purpose. The conversion would also protect the future benefit to the community by way of the requirement for an asset lock which ensures the assets of the Organisation are permanently devoted to the overarching social and community objectives of the CiC.. This reduces the risk of the Organisation being converted to a private sector for profit enterprise in the future. CIC status for the Organisation should also provide reassurance to third parties dealing with the organisation, particularly funders, which should enhance the prospects for the Company for securing loan finance which

STAGE 1: What is being assessed and by whom?	
	could enable the company to expand/diversify its operations for the benefit of the community. The member Councils support the proposal which will also mean the Organisation is able to operate independently from the councils. The current employment of the workforce would be unaffected by the proposal as the Organisation is merely adopting an alternative governance structure. It is not anticipated that service users will be adversely affected by the proposal as the current services will be continue to be provided to the community for the benefit of disabled people both as service users and employees.
Responsible Officer	Anne-Marie Bond
Department and Service	Legal Services
Date of Assessment	

STAGE 2: Evidence and Impact				
Protected Characteristics (Equality Act)	Evidence and information (e.g. data and feedback)	Any adverse impact?	Actions	Timescale and who is responsible?
Age	The average age of the employees of the Organisation is 44.84 for females and 45 .53 for males	No. The services currently provided by the Organisation would continue to be provided within the same locality and from the same premises and consequently there are no adverse implications in respect of Transport or access to the workplace for employees and no	Monitor the employee consultation by the Company on the proposal to convert to a CIC	All member Councils

STAGE 2: Evidence and Impact				
Protected Characteristics (Equality Act)	**Evidence and information (e.g. data and feedback)**	**Any adverse impact?**	**Actions**	**Timescale and who is responsible?**
		implications for service users on service accessibility. There would be no differential impact on persons within this characteristic.		
Disability	Many of the Organisation's employees are disabled or disadvantaged. Of the Organisation's 656 employees 308 are disabled. Divided into disability groups, numbers are; Mobility/Dexterity Restrictions – 183 Hearing and/or Speech Impairment - 31 Learning Disability – 36 Mental Health disability – 44 Visual Impairment - 14	No. The services currently provided by the organisation would continue to be provided within the same locality and from the same premises. Consequently there are no implications in respect of Transport or access to the workplace for employees and no implications for service users on service accessibility. There would be no differential impact on persons within this characteristic.	None	N/A
Faith, Religion or Belief	Out of 656 employees, 485 did not respond to	No. The services provided by the Organisation would	None	N/A

STAGE 2: Evidence and Impact				
Protected Characteristics (Equality Act)	**Evidence and information (e.g. data and feedback)**	**Any adverse impact?**	**Actions**	**Timescale and who is responsible?**
	the Organisation's request for information and 72 respondees practiced no religion. Of the remainder and divided into groups, numbers are; Buddism – 1 Christianity – 91 Hinduism – 1 Islam – 1 Sikhism – 1 Wicca – 1 Other - 3	continue to be provided and made available to persons irrespective of their Faith, Religion or Belief. There would be no differential impact on persons within this characteristic.		
Gender - including marriage, pregnancy and maternity	Of the 656 employees, 256 are female and 399are male. 7 employees are presently on maternity leave	No. The services currently provided by the organisation would continue to be provided within the same locality and from the same premises. Consequently there are no implications in respect of Transport or access to the workplace for employees and no implications for service users on service accessibility.	None	N/A

STAGE 2: Evidence and Impact				
Protected Characteristics (Equality Act)	**Evidence and information (e.g. data and feedback)**	**Any adverse impact?**	**Actions**	**Timescale and who is responsible?**
		There would be no differential impact on persons within this characteristic.		
Gender Reassignment	No information held by the Organisation.	No. The services provided by the Organisation would continue to be provided and made available to persons irrespective of whether they have undergone or are undergoing Gender Reassignment. There would be no differential impact on persons within this characteristic.	None	N/A
Race	Of the 656 employees, 521 are White British and 106 did not respond to the Organisation's request for information. Remaining Group Numbers are; Asian or Asian British – Indian – 4 Asian or Asian British – Pakistani – 1	No. The services provided by the Organisation would continue to be provided and made available to persons irrespective of their Race or ethnic background There would be no differential impact on persons within this characteristic.	None	N/A

STAGE 2: Evidence and Impact				
Protected Characteristics (Equality Act)	**Evidence and information (e.g. data and feedback)**	**Any adverse impact?**	**Actions**	**Timescale and who is responsible?**
	Asian or Asian British – Other – 1 Black or Black British – African – 2 Black or Black British – Caribbean – 1 Chinese – 2 Mixed – White and Asian – 2 Mixed – White and Black African – 1 Mixed – White and Black Caribbean – 1 White Irish – 3 White – Other - 11			
Sexual Orientation -including Civil Partnership	No information held by the Organisation.	No. The services provided by the Organisation would continue to be provided and made available to persons irrespective of their Sexual Orientation. There would be no differential	None	N/A

STAGE 2: Evidence and Impact				
Protected Characteristics (Equality Act)	**Evidence and information (e.g. data and feedback)**	**Any adverse impact?**	**Actions**	**Timescale and who is responsible?**
		impact on persons within this characteristic.		

STAGE 3: Are there any implications for the following? If so, please record 'Actions' to be taken		
Local Priorities	**Implications**	**Timescale and who is responsible?**
Reduce the inequality gap, particularly in health between communities.	The actions identified above will not have a negative impact on staff. No adverse impact on reducing the inequality gap has been identified, as staff and service users will still be employed and have access to the full range of services available and receive appropriate support. This enables individuals affected to continue to work and promotes social inclusion. The proposal will ensure that an essential service is maintained for disabled people both as service users and employees.	No actions required.
Good relations between different communities (community cohesion).	No adverse impact on community cohesion has been identified, as for staff and service users affected, this will continue to help break down barriers and build community cohesion with the	No actions required.

STAGE 3: Are there any implications for the following? If so, please record 'Actions' to be taken		
Local Priorities	**Implications**	**Timescale and who is responsible?**
	wider community.	
Human Rights	This service recognises Article 14 of Human Rights Act – The right to receive Equal Treatment and prohibits discrimination including sex, race, religion and economic and social status in conjunction with the Equality Act which includes age and disability. All staff and service users will be treated fairly and that their human rights will be respected. No adverse impact on human rights has been identified.	No actions required.

STAGE 4: Publication			
Director, Assistant Director/Head of Service approving EIA.		Date	

TORBAY
COUNCIL

Meeting: Council **Date:** 22 October 2015

Wards Affected: All Wards in Torbay

Report Title: Treasury Management Mid-Year Review 2015/16

Is the decision a key decision? No

Executive Lead Contact Details: Mayor Gordon Oliver, 01803 207001, gordon.oliver@torbay.gov.uk

Supporting Officer Contact Details: Pete Truman, Principal Accountant, 01803 207302, pete.truman@torbay.gov.uk

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1. Proposal and Introduction

1.1 This report provides a mid-year review of Treasury Management activities during the first part of 2015/16. The Treasury function aims to support the provision of all Council services through management of the Council's cash flow and debt & investment operations.

1.2 The key points in the Treasury Management review are as follows:

- Bank Rate not forecast to rise until 2016
- Investment portfolio remains exposed to limited opportunities in terms of rates and suitable counterparties
- The Council's return on investments out-performs the market and Local Authority benchmarks
- No economic opportunities to reduce levels of borrowing
- Treasury Management activities are expected to generate a net Revenue Budget saving of £200k in 2015/16.
- An evaluation of alternative investments has resulted in limited opportunity and Member appetite to diversify into higher risk instruments.

2. Reason for Proposal

2.1 The preparation of a mid year review on the performance of the treasury management function forms part of the minimum formal reporting arrangements required by the CIPFA Code of Practice for Treasury Management.

2.2 Audit Committee, at its meeting in January 2015, instructed officers to evaluate opportunities to diversify the investment portfolio into higher risk/higher yield instruments. The analysis at Appendix 3 was presented to the Committee on 23 September and their view is incorporated into the recommendations.

3.   Recommendations of the Audit Committee

3.1   that the Treasury Management decisions made during 2015/16 the first part of 2015/16 as detailed in the submitted report be noted;

3.2   that the Prudential and Treasury Indicators as set out in Appendix 2 of the submitted report be noted; and

3.3   that the Council be recommended to vary the Annual Investment Strategy to allow diversification of the investment portfolio into higher risk investments, initially on an experimental basis, and approve investment in a combination of two or three of the following instruments;

- peer to peer lending – with overall investment of £100,000; maximum individual loan amount of £1,000; maximum loan term of three years; and a maximum credit rating "B";
- The Local Authorities Property Fund.

4.   Background Information

4.1   The Treasury Management Strategy for 2015/16 was approved by Council on 5th February 2015.

4.2   The Council defines its treasury management activities as:

"The management of the authority's investments and cash flows, it's banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks".

4.3   The Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (revised November 2009) was adopted by the Council on 25th March 2010.

4.4   This mid year review has been prepared in compliance with the CIPFA Code of Practice and covers the following in Appendix 1 to this report:

- Interest Rate update;
- Review of the Council's Borrowing strategy;
- Review of the Council Investments 2015/16;
- Revenue Budget Performance
- Compliance with Prudential Limits for 2015/16.
- Alternative Investments

5.   Interest Rate Update

5.1   As forecast, interest rates have remained at historically low levels.

5.2   Despite concerns of rising earnings the Monetary Policy Committee have recently voted to maintain the Bank rate at 0.5% by eight votes to one. Any rise in Bank Rate is not expected until 2016.

Page 59

5.3   The current view on interest rates (as at August 2015) of the Council's advisors, Capita Asset Services, is shown below:

	Now	Sep-15	Dec-15	Mar-16	June-16	Sep-16	Dec-16
BANK RATE	0.50	0.50	0.50	0.50	0.75	0.75	1.00
5yr PWLB	2.19	2.30	2.40	2.50	2.60	2.80	2.90
10yr PWLB	2.77	2.90	3.00	3.20	3.30	3.40	3.50
25yr PWLB	3.31	3.40	3.60	3.80	3.90	4.00	4.10
50yr PWLB	3.17	3.40	3.60	3.80	3.90	4.00	4.10

6.   Borrowing Portfolio 2015/16

6.1   The current and expected levels of borrowing rates provide no economic opportunity to make any early repayment of borrowing in line with the preferred strategy

6.2   No new borrowing is anticipated in 2015/16.

7.   Investments Portfolio 2015/16

7.1   The portfolio includes a number of one to two year duration deposits with the part-nationalised banks.

7.2   Going forward, officers are conscious that the new government is likely to step up the divestment of Lloyds Bank and accordingly have recently re-classified the Bank to a higher risk level within the counterparty policy. Existing exposure in the Bank will be unwound naturally as deposits mature to comply with the associated lower investment limits.

7.3   This re-classification will add significant additional pressure on the investment portfolio both in terms of available counterparties and the lower level of returns available.

7.4   Greater use has been made of AAA rated Money Market Funds to gain a slight improvement on return of liquidity monies.

7.5   In considering the Treasury Management Strategy for 2015/16 the Audit Committee requested Officers to evaluate and report on the impact of diversifying into new higher risk investment instruments. A number of options were presented at a Members event on 7th September 2015. A discussion paper is provided at Appendix 3 to this report.

7.5.1   Subsequent to the Audit Committee meeting of 23rd September 2015, Capita Asset Services has expressed some concerns in regard to a Multi Asset Fund meeting the Council's investment criteria and consequently officers have withdrawn this investment option for the time being.

7.5.2   The s151 Officer has existing authority to invest in the Local Authorities' Property Fund through the Annual Investment Strategy but, in light of initial feedback from Members, will not undertake this option unless given full backing by Council.

7.5.3 Audit Committee was supportive of investment in peer to peer lending and the proposal is included within the recommendations of this report.

7.5.4 The original recommendation proposed and confirmed by Audit Committee for the higher risk investments was:

"that the Council be recommended to vary the Annual Investment Strategy to allow diversification of the investment portfolio into higher risk investments, initially on an experimental basis, and approve investment in a combination of two or three of the following instruments;

- peer to peer lending – with overall investment of £100,000; maximum individual loan amount of £1,000; maximum loan term of three years; and a maximum credit rating "B";
- Multi Asset Fund pending Capita advice; and
- The Local Authorities Property Fund."

7.5.5 Following the discussions with Capita Asset Services outlined in 7.5.1 the Multi Asset Fund was withdrawn from the final recommendation presented at para 3.3 of this report.

7.6 The external Fund Manager, Aberdeen Asset Management, held £30M of Council funds at the end of July 2015. The Fund has continued to add value to the Council's overall return and counterparty/instrument diversity although returns have been hit by market conditions over the past couple of months.

7.7 A comparison of the Council's investment performance to date against peer Local Authorities is given below and illustrated in the following graph:

	Torbay Performance Rate	Market Benchmark (7-day LIBID)	Capita Benchmarking	
			Local Group	English Unitaries
Weighted Average Rate of Return **at 31/07/15** - In House	0.96%	0.35%	0.80%	0.77%
-External Fund Manager (net of fees)*	0.70%	0.35%	N/A	N/A
-Combined	0.86%	0.35%		

Population Returns against Model Returns
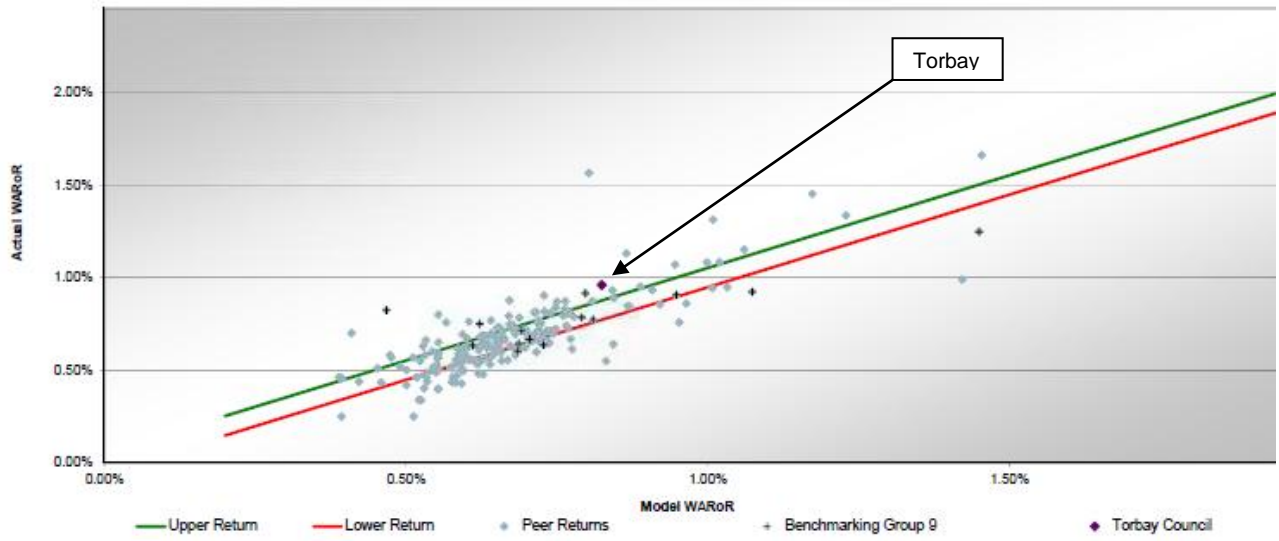
	Actual WARoR	Model WARoR	Difference	Lower Bound	Upper Bound	Performance
Torbay Council	0.96%	0.82%	0.14%	0.77%	0.88%	Above

Source: Capita Asset Services

8.   Revenue Budget Performance

8.1   Treasury Management activities are currently forecast to underspend the approved net budget target for 2015/16 by £200k.

	Original Budget 2015/16	Projected Outturn 2015/16	Variation
	£M	£M	£M
Investment Income	(0.6)	(0.7)	(0.1)
Interest Paid on Borrowing	6.1	6.1	0.0
Net Position (Interest)	**5.5**	**5.4**	**(0.1)**
Minimum Revenue Provision	4.7	4.7	0.0
PFI Grant re: MRP	(0.5)	(0.5)	0.0
Unsupported Borrowing Recharges	(2.0)	(1.9)	0.1
Premiums on Borrowing Repayment	0.2	0	(0.2)
Net Position (Other)	**2.4**	**2.3**	**(0.1)**
Net Position Overall	**7.9**	**7.7**	**(0.2)**

Appendices

Appendix 1: Counterparties where funds were deposited (April 2015 – July 2015)

Appendix 2: Prudential Indicators 2015/16

Appendix 3: Alternative Investments

Background Documents

Treasury Management Strategy 2015/16

Aberdeen Asset Management – Global Multi Asset Income Fund presentation

Local Authorities' Property Fund Factsheet

Appendix 1

Counterparties with which funds were deposited (April 2015 – July 2015)

Banks and Building Societies

Barclays Bank   (UK)
Lloyds Bank   (UK)
Royal Bank of Scotland/National Westminster   (UK – part nationalised)
Svenska Handelsbanken   (Sweden)
Goldman Sachs International Bank   (UK)

Local Authorities
Greater London Authority

Other Approved Institutions

Goldman Sachs Sterling Liquid Reserves Fund
Public Sector Deposit Fund
Aberdeen Asset Management

Appendix 2

ANALYSIS OF TREASURY MANAGEMENT PRUDENTIAL INDICATORS AGAINST APPROVED 2015/16 TARGETS AT END JULY 2015

TREASURY MANAGEMENT PRUDENTIAL INDICATORS	2015/16 LIMIT	As at 31/07/15
	£M	£M
Authorised limit for external debt -		
borrowing	167	138
other long term liabilities	40	8
TOTAL	207	146

This is the Statutory "affordable borrowing limit" required under section 3(1) of the Local Government Act 2003. Impending breach would require the Council to take avoiding action.
Borrowing Levels are within the Authorised Limit – no action required

Operational boundary for external debt -		
borrowing	148	138
other long term liabilities	40	8
TOTAL	188	146

This is the most likely, but not worst case scenario for day-to-day cash management purposes. This indicator provides an early warning for a potential breach in the Authorised Limit. Occasional breach of this limit is not serious but sustained breach would indicate that prudential boundaries the Council has set may be exceeded, requiring immediate Council action.
Borrowing Levels are within the Operational Boundary – no action required

TREASURY MANAGEMENT PRUDENTIAL INDICATORS	2015/16 LIMIT	As at 31/07/15
Limit for fixed interest rate exposure	**%**	**%**
Debt	100	100
Investments	80	52
Limit for variable rate exposure		
Debt	30	0
Investments	75	47

The Code requires the Council to set ranges on its exposure to the effects of changes on interest rates. Fixed rate borrowing and investments can contribute to reducing the uncertainty surrounding future interest rates. However, a degree of use of variable interest rates on part of the treasury management portfolio may benefit performance. The limit for fixed rate exposure has been set to allow for the Council's entire debt to be locked in at low fixed rates.

The limit for variable rate exposure reflects the Council's use of notice accounts for liquidity of the investment portfolio and the external Fund manager holding

Rate exposures are within the approved limits – no action required.

	2015/16 LIMIT £M	As at 31/07/15 £M
Upper limit for total principal sums invested for over 364 days (per maturity date)	51	21

The purpose of this indicator is to contain the Council's exposure to the possibility of losses that might arise as a result of it having to seek early repayment or redemption of principal sums invested. The 2015/16 limit applies to funds administered by the external fund manager and also allows for in-house core cash balances to be placed out longer term to gain enhanced returns while maintaining sufficient liquidity.

The position above represents round 26% of the total portfolio held in longer term investments.

Maturity structure of fixed rate borrowing during 2015/16	Upper limit	lower limit	As at 31/07/15
Up to 10 years	50%	5%	14%
10 to 20 years	50%	5%	19%
20 to 30 years	60%	10%	25%
30 to 40 years	50%	10%	25%
Over 40 years	50%	0%	17%

The Prudential Code is designed to assist authorities avoid large concentrations of fixed rate debt that has the same maturity structure and would therefore need to be replaced at the same time.

Appendix 3

Alternative Investments

1   Context and Background

<u>Extract from CLG Investments Guidance</u>
"*The guidance defines a prudent investment policy as having two objectives: achieving first of all **security** (protecting the capital sum from loss) and then **liquidity** (keeping the money readily available for expenditure when needed) ...... Once proper levels of security and liquidity are determined, it will then be reasonable to consider what **yield** can be obtained consistent with those priorities. This widely-recognised investment policy is sometimes more informally and memorably expressed as follows:*
       ***S**ecurity - **L**iquidity -**Y**ield ...in that order!*"

<u>Extract from CIPFA Code of Practice for Treasury Management</u>
*"[The Organisation's] policies and practices should make clear that the effective management and control of risk are prime objectives of their treasury management activities and that responsibility for these lies clearly within their organisations. Their appetite for risk should form part of their annual strategy and should ensure that **priority is given to security and liquidity when investing funds**."*

1.1   The Council's risk appetite on investments has closely aligned to the letter of the Regulating guidance with the in-house team generally investing in simple instruments with only a remote risk of capital loss.

1.2   In previous years there were enhanced rates available to Local Authorities which made consideration of increasing risk fairly redundant. These enhanced rates have now been withdrawn by Banks and the Council's investment portfolio is now experiencing the dual pressures of low returns and limited counterparty availability.

1.3   The current budgeted target for investment income is £600k with current investment performance around 0.80%. An additional 1% over the current rate would increase income by £10,000 for every £1million invested.

1.4   In response to a request by Audit Committee at its meeting in January 2015, this discussion paper has been prepared for the Committee to assess the impact and appropriateness of diversifying the Council's investments into higher risk/higher yielding instruments.

1.5   Officers have looked at various markets and a briefing was held for Members on 7th September with presentations on three particular instruments

2   **Aberdeen Asset Management –Multi Asset Fund**

2.1   The Council's external fund manager has offered up a multi-asset fund solution which they believe will add value while controlling overall risk.

2.2   Aberdeen already uses a diverse range of instrument within the Council's specified risk criteria. This new management option would blend the existing holdings with controlled exposure to other, more volatile funds e.g.: property, equities, sovereign debt and frontier debt.

2.3   It is envisaged that only small proportions of the Fund would be exposed to the new assets and liquidity would be maintained with repayments settlements at T+4 days.

2.4   The Council will be able to set a target rate and reject the use of any asset class it feels is outside it's legal powers (although this may impact on the achievable return)

2.5   This is a new fund and as yet no performance data is available although figures are anticipated during October. Aberdeen are also meeting with the Council's advisors, Capita Asset Services in early October and officers suggest that any transfer to the new fund is held pending an evaluation from Capita.

2.6   A Council decision is required to add the multi-asset fund to the approved investments within the Annual Investment Strategy including operational limits.

2.7   <u>Risks</u>

Positive	Negative
• Target rate of 4.50% (gross) • Proven track record with Council funds • Opportunities for diversity into greater range of uncorrelated instruments thereby controlling risk • Simple to manage alongside existing fund arrangements • Liquidity – settlement T+4 days • Flexibility to set target rate and exclude particular assets • Consistent level of annual return	• New fund - Performance data not yet available. • Restriction of asset classes by Council could restrict yields • Annual Fee of 0.25% of fund balance (0.15% on current fund) • Requires a 3 year investment horizon

<u>Audit Committee</u>

2.8   Audit Committee was generally supportive of diversifying into the Fund subject to the evaluation by Capita Asset Services

2.9   Capita presented their findings following the Audit Committee meeting and highlighted concerns in terms of a Multi Asset Fund meeting the Council's investment criteria.

2.10   Consequently, officers have withdrawn the Multi-Asset Fund investment option at this time.

## 3 CCLA Ltd – Local Authorities' Property Fund (LAPF)

3.1 Property funds invest in commercial properties and provide returns from income, through rental streams, and from capital growth. The LAPF is a particular fund operated solely for Local Authority membership which stands at 123 (including parishes and a total fund size of £380million.

3.2 Capita has supplied a summary analysis of returns achieved by property funds overall shown below alongside the LAPF's published returns for comparison.

Fund Performance (net) 31/03/2015	Best Performing Fund	Worst Performing Fund	The Local Authorities' Property Fund
3 Months	4.3%	0.8%	na
1 Year	24.4%	10.1%	17.8%
3 Years Annualised	16.8%	8.4%	11.8%
5 Years Annualised	10.8%	7.9%	10.6%

3.3 The table in 3.1 illustrates the potential for returns far in excess of the Council's current performance. However, the volatility of property values can lead to annual losses which is illustrated the long term history below.

Property investment returns since 1970
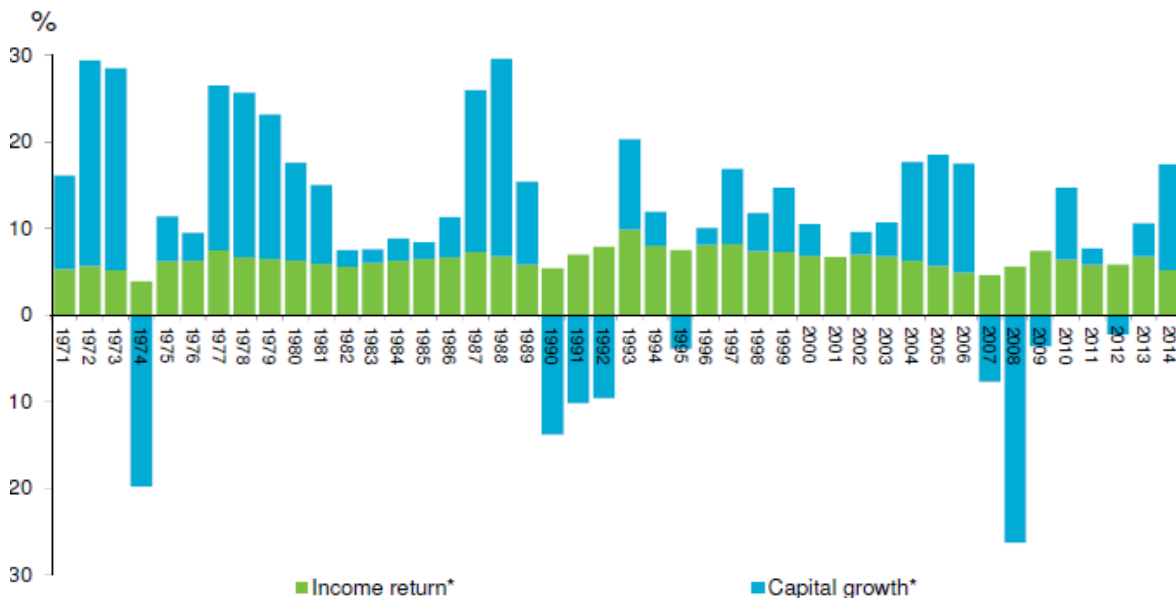
Source: CCLA and IPD

3.4 Capital growth is generally high yielding but is volatile. Income yields are consistent (generally between 5% and 10%) year on year due to the quality of contracted lease tenants.

3.5 The acquisition of shares in a property fund usually constitutes capital expenditure with the requirement for Local Authorities to provide a revenue provision for repayment (MRP).
However, the CCLA Property Fund is approved by HM Treasury under section 11(1) of the Trustee Investment Act 1961 and in accordance with section 25(3) (d) of the regulations it is exempt from classification as capital expenditure.

3.6 Fees applicable to property funds are generally high with an annual management fee and exit and entry & exit charges at indicative levels of 7% and 1.5%.
CCLA charge an annual management fee of 0.65% and further charges to cover costs (ie stamp duty and agents fees) equate to 7.3%.

3.7 Investment in a property fund should be treated as a long term investment to ensure total returns cover fees and any capital loss within the investment period. It is therefore only appropriate for core cash. Property is an illiquid asset class and it is not always possible to sell units quickly. As such an investment horizon for these funds should be a minimum of 5 years.

3.8 Risks

Positive	Negative
• Potential for yields significantly above the Council's current investment return.	• Possible annual capital losses due to volatility of property values
• LAPF management ethos based on bespoke Local Authority requirements.	• High fee level
	• Long term investment horizon
• Exemption from classification as capital expenditure (LAPF only)	• Illiquid

Audit Committee

3.9 While recognising the potential returns of the Fund and its management ethos, Audit Committee was mindful of feedback from Members attending the presentation. Concerns centred on the high entry fee and confidence in the Council's available cash levels over a five year term.

3.10 As such the Committee was unable to propose the LAPF option to Council.

3.11 While the s151 officer has authority to use the Fund under the current Annual Investment Strategy, in light of the initial feedback from Members, this option will not be exercised unless given full backing by Council.

4   Peer to Peer Lending

4.1 Peer-to-peer lending websites work by enabling savers/investors to lend directly to borrowers. Banks are cut out and without their margins participants can get slightly better rate deals than through traditional loan methods.

4.2 As part of the Business Finance Partnership scheme the government has committed £60million of funding to British businesses through the Funding Circle website. Over a dozen Local Authorities are lending through Funding Circle, predominantly to local businesses.

4.3 The Funding Circle has facilitated over £796million of loans and there are over 42,000 live lenders.

4.4 Borrowers are checked and assessed by the website and categorised as to risk (A+ to E). Lenders set their own risk and rate appetite and can select appropriate loans themselves (bespoke lending) or delegate the task to an automated process. This process spreads an investment over a number of loans, the lender taking a share (loan "part") in the overall loan total.

4.5 It is recommended that an investment is diversified over at least 100 different loan parts to spread the risk of any capital loss through bad loans. It may take some time to lend out a full investment amount and any unlent cash will not attract interest.

4.6 Repayments are usually in monthly instalments and collected by the website.

4.7 The table below provides the estimated level of bad debt applicable to each risk category. Any participation in peer to peer lending must assume an element of capital loss but evidence strongly suggests that this is more than offset by the gross interest return.

A+	A	B	C	D	E	Total
0.6%	1.5%	2.3%	3.3%	5.0%	8.0%	1.9%

Source: Funding Circle

4.8 The Funding Circle levies a servicing fee of 1% of outstanding principal deducted from loan repayments.

4.9 The advertised net return after fees and bad debt is 7.2% assuming an investment is spread over a range of risk categories and durations. This indicative level has been corroborated by personal experiences within the Council arena.

4.10 While loans through peer to peer are generally fixed term, investors can realise their cash early by selling the loan parts they hold in a secondary market. This would be dependent on available buyers and selling price which could lead to a loss (or profit) on the investment return.

4.11 Use of peer to peer lending will require a Council decision to incorporate into the Annual Investment Strategy together with operational limits.
To qualify as a Treasury Management instrument loans would have to be available to all UK businesses within a specified risk framework. However, the policy could also include an aspiration to lend to local businesses on a loan by loan basis if opportunities arise.

4.12   Risks

Positive	Negative
• High net returns available significantly above Council's current performance • Diversification over a wide range of loan parts • Council can set its risk parameters • Liquidity through selling of loan parts	• Tangible risk of capital losses • May take some time to lend the full investment allocation • No interest payable on unlent cash • Fee of 1% of outstanding principal • Medium to long term investment horizons

Audit Committee

4.13   Following testimonies of positive experiences within the Council arena Audit Committee was supportive of investing in peer to peer lending, initially on an experimental basis to allow officers to assess the resource implications and viability of the lending process.

4.14   It was suggested that exposure be limited initially to a maximum investment of £100,000 with lending to anyone business limited to a maximum of £1,000.

4.15   It was further suggested that limits be placed on loan duration (3 years maximum) and credit quality (minimum 'B' based on Funding Circle rating criteria).

4.16   The motion and suggested limits have been included within the report recommendations.

TORBAY
COUNCIL

Meeting: Council   **Date: 22 October 2015**

Wards Affected: All

Report Title: Referendum on Future Forms of Governance

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Councillor Andy Lang, Executive Lead for Corporate Services, telephone 01803 612543 and email andy.lang@torbay.gov.uk

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

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1.   Proposal and Introduction

1.1   The Council resolved at its meeting on 23 July 2015 to hold a referendum on the Council's future form of governance and requested the Assistant Director – Corporate and Business Services to undertake a consultation exercise on the different forms of governance. This report provides details of the different forms of governance, their operation elsewhere and the outcome of a consultation exercise to enable the Council to determine next steps and which form of governance will be included in a referendum.

2.   Reason for Proposal

2.1   For the Council to consider the consultation response, to determine whether to go ahead with a referendum on its future form of governance and if so which form of governance will be included in a referendum.

3.   Recommendation(s) / Proposed Decision

3.1   That the Council considers the results of the consultation exercise and, having regard to the outcome of the consultation, confirms whether it wishes to proceed with a referendum on its future form of governance to be held in May 2016;

3.2   That, subject to the decision on 3.1 above, the Council considers the different types of governance, as set out in this report, to determine which question on the form of governance will be included in the referendum, as follows:

Question 1

How would you like Torbay Council to be run?

By a Mayor who is elected by voters. This is how the Council is run now.

OR

By a leader who is an elected councillor chosen by a vote of the other elected councillors. This would be a change from how the Council is run now.

Question 2

How would you like Torbay Council to be run?

By a Mayor who is elected by voters. This is how the Council is run now.

OR

By one or more committees made up of elected councillors. This would be a change from how the Council is run now.

3.3   That, subject to the decision on 3.1 above, the Assistant Director – Corporate and Business Services be authorised to prepare and publicise proposals on the form of governance to be included in the referendum, in accordance with legislation and in consultation with the Mayor and Group Leaders.

4.   Background

4.1   At its meeting on 23 July 2015, the Council resolved the following Notice of Motion:

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

Therefore, this Council resolves:

(i)   That the holding of a referendum on the Council's governance

arrangements be approved and that the Council's Returning Officer be requested to seek to combine this with the Police and Crime Commissioner (PCC) elections in 2016. The matter of timings to return to Council for a decision if it is not possible to combine with the PCC election.

(ii)   That the Assistant Director (Corporate and Business Services) undertake a public consultation on the different types of governance,

in consultation with the Mayor and Group Leaders, as to the form and content of the consultation.

(iii)   That the Assistant Director (Corporate and Business Services) provides a full report to Council in September 2015 on the different forms of governance, their operation elsewhere and the outcome of the consultation exercise (referred to in (ii) above) to enable the Council to determine which form of governance will be included in the referendum.'

4.2   The Council has operated the Mayoral system of governance since 2005 following a referendum. The total number of "yes" votes in support of the mayoral system was 18,074 (representing 55% of the votes cast) and the total number of "no" votes was 14,682 (representing 45% of the votes cast). The overall voter turnout was 32.1%.

4.3   The first mayoral election was held on 20 0ctober 2005. Following the initial election, the Mayoral term of office is every four years and further elections have been held in 2011 and 2015.

5.   Different Forms of Governance

5.1   The legislation specifies that councils must operate Executive arrangements (either elected Mayor and Cabinet or Leader and Cabinet) or a Committee system or prescribed arrangements in regulations by the Secretary of State. Outlined below are the three main models of governance:

5.1.1   **Directly elected Mayor and Cabinet system.** A directly-elected Mayor is elected by local residents and holds office for four years. The Mayor is in addition to the elected councillors. The Mayor is responsible for making major decisions within the Council's budget and policies which are set by the Council. A cabinet (or executive) of at least two and up to nine councillors, is appointed by the Mayor who may (or may not) delegate decision-making powers. The Cabinet is not required to be politically proportionate. The Mayor is also required to appoint a Deputy Mayor from the Cabinet. Some non-executive functions are reserved for committees (such as Planning or Licensing). The appointment of at least one Overview and Scrutiny Committee is required under this system.

5.1.2   **Leader and Cabinet system.** The Leader is a councillor elected by full Council for a term determined by the Council and leads the Cabinet (or Executive). The Leader (once appointed) has the same powers as an elected Mayor (see above) and is responsible for appointing the Cabinet and delegating decision-making powers to the Cabinet members at his/her discretion. At least two and up to nine councillors can be appointed to the Cabinet and it is not required to be politically proportionate. The Council specifies in its Constitution how the Leader can be removed. Some non-executive functions are reserved for committees (such as Planning or Licensing). The appointment of at least one overview and scrutiny committee is required under this system.

5.1.3   The table below explains the similarities and differences between a Leader and Cabinet model and an Elected Mayor and Cabinet model:

Leader and Cabinet	Elected Mayor and Cabinet
The Leader is an elected councillor chosen by the other elected councillors.	The Elected Mayor is elected by local residents.
The Leader is elected by the Council for a period of up to four years and can only be removed if there is a vote to do this which is supported by the majority of other councillors.	The Elected Mayor holds office for four years and cannot be removed by the Council.
There is no additional cost associated with the election of a Leader which would take place at a meeting of the Council.	The Elected Mayor is chosen every four years by local residents in a formal election. This would be in addition to the local elections, which would continue to take place.
Each year the Leader and Cabinet present a budget and major policies to the Council. They can be approved by a simple majority. Any changes proposed by the Council also require a simple majority of the Council.	Each year the Elected Mayor presents a budget and major policies to the Council. They can be approved by a simple majority but any changes proposed by the Council must have the support of at least two thirds of the Council.
The Leader is one of the elected councillors.	The Mayor is in addition to the elected councillors.

5.1.4 **Committee System.** The Committee system is different from the directly elected Mayor and the Leader and Cabinet systems as no decision making powers are given to any one councillor. All decisions by councillors are made by committees, which comprise councillors from all political groups. The Council appoints the committees and sets their terms of reference. Overview and scrutiny is optional under this model, however there is a statutory duty on a committee system to scrutinise health, community safety and flood risk management. Possible frameworks for operating this system include:

1.   All major decisions are made at Council meetings with delegation to service committees representing the departmental structure. There are a number of specific functions that cannot be delegated to a committee or an officer e.g. budget setting. The present 'council function' committees (i.e. licensing, harbours, planning etc) would continue in their present form.

2.   All major decisions are made at Council meetings and there are increased delegations to senior officers for all other decisions in consultation with selected councillors depending on the nature and subject of the decision. The present 'council function' committees would remain unchanged.

3.   The Council returns to a similar committee system as it operated prior to the requirement in the Local Government Act 2000 for the Council to adopt an

executive system of governance. Attached at Appendix 1 is the Committee structure operated by the Council in 2000.

6. Financial and Legal Implications

6.1 Legislative background and requirements

6.1.1 The Local Government Act 2000 introduced a separation of powers between the Executive and Council in all but the smallest local authorities with the aim of making council decision-making more efficient, transparent and accountable. The Act required most local authorities to change governance arrangements from the committee system to an executive-scrutiny model.

6.1.2 The Localism Act 2011 increased the governance options for local authorities as follows:

- executive arrangements (leader and cabinet or directly elected mayor and cabinet);
- a committee system; or
- prescribed arrangements.

Provision was included in secondary legislation which meant the Council was unable to change its governance arrangements without approval at a referendum. This referendum could not be held for 10 years from the referendum that triggered the adoption of the mayoral system of governance (i.e. after 14 July 2015).

6.1.3 If councils propose their own system of prescribed arrangements this will require the approval of the Secretary of State. At the least any such prescribed arrangements would need to be an improvement on the current arrangements, demonstrate "efficient, transparent and accountable" decision-making, and be appropriate for all other councils to consider adopting. To date, no councils have proposed such arrangements.

7. Financial implications

7.1 The costs associated with each system are as follows:

7.1.1 **Directly elected Mayor and Cabinet system**. The election for a directly elected Mayor is held in addition to the local councillor elections, although the two elections are held at the same time. The approximate cost of a Mayoral election at a combined election is £80,000 and this is reduced if more than two elections are held on the same day. In addition to the election costs, the law requires the Council to produce a mayoral booklet which is posted to each voter on the electoral register. The cost of the mayoral booklet in the 2015 elections was £34,000 and each mayoral candidate was required to make a £1,000 contribution to appear in the booklet.

The elected Mayor is in addition to the Council's 36 councillors. The Mayor is paid the same basic allowance as councillors (currently £8,167), plus a special responsibility allowance which is currently £54,446. Under the Mayoral system the Mayor is required to appoint a councillor as Deputy Mayor and the special

responsibility allowance for this role is currently £20,227. Secretarial resources are also provided to the Mayor.

Under the current system the elected Mayor has chosen to take his decisions at Council meetings following a recommendation from all councillors. This means that there are approximately 9 Council meetings per year compared to 6 in 2000. He has also set up Policy Development Groups to enable cross party discussion on development of policies and other executive decisions. The cost in officer time supporting this model is approximately £116,900 per annum.

7.1.2 **Leader and Cabinet system.** There are no additional election costs under the Leader and Cabinet system as the leader is elected by the Council from the 36 councillors.

The Leader would be paid a basic allowance as all the other councillors (currently £8,167), plus a special responsibility allowance. Leaders' allowances of other authorities, with whom we benchmark our allowances against, currently range between £13,158 (South Hams District Council) and £31,102 (Plymouth City Council). The Council will determine the level of special responsibility allowance for the Leader (taking account of any recommendations made by the Independent Remuneration Panel) if it changes to a Leader and Cabinet system. Secretarial resources will also be available to the Leader.

Based on the governance arrangements in 2000 and 12 Cabinet meetings the cost in officer time supporting this model is approximately £94,600 per annum.

7.1.3 **Committee system.** There are no additional election costs associated with the Committee system. The main costs relate to implementing and ongoing support for a committee system which are considered to be higher than those incurred in supporting a directly elected Mayor or Leader and Cabinet systems. However, this would depend on the framework of decision-making that the Council adopted if it changed to a Committee system e.g. the number of Committees that would be established and any sub-committees (as outlined in paragraph 5.1.4 above). Implementing the Committee system would require the greatest change to the Council's governance arrangements and would involve increased member and senior officer time in preparing for this system. There could be many more meetings as a result of the committee system which would require more support from officers resulting in higher staffing costs. However, under a committee system there would be no legal requirement for an overview and scrutiny function and therefore savings could follow from this, but there is a statutory duty on a committee system to scrutinise health, community safety and flood risk management.

Based on the governance structure of 2000 but excluding the meetings likely to operate under all models of governance (e.g. Civic Committee, Development Control Committee, Scrutiny Committee) an average of 40 committee meetings were held at a cost of approximately £314,000 per annum and 23 sub-committees at a cost of approximately £111,300 in terms of officer time.

Changes would also be made to members' allowances to align with the additional Chairman/woman roles and responsibilities under a committee system (the role of chairing committees is substantially different from that of a Mayor/Leader or cabinet

member). The Chairman of each committee will receive a special responsibility allowance and currently the special responsibility allowance attracted for Chairman of Development Management Committee, which would be comparable to the responsibility required under the Committee system, is £6,742.

7.2 A summary of the approximate costs for the differences between the governance arrangements of each system is set out below:

Cost	Elected Mayor	Leader and Cabinet	Committee**
Election and Mayoral Booklet	£28,500 (pro rata) (4 yearly cost totals £114,000)	£0	£0
Mayoral Allowance and additional Basic Allowance	£62,613	£0	£0
Deputy Mayor Allowance *	£20,227	£0	£0
Officer Time in Supporting meetings	£116,900 (based on current system including Policy Development Groups)	£94,600 (based on 12 Cabinet meetings per year)	£425,300 (based on 40 committee and 23 sub-committee meetings per year)
Leader of the Council Allowance	£0	£31,102 (based on Plymouth City Council as a unitary authority)	£0
Secretarial Support (x 2 officers)	£43,960 (including on costs e.g. pensions)	£43,960 (including on costs e.g. pensions)	£0
Total	**£272,200**	**£169,662**	**£425,300**

*Note 1 the current Deputy Mayor only takes £15,000 of his allowance.

** Note 2 based on the committee structure operated in 2000 save those Committees which would remain in existence under all three systems e.g. Planning Committee and two timed/project specific Committees namely Beacon Committee and Housing Transfer Committee.

7.3 The costs of holding a referendum when combined with the Police and Crime Commissioner Election is estimated at £80,000 based on previous election costs. The Council's Elections reserve provides budgets for elections, but does not include provision for additional costs associated with local referendums. Therefore, the costs associated with holding a governance referendum in 2016 will result in a budget pressure for 2016/17.

8. Trends in other authorities

8.1 The national picture of unitary authorities' governance arrangements is set out below:

Number Unitary Authorities	Elected Mayor	Leader and Cabinet	Committee System
56	5 (9%)	45 (80)%	6 (11%)

8.2 A benchmarking exercise has been carried out on other unitary authorities (excluding the Isles of Scilly) who operate the Committee system to give an indication of how the Committee system is operating in practice today. The table below sets out the number of Committees and Sub-Committees held by other unitary authorities, the number of meetings per year and the number of councillors who sit on each committee/sub-committee. The figures do not include those statutory committees and sub-committees which relate to planning and licensing as these are required under each of the systems of governance, this allows for a comparison to be made to the number of committees/sub-committees provided in 7.2 above.

Authority	Name of Committee/ Sub-Committee	No of Councillors	No of Meetings
Brighton and Hove City	Children, Young People & Skills Committee	10	4
	Economic Development & Culture Committee	10	10
	Environment, Transport & Sustainability Committee	10	8
	Housing & New Homes Committee	10	3
	Neighbourhoods, Communities and Equalities Committee	10	3
	Policy & Resources Committee	10	8
	Audit & Standards Committee	8	5
	Overview & Scrutiny Committee	10	5
	Health and Wellbeing Board	5	6
	Joint Children & Young People Health and Wellbeing Board	15	1
	Council	54	9
	Environment, Transport & Sustainability Urgency Sub-Committee	3	3
	Personnel Appeals Sub-Committee	3	13
	Policy & Resources Urgency Sub-Committee	3	0

Page 81

Authority	Name of Committee/ Sub-Committee	No of Councillors	No of Meetings
	Standards Panel	3	0
	Tenant Scrutiny Panel on the Tenant Pathway for Responsive Repairs	5	0
	Greater Brighton Economic Board	6	5
	Older People's Council	11	4
	Central Area Housing Management Panel	1	4
	East Area Housing Management Panel	1	4
	North Area Housing Management Panel	1	4
	West Hove & Portslade Area Housing Management Panel	1	4
	Grand total number of Council, Committee and Sub-Committee meetings		**103**
Hartlepool Borough	Civic Honours Committee	5	0
	Finance and Policy Committee	11	11
	Adult Services Committee	7	10
	Children's Services Committee	7	10
	Neighbourhood Services Committee	7	12
	Regeneration Services Committee	7	13
	Audit and Governance Committee	6	13
	Health Scrutiny Joint Committee	9	0
	Emergency Planning Joint Committee	4	4
	Health and Wellbeing Board	4	7
	Tees Valley Joint Health Scrutiny Committee	15	1
	North East Joint Health Scrutiny Committee	9	2
	Council	33	19
	Appointments Panel	8	10
	Personnel Sub-Committee	3	4
	North and Coastal Neighbourhood Forum	15	6
	South and Central Neighbourhood Forum	18	5
	Joint North and Coastal and South and Central Neighbourhood Forum	32	0
	Children's Strategic Partnership	3	5
	Safer Hartlepool Partnership	2	7
	Grand total number of Council, Committee and Sub-Committee meetings		**139**
Kingston Upon Hull City	East Area Committee	9	7
	North Car Area Committee	6	7
	Northern Area Committee	7	7
	Park Area Committee	10	7
	Riverside Area Committee	11	7
	West Area Committee	9	7

Authority	Name of Committee/ Sub-Committee	No of Councillors	No of Meetings
	Wyke Area Committee	7	7
	Cabinet	10	7
	Corporate Trustees Committee	3	3
	Executive Commissioning Committee	7	5
	Health and Wellbeing Board	5	6
	Overview and Scrutiny Management Committee	13	10
	Appeals Committee	5	15
	Audit Committee	11	5
	Civic Committee	10	1
	Appointments Committee	10	3
	Council	59	9
	Park Authority Governor Sub-Committee	4	1
	Pickering Park Trust	9	3
	Wyke Authority Governor Sub-Committee	6	1
	Early Support and Lifelong Learning Overview and Scrutiny Commission	12	11
	Economy and Regeneration Overview and Scrutiny Commission	12	11
	Energy and Infrastructure Overview and Scrutiny Commission	11	10
	Finance and Value for Money Overview and Scrutiny Commission	11	9
	Health and Social Well-Being Overview and Scrutiny Commission	12	5
	People and Communities Overview and Scrutiny Commission	11	10
	Hull Screen Task and Finish	3	0
	Grand total number of Council, Committee and Sub-Committee meetings		**174**
Reading Borough	Adult Social Care, Children's Services and Education Committee	15	3
	Audit and Governance Committee	7	4
	Health and Wellbeing Board	7	4
	Housing, Neighbourhoods and Leisure Committee	15	3
	Personnel Committee	5	4
	Policy Committee	14	9
	Standards Committee	7	1
	Strategic Environment, Planning and Transport Committee	14	3
	Council	46	6
	Access and Disabilities Working Group	5	4
	Arts and Heritage Forum	7	0
	Cycle Forum	6	0
	Older People's Working Group	5	0
	Olympic Legacy Forum	3	0

Authority	Name of Committee/ Sub-Committee	No of Councillors	No of Meetings
	Safer Reading Neighbourhood Action Group Forum	4	0
	The Heights Free School Sub-Committee	7	0
	Traffic Management Sub-Committee	11	5
	Grand total number of Council, Committee and Sub-Committee meetings		**46**
South Gloucestershire	Policy & Resources Committee	13	9
	Planning, Transportation and Strategic Environment Committee	16	6
	Communities Committee	16	6
	Children and Young People Committee	16	8
	Adults, Housing and Public Health Committee	16	7
	Health Scrutiny	16	9
	Audit and Accounts Committee	10	3
	Health and Wellbeing Board	8	6
	Council	70	7
	Area Forum Joint Committee	8	4
	Southern Brooks Area Forum	18	5
	The Case Area Forum	14	6
	Frome Vale Area Committee	14	5
	Kings Forest Area Committee	16	5
	Severn Vale Area Forum	8	5
	Resources Sub-Committee	10	5
	Appointments & Employment Panel	3	2
	Public Rights of Way and Commons Registrations Sub-Committee	10	4
	Standards Sub-Committee	10	4
	Planning, Transport and Strategic Environment Major Schemes Sub-Committee	10	6
	Grand total number of Council, Committee and Sub-Committee meetings		**112**

8.3 A guide on governance change, 'Rethinking governance – practical steps for councils considering changes to their governance arrangements' published jointly by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) in January 2014, identified nine local authorities that changed governance arrangements to move to a committee system in 2012/2013. An additional seven local authorities adopted hybrid arrangements in the same period without changing from the Leader and Cabinet systems (e.g. adopting cabinet committees which make recommendations to the Cabinet or policy development groups mapped to cabinet portfolios support executive decision making). Two authorities considered changing their governance arrangements to a committee system but decided not to.

8.4 Most authorities operate the Leader and Cabinet system. In some councils, individual members of the Executive have decision-making powers; in others, decisions are made by the whole Executive. The term of office of leaders vary with some councils electing their leader for a term determined by the Council itself or on a four yearly basis.

8.5 Some councils operate a hybrid approach; typically, this is a hybrid between Leader and Cabinet model and the Committee system (with such an approach usually seen legally as being a modified version of the Leader and Cabinet system, and therefore not requiring a formal change under the Localism Act).

8.6 In 2010 the Centre for Public Scrutiny prepared a briefing paper on Changing Governance Arrangements, which sets out advantages and disadvantages of the different systems. This paper is attached at Appendix 2 to provide further information on the different systems.

9. Consultation

9.1 Consultation was carried out between Monday 3 August and Monday 31 August 2015. A survey was published online and paper copies were made available through all libraries across Torbay and the Connections offices. Residents on the Council's Viewpoint Panel were also invited to take part in the survey and four consultation events were held in the 4 weeks the consultation was open across Torbay.

9.2 The purpose of the consultation was to gauge public feedback on whether residents wanted a referendum to take place as well as asking their views on which governance system should be included in the referendum. Therefore the first question residents were asked was 'Do you want to keep the current system (Directly Elected Mayor) without holding a referendum?' and the second question related to preferred options for the governance system. The full consultation report is provided in Appendix 3, with a summary below.

9.3 In total there were 904 responses to the consultation:

- The majority of respondents (97.1%) to the consultation lived in Torbay.

- The majority of respondents (74.7%) answered **no** to question 1: Do you want to keep the current system (Directly Elected Mayor) without holding a referendum? Compared with 21.8% who answered **yes**, they wanted to keep the current system.

- In answer to question 2, just over half of respondents (53.8%) chose Option 2 - Committee System, as their preferred option. Almost a quarter of respondents (23.6%) chose Option 1 - Leader / cabinet System.

- Respondents were also given the opportunity to feedback any comments they had about the governance systems, themes included how democratic different systems appear, how much the different systems would cost, views specifically

in relation to the Mayoral system and views about how decisions are made. More detail is provided in the consultation report provided in Appendix 3.

9.4   While the results from this consultation exercise must be taken into account in reaching a decision about which alternative system should be included in the referendum, the results from this consultation are not binding for the local authority. The Council must, when taking its decision, take into consideration any other relevant factors.

10.   Timeline and next steps

10.1   The Local Government Act 2000 sets out the procedure if a council wishes to consider changing its present arrangements. As set out above, a change in governance arrangements has to be approved in a referendum, the result of which would be binding on the Council and the Council would not be able to resolve to change its governance arrangements again for a further 5 years. An indicative timeframe for the steps required to be taken is set out below:

2015	
24 July 2015	Notice of Motion passed by Council calling for a referendum to decide the future form of governance arrangements and consultation on different forms of governance.
1 to 31 August 2015	Consultation on different forms of governance and the need for a referendum.
31 August 2015 to 14 September 2015	Evaluation of consultation outcomes and prepare report for Council.
22 October 2015	Report outcome of consultation to Council. Council determines whether or not to proceed to a referendum and determines which system of governance it proposes to change to and publish a notice of decision in a local newspaper.
Not fewer than 56 days before the date of the referendum	Subject to decision of Council on 22 October 2015, preparation of proposal document to include: • Proposals for the change. • Timetable for the implementation of the proposals. • A statement that the changes in governance arrangements are subject to approval in a referendum.
At least 14 days prior to the notice detailed above	Proposal document made available for inspection by the public and publish in a local newspaper a notice which advised that proposals have been drawn up and where they can be inspected.

2016 Election Timetable	Referendum to run in parallel with Police and Crime Commissioner Elections.
5 May 2015	Date of poll/election
Within 28 days of the referendum being held	If the referendum approves a change in governance, a Special Council meeting is convened for Council to pass a resolution to change. If there is a no vote, the vote must be recorded, but the Council cannot change its governance model. A notice must be published in a local newspaper summarising the proposals and stating that the referendum did not approve the proposals, and that the existing model [i.e. Mayor and Cabinet] will continue to operate.
2019	If a yes vote, then the new arrangements are implemented at the end of the term of office of the current Mayor

11. Risks

11.1 If the Council does not make a decision as to the holding of a referendum and the question to be asked in the same, there is the possibility of a petition being received from the electorate which will determine these issues.

12.1. Alternative Options

12.1 No one option is recommended by officers as it is for the Council to determine how it wishes to proceed. The options are outlined throughout this report which can be summarised as follows:

- Progress to holding a referendum and prepare proposals for a Leader and Cabinet system of governance; or

- Progress to holding a referendum and prepare proposals for a Committee system of governance; or

- Decide not to proceed with a referendum and do nothing, leaving the current Elected Mayor and Cabinet system in place.

Appendices

Appendix 1: Torbay Council Committee Structure 2000
Appendix 2 : Centre for Public Scrutiny Briefing Paper - Changing Governance
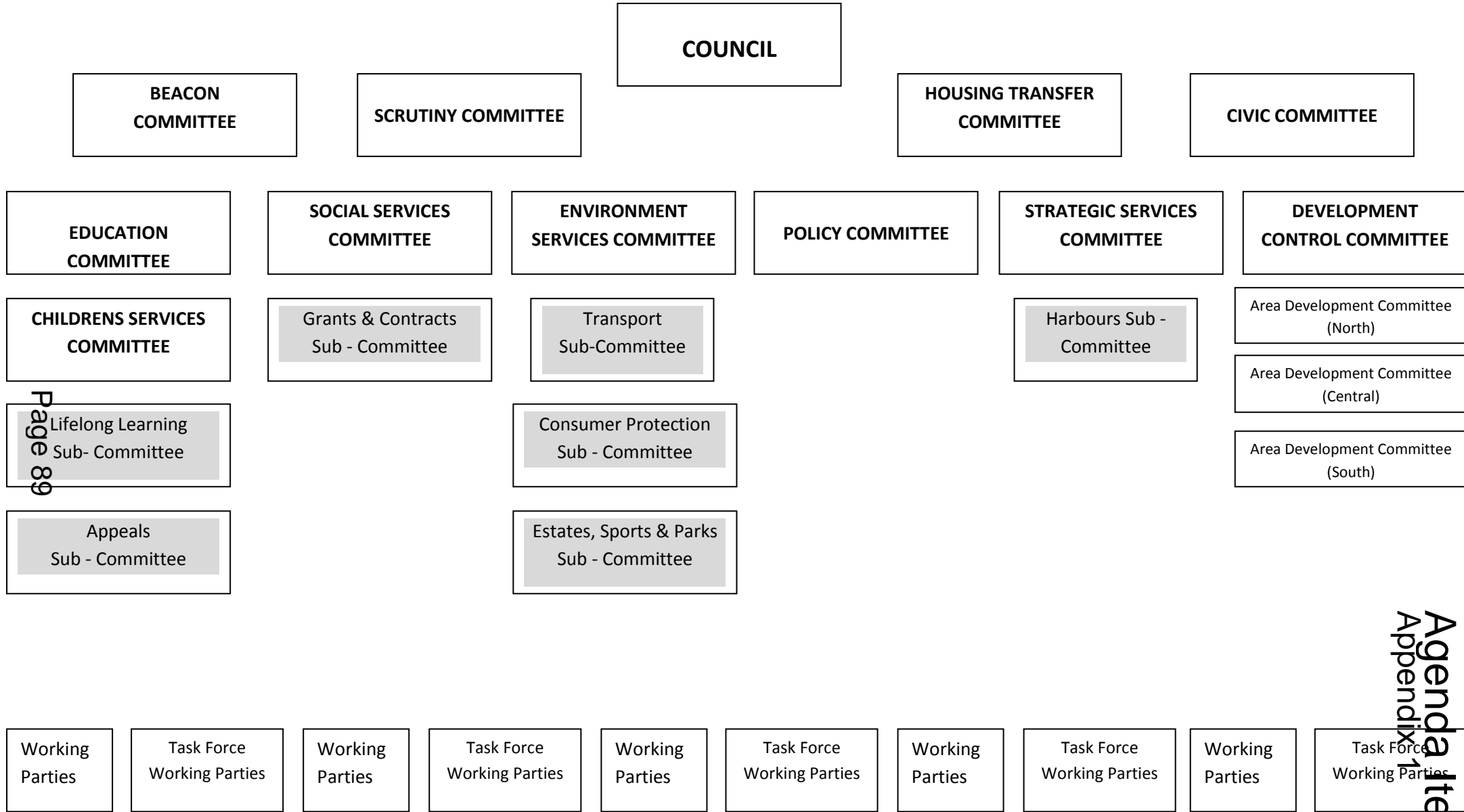   Arrangements
Appendix 3: Consultation results

Background Documents

'Rethinking governance – practical steps for councils considering changes to their governance arrangements' published jointly by the Local Government Association (LGA) and the Centre for Public Scrutiny (CfPS) - http://www.local.gov.uk/documents/10180/5854661/Rethinking+governance+-+practical+steps+for+councils+considering+changes+to+their+governance+arrangements/6f1edbeb-dbc7-453f-b8d8-bd7a7cbf3bd3

COMMITTEE STRUCTURE 2000

COUNCIL

BEACON COMMITTEE

SCRUTINY COMMITTEE

HOUSING TRANSFER COMMITTEE

CIVIC COMMITTEE

EDUCATION COMMITTEE

SOCIAL SERVICES COMMITTEE

ENVIRONMENT SERVICES COMMITTEE

POLICY COMMITTEE

STRATEGIC SERVICES COMMITTEE

DEVELOPMENT CONTROL COMMITTEE

CHILDRENS SERVICES COMMITTEE

Grants & Contracts Sub - Committee

Transport Sub-Committee

Harbours Sub - Committee

Area Development Committee (North)

Lifelong Learning Sub- Committee

Consumer Protection Sub - Committee

Area Development Committee (Central)

Area Development Committee (South)

Appeals Sub - Committee

Estates, Sports & Parks Sub - Committee

Working Parties

Task Force Working Parties

Working Parties

Task Force Working Parties

Working Parties

Task Force Working Parties

Working Parties

Task Force Working Parties

Working Parties

Task Force Working Parties

Changing governance arrangements

the centre for public scrutiny

better scrutiny for better government

This briefing explores some of the issues around the power in the Localism Bill to allow local authorities to introduce a committee system for decision-making.

CfPS believes that the split between executive decision-making and the overview and scrutiny function has paid dividends in local government. However, there are several authorities who have stated that they wish to change their structures when permitted. This briefing will help those authorities to thoroughly examine the options. It is the first major publication on the committee system in ten years and provides an up to date picture of the framework and key considerations for authorities which might be considering a change in their governance arrangements.

Contents

1. Introduction

1.1 Further to policies formed by both the Conservatives and Liberal Democrats in opposition, the Localism Bill will put in place provision permitting authorities to change their governance arrangements – including providing the power to return to the committee system.

1.2 The Bill sets out the governance options that will be available to local authorities. They will be as follows:

- A Leader and cabinet ;
- An executive mayor and cabinet;
- A committee system;

- Another prescribed system (councils may propose their own system, subject to SoS approval).

1.3 Any authority – other than the 12 core cities with an executive mayor - will be able to operate a committee system, following a resolution of Council and a relevant council election, and/or through referendum. A detailed explanation of the procedures for changing governance arrangements can be found in our Policy Briefing 7 on the Localism Bill. However, it is clear that in talking about the "committee system" this could be something analogous to the pre-2000 governance system operating in authorities. Equally, the Bill gives the power for committee system authorities to operate scrutiny committees, and so for some a more streamlined model, more akin to the "fourth option", could apply. In committee system authorities, the responsibility to carry out flooding scrutiny, health scrutiny and community safety scrutiny will continue (even though such work may not occur at scrutiny committees). Later in this briefing we will touch on different models and consider which might work best in different sorts of authorities, should the decision be taken that governance arrangements should change.

1.4 The CfPS has launched a brief survey to establish the likely extent of any plans to change political management structures and is carrying out detailed research as part of the Annual Survey of O&S in Local Government to get a clear picture of how many authorities would choose an option to return to the committee system, and this will inform our approach in early 2011. We will be engaging closely with authorities planning to change their executive arrangements as part of our Accountability Charter programme.

1.5 We strongly believe that the cabinet/scrutiny split constitutes the most effective, flexible and proportionate form of governance for local authorities, and that the overview and scrutiny function has – contrary to what some commentators have said, and further to considerable research we have carried out on this topic – proved itself up and down the country by bringing a new attitude and approach to accountability in local authorities, making a significant impact and opening up decision making. The forthcoming Health and Social Care Bill will be extending scrutiny powers in recognition of the value of independent scrutiny. However, we realise that localism means that authorities should have the freedom, based on local democracy, to choose their own governance arrangements, and so want to ensure that in those authorities who do wish to change, the benefits of a culture of scrutiny will continue, even if the structures may not.

1.6 Throughout this document we have referred to the "cabinet/scrutiny split", but for the purposes of this paper readers should take this as including

those authorities who have already adopted the "strong leader" model and those who have an executive mayor, as the challenges faced are similar.

2.   The committee system and the executive-scrutiny split: key differences

2.1   The "committee system" is a style of governance involving councillors sitting on committees which make decisions, receive briefing and commission reviews to develop policy. Most authorities last used such a system in 2000 (or thereabouts). The change to the executive/scrutiny split was brought in by the Local Government Act 2000 to address what were perceived as significant shortcomings in the committee system. Some of these issues are set out in the Audit Commission paper, "We can't go on meeting like this", published in 1990.

2.2   Since 2000 most local authorities have operated with an executive and scrutiny split – either a Leader, cabinet and scrutiny or mayor, cabinet and scrutiny model of governance. These arrangements also have their strengths and weaknesses and whilst not universally effective they have found success in many authorities. Following on from the committee system they have developed areas that were often overlooked under the old system and can also provide lessons to learn from in adopting a new governance system.

2.3   The arguments for and against various systems of governance have been rehearsed many times, and will by necessity be different for every authority, because of differing political and managerial cultures. However, the old committee system did have some significant drawbacks inherent to its operation. Authorities considering the pre-2000 committee system as a model on which they wish to base a post-2011 decision-making structure will need to bear these shortcomings in mind.

2.4   Many councillors elected since 2000 will not have experienced the committee system and may be interested in hearing both sides of the argument and seeing the research undertaken on previous committee systems.

2.5   In those authorities that retained a committee system (for the most part, "fourth option" councils –district councils with a population of less than 85,000) a streamlined committee system has evolved since 2000. These councils provide interesting examples for those authorities considering a change to their executive arrangements.

3.   Changes to decision-making and the nature of local service delivery since 2000

3.1   Since 2000, a number of changes have occurred in the local government landscape. We think that the pre-2000 committee system would be ill-equipped to meet these challenges.

3.2   Changes include:

3.3   Greater delegated powers for councillors and officers have changed the culture of decision making and led to a swifter decision-making process and clear operational responsibility for officers.

3.4   Councillors have gained significant powers to hold partners to account through the scrutiny process – in particular, health and policing partners, as well as various others.

3.5   Councils have recognised that often the big issues for the community need to be tackled through public services working together and have entered into formal partnerships to achieve this. Councillors attend in a representative role with a need for authority to agree to decisions. To enable productive partnership working committee systems will need to offer an element of delegation to councillors identified to represent the authority beyond that of the previous system. Shared services and outsourcing are other important issues here that will affect decision-making and accountability.

3.6   Best value reviews carried out until 2005 have given way to cross party councillor-led reviews through overview and scrutiny committees. Many of these are delivered through "task and finish" groups, and are free from the application of the party whip. These reviews have enabled councillors from different groups to explore issues of common concern and seek improvements.

3.7   Many authorities will find that service departments, and the corporate core, have fewer resources available to manage any increase in decision making and briefings through committees and less resource available in central teams that previously clerked such committees. Authorities planning a committee system will need to consider what resources will be required for managing the decision making of the authority.

3.8   Committee systems will also have to be planned to reflect public sector reform being brought forward by the coalition government such as Police and Crime Panels, Health and Wellbeing Boards, mutuals and Local Enterprise Partnerships.

4.   Wider implications: the importance of culture

4.1   Below (at section 5), we will set out a series of risks, and mitigations, relevant to discussions of changing governance arrangements. These all suggest that any proposals around changes to decision-making in local authorities should be considered in the light of cultural concerns around accountability, openness, transparency and democracy. Systems should be designed to respond to and tackle issues in a way that enhances the genuinely effective involvement of councillors, and the public, in the decision-making process.

4.2   An undue focus on the structures of governance rather than these cultural concerns may well lead to problems that councillors and officers thought may have been unique to the cabinet/executive mayor model being equally applicable to any other decision-making system. Public frustration that changing governance arrangements has not led to greater transparency, involvement and accountability may well increase, particularly in times of economic austerity.

4.3   Where authorities are considering changing their executive arrangements, they should have regard to the CfPS principles of good scrutiny and our foundations of good democracy. Any new structure should:

  – allow scope for individual or collective decision-making within a transparent structure (for example, through the Forward Plan and the cabinet and portfolio holder decision process and call-in that operates under the cabinet system);
  – recognise that a number of leading councillors will always lead strategic direction and development of policy, and that the Cabient system formalises more transparently that which already existed in many authorities
  – engage with partner bodies in a realistic way, allowing individual councillors (whether they are committee chairs or Cabinet councillors) to represent the council on outside bodies and partnership boards with clear delegated decision-making authority;
  – give a strong role to all councillors in directing strategy and policy, and in (proportionate) performance management;
  – provide the maximum possible opportunities for actively engaging the public in influencing policy and improving services, with there being a specific way to feed public views into the decision making process (not limited to consultations carried out by officers);
  – limit the bureaucratic and administrative burdens on authorities of the decision-making process;
  – enable councillors to work together on a cross-party basis to resolve issues of local concern;
  – provide a means for all councillors to hold to account the work of the authority.

4.4   Although there may be a strong desire to return to the committee system in some authorities, they need to guard against risks inherent in that system. We still think that the independence, flexibility and creativity within executive/scrutiny arrangements provide the best opportunity to balance transparency, democracy, involvement and the necessary expediency of decision-making. It is unrealistic to assume that the only options available to authorities are a wholesale return to the committee system, or sticking with what currently exists. There will be ways and means for authorities to use a decision to return to the committee system to put in place something that will be more streamlined.

4.5   In a way thjs reflects the proposals for structural change made by research published by the Audit Commission in 1990. These proposals focused on committee frequency, strategic clarity and councillor training. This may result in systems that look similar to a fourth option approach – a streamlined committee system with a scrutiny or policy review function providing independent recommendations for action. This, in turn, bears some similarity with the practice, adopted in some authorities in the 80s and 90s (for example, Kirklees), of appointing cross-party task and finish groups beneath decision-making committees to investigate given topics and make recommendations, as a forerunner to the current executive/scrutiny arrangements. We can envisage through these means a continued, objective scrutiny function, feeding into decision-making committees, rather than through independent overview and scrutiny committees.

4.6   Adopting this approach alongside a committee system which accepts the need for a significant amount of delegated decision making and a clear role for councillors in strategy and policy formulation, rather than operational matters could present an approach for authorities who wish to make the transition. It should not noted though that the Government propose to enact secondary legislation which will go into detail about the delegation of powers in due course.

4.7   What is important to realise is that any governance system allows both good and bad practice. Any system relies on the goodwill and ability of those involved – councillors and officers – to be effective. Returning to the committee system will not automatically lead to open, democratic decision-making. But equally, a blind adherence to the suggestion that the cabinet/scrutiny split always works as intended is a flawed argument too.

4.8   Most important is the culture of accountability in decision-making in the authority. Scrutiny is about councillors coming together to investigate, to research, and to probe, and to make objective evidence-based recommendations for improvement, on a cross-party basis. It is a means to provide internal assurance that business is being transacted properly,

that issues of local concern are being considered, that stakeholders have a voice and that mistakes are being learned from.

4.9 These are not principles that are unique to one system of governance. In our view, however, a split between executive and scrutiny functions provides the best means to make sure such principles are adhered to. Conflicts of interest are less likely to occur because councillors are not as likely to be investigating and reviewing decisions or policies that they have made themselves. There is also more space for horizon-scanning and policy development that can be crowded out under different structures where the focus of agendas is always on making today's decisions, rather than planning ahead for tomorrow's problems.

4.10 Equally, where decision-making works well and is transparent, there is significant opportunity for scrutiny to influence and direct council policy, through making evidence-based recommendations to the council's cabinet and other partners. Where it works well, it can also help improve governance in many of the areas that matter most to the public, as this diagram from MORI shows in relation to influences on levels of public trust in institutions, where we have ringed those where effective scrutiny can make a particular contribution:

Key influences on levels of trust
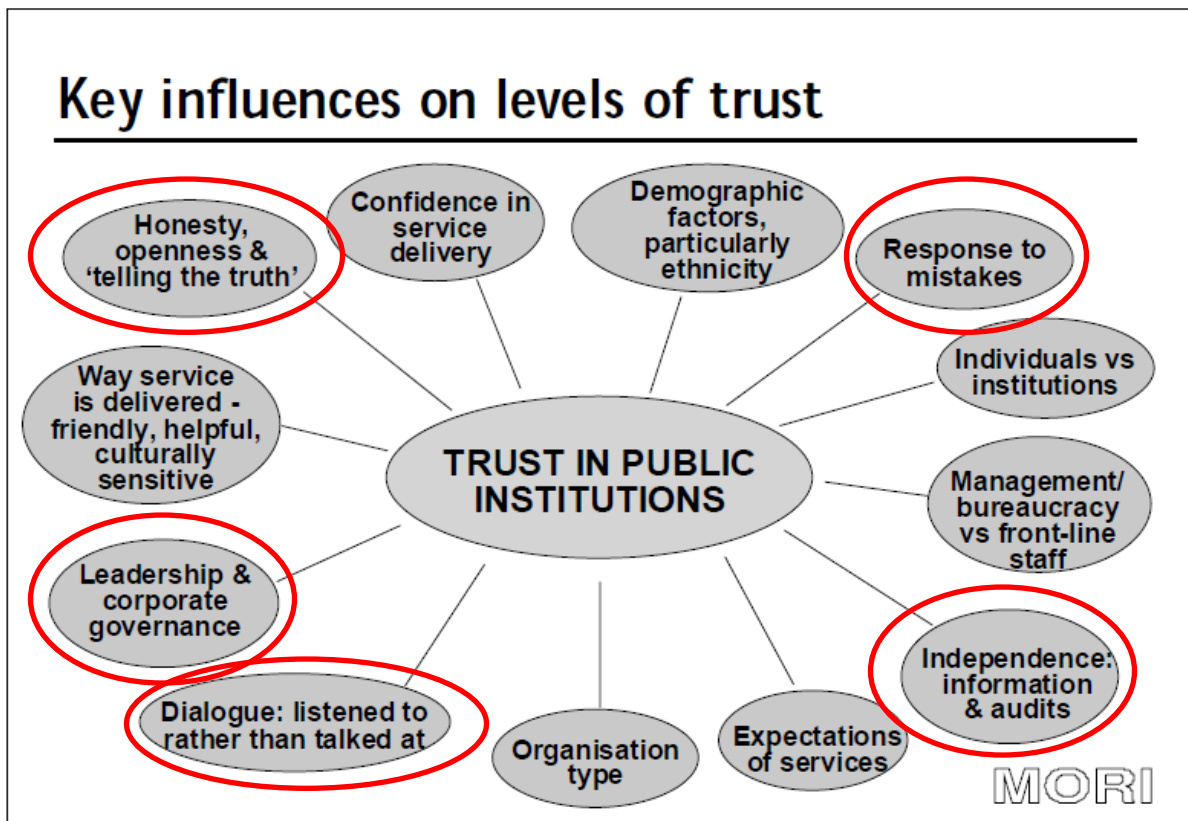
4.11 With the prevalence of ward budgets and devolved decision-making, it seems likely in the future that – in their wards, at least – the potential for direct, operational involvement by backbench councillors in service delivery (being able to get things done) is likely to increase in importance anyway, with individual councillors being given more independence to use funds for the benefit of local people.

5. <u>Learning from Previous Systems of Governance</u>

5.1 Should local authorities wish to review their governance arrangements, an approach should be adopted that recognises that both main approaches (executive scrutiny split and committee system) have their strengths. Four key risks that local authorities exploring a change should consider – and how to plan for them - are set out below:

Risk	Learning from previous systems		Possible action to take
	Positive views	**Negative views**	
1. That a committee-based system would leave councils ill-equipped to handle proactive cross-partnership decision-making, where discussions often occur and decisions are made at partnership boards. This could hinder partnership working, disenfranchise partners and turn effective partnerships into talking shops with decisions having to be taken back to local authority committees for ratification	Supporters of the committee system argue that it allows more councillors to be involved directly in making and influencing decisions that affect the lives of residents	In many authorities, the committee system led to an undue focus on operational management, with councillors duplicating the activity of officers rather than exercising a discrete leadership role. The absence of delegated decision making for individual councillors, incompatible cycles and schedules of meetings and service specific decision making means the pre-2000 committee system was not set up for the increase in partnership working that has occurred in the last ten years.	There is a need for any system of governance based on committee decision-making to focus on key strategic issues affecting the area, integrating the decision-making process with existing partnership arrangements. Delegated decision-making under certain circumstances to the chair would be advisable for example to enable timely partnership-based decisions to be made. There would also have to be an understanding that a volume of decisions need to be delegated to officers. Opportunities for providing and demonstrating accountability would need to be established; for example through one or more overview and scrutiny committees

Risk	Learning from previous systems		Possible action to take
	Positive views	**Negative views**	
2. That decisions will be reached in silos by committees lacking strategic co-ordination. Councillors would lack other ways to get involved in policy development and review currently provided by scrutiny. This raises the potential problem of needing more meetings to sort through cross-cutting decisions. Swifter decisions also require either more meetings (with increased costs) or more delegated decision-taking by the chair, both of which are problematic.	Committee system supporters argue that it is more democratic, in that it allows all councillors to be involved in the decision-making process and develop specialist knowledge, which aids succession-planning	Experience suggests that crucial decisions were often made at political group meetings rather than openly "in committee" - it has been suggested that in many authorities, committee chairs acted as a de facto cabinet, making decisions behind closed doors- with political management techniques (the whip) being used to ensure their committees' assent. Of course, political control remains an issue with the executive/scrutiny split as well. Furthermore, the necessarily close relationship that the silo-based approach demands between councillors and departmental officers raises other problems**.** In some authorities, the Audit Commission found that leading councillors were so closely involved in the organisation "that	Committees' structures must build in consideration of cross-cutting issues to short-circuit the ping-pong between different bodies that each have an interest in the issue. Central co-ordination of the committee system is required to ensure a strategic approach to the authority's decision making and policy development. Corporate policy and review officers undertaking a committee manager or lead officer role for each committee, should plan and schedule decisions to reduce overlap and speed up decision making. Independent, cross-cutting means for policy development and formulation – such as that currently provided through the scrutiny process - will help to resolve problems.

Risk	Learning from previous systems		Possible action to take
	Positive views	**Negative views**	
		they abandoned their representative roles and become apologists for, rather than controllers of, whatever the organisation does. Many authorities have found that the space for considering purpose, direction and results was squeezed out". This could be said of executive cabinet councillors under the current system, except that overview and scrutiny provides space to both consider wider issues and challenge the cabinet.	
3. Additional costs through transition and operation of a committee system and potential loss of relevant skills if the resource needs of the system are not properly planned.	Supporters of the committee system argue that it is more cost effective and proportionate than the cabinet/mayoral system.	In some authorities, the pre-2000 committee system led to significant demands on officer and councillor time, especially if poorly managed. For example one authority was convening 302 meetings per year solely to deal with education issues, while another authority, with a larger education budget,	The risk needs to be mitigated by carefully planning any transition to new executive arrangements rather than making the assumption that changing them will result in financial savings. Some specific resource will need to be committed for managing committees and supporting councillors to provide challenge and

Risk	Learning from previous systems		Possible action to take
	Positive views	**Negative views**	
Service Decision-making committees required a greater number of committee clerks, policy officers and senior departmental officers to attend and service their needs than has been experienced in most executive systems. Relevant skills to support committees and councillor review activity through staff recruited to support scrutiny may be lost during the transition.		only convened 32 (and that is far more than authorities convene at present).	accountability for other public service providers. In response to this and other risks this is likely to be best provided by a small number of policy and review officers liaising between councillors, chief officers, partners and councillor support services. Central co-ordination in this way will avoid duplication between committees and lead to efficient decision making. The risk can also be mitigated by developing a well structured system. Recognising that it will not be appropriate under all circumstances to make decisions at a committee, empowering the chair to make delegated decisions at external or partnership bodies will help facilitate a streamlined system. Councillors' understanding of the operation of the system through training and development will also be important.

Risk	Learning from previous systems		Possible action to take
	Positive views	**Negative views**	
4. That councils will overlook the need to build into their new arrangements open, deliberative forums such as scrutiny that demonstrate accountability and provide the public with opportunities to effect change and influence services.	Those supportive of the committee system argue that the committee system lasted for over 100 years and was understood by the public. councillors or the public attending committees can see debates taking place in public between political parties, thus enhancing transparency.	A system of formal committee-based decision-making offers few opportunities for the public to get directly and actively involved in shaping decisions alongside councillors. At formal committee meetings the public tend to be either passive observers of proceedings or asking for their views to be considered via a deputation or petition which will often be unconnected to the agenda items under discussion. Governance arrangements since 2000 have included more opportunities for the public to actively influence policies and services, thus enhancing participative democracy. Flexible Overview and Scrutiny evidence gathering provides a forum where councillors and the public can interact on more equal terms, with	Care would need to be taken when developing policies that additional consultation is carried out to ensure the public are still able to have their say. Providing for informal review groups to work underneath decision-makingcommittees and through a cross cutting service improvement committee would continue to provide opportunities for direct interaction and collaboration between councillors and the public in reviewing services incorporated into a committee system of decision making.

Risk	Learning from previous systems		Possible action to take
	Positive views	**Negative views**	
		opportunities for the public to be co-opted, appear as expert witnesses, and give testimony as to their experience of services and collaborate with councillors informally in task and finish groups, and in some cases at committee meetings themselves.	

6. <u>Alternative Approaches</u>

6.1 The Government's openness to different forms of governance creates an opportunity for authorities to think beyond the committee system and to consider their approach to governance in the light of other changes they may be making to the services they provide and the kind of authority they wish to become. The Centre for Public Scrutiny would encourage authorities to consider governance arrangements in this context rather than deciding on their governance structure in a policy vacuum that ignores other changes.

6.2 Some possible typologies of different approaches to service organisation and delivery and a suggested kind of governance structure that would be appropriate for each are set out below. They are intended to be illustrative of different kinds of approach, and not prescriptive, nor models of "best practice." The Centre for Public Scrutiny can provide support to local authorities seeking to explore alternative governance arrangements:

6.3 **The Community Budgeting Council**
For the council taking forward the lessons of Total Place with its partners, providing pooled budgets to the local partnership to spend as they see fit to tackle the priorities and problems they have collectively identified.

An approach to governance could be developed through a Public Service Board, involving senior leaders with decision-making power particularly over committing resources. Non-executives could be members of the PSB as in a company board model, or there could be a separate 'scrutiny' body with power to challenge, review and question. This could be based in the council or organised jointly with councillors and other non-executives.

6.4 **The 'Virtual' Commissioning Council**
For the council that sees itself as an enabling and coordinating body, rather than as a direct provider of services or as a strong strategic leader of other partners. Councillors have a limited strategic role to agree the services they wish to see commissioned and a very local, neighbourhood champion-based role in their ward or division.

Governance could be lean and regulation light through a strategic, commissioning cabinet and light–touch scrutiny system with a local focus on outcomes for local people. Ensuring clear lines of accountability and reporting are built into commissioning arrangements so that all providers know that they are expected to account to scrutiny if asked will be important to ensure public accountability. Alternatively a highly streamlined committee system could work, although committees' work would be limited to setting commissioning strategies and monitoring contract outcomes since there would be few services over which councillors could exercise direct control.

6.5 **The Municipal Council**

For the council that sees itself as the guardian of public assets and the interests of all the community. The council will work in partnership with others where a clear case can be made for it being in the best interests of the community and may seek to supplement the primacy of the council's representative democracy form of governance with a wide range of ways for people to engage with the council in whatever more participative ways suited them and their lives.

Having fairly tight control over services could be important for members of this council in order to deliver their desired outcomes. There may be a strong focus on using their democratic mandate to scrutinise and influence other service providers.   A committee system could work here, as well as an executive and scrutiny system, but the need for flexibility and efficiency as well as strong, clear democratic leadership would mean slimmed down committees at the very least. A single scrutiny committee with flexible structures underneath for policy development and review and strong local scrutiny by ward/division councillors would work well.

6.6   The Collaborative Council

Here individual councils may choose to collaborate and share services between them, as sovereign organisations pooling decision-making for particular, limited purposes. This might be to make management efficiencies or to collaborate to achieve shared goals (eg the Association of Greater Manchester Authorities).

As these collaborative arrangements are likely to affect only part of the participating councils and to develop gradually over time, there is a danger that governance arrangements may not keep up. Authorities may be left with a mixture of governance systems and the risk of duplication and inefficiency. If the councils involved have cabinet-scrutiny systems of governance, then delegated powers could be used to enable joint decision-making and where this exists, joint scrutiny could exist as well. With a committee system there is a danger that a plethora of new committees could reduce the efficiencies sought by the initial drive to join things up and would be complex to arrange across authorities given the need for political balance.

7.   <u>Conclusion</u>

7.1   Ultimately, it will be for local authorities and their councillors to make the choice of whether or not to choose a committee system, or something like it. We think, as we have explained, that the cabinet system works well – not just because it is convenient and expeditious, but because it enables the council to foster a strong, value-adding and highly effective scrutiny system.

7.2   We think that a committee system following the traditional pre-2000 model would be ill-equipped to deal with today's challenges and approaches, particularly partnership working.

7.3   But we also think that there are ways and means of integrating the values of scrutiny within a hybrid committee system that – if the authority's culture is open and values the influence and roles of all councillors – could see effective scrutiny continuing, albeit in a new, probably more flexible way.

<u>Further reading</u>
"We can't go on meeting like this" (Audit Commission, 1990), available on the CfPS website
"The internal management of local authorities in England" (Department of the Environment, 1991)
"Report of working party into local authority decision-making" (Department of the Environment, 1993)
"Modern local government: in touch with the people" (Department for the Environment, Transport and the Regions, 1998)
 "National surveys of overview and scrutiny in local government" (CfPS, 2003-2009)
"Control Shift" (Conservative Party Green Paper, 2009)
"Accountability Works!" (CfPS, 2010)
"Between a rock and a hard place" (CfPS, 2010)
Localism Bill 2010-11

Policy, Performance and Review Team

Mayoral Referendum Consultation Report

August 2015

Method of response	Number of questionnaires
Total on-line	340
Total returned via post	129
Total from Brixham event	27
Total from Paignton library event	27
Total from Torquay event	79
Total from Paignton Asda event	24
Total from library and Connections boxes	278
Total responses	904

This consultation was open between Monday 3rd August and Monday 31st August 2015.

CONTENTS

1. Introduction

The Council intends to hold a referendum in May 2016 on how the Council is run from 2019 onwards. The referendum will ask whether the Council should continue to be run as it is now by a Mayor who is elected by Torbay's voters or by one of two alternatives:

- A Leader and Cabinet System

- A Committee system

While the wording on the ballot paper for a referendum is set by law, the Council wanted to hear from local residents on which alternative option should be included for the referendum. The options are:

Option 1	**Option 2**
How would you like Torbay Council to be run?	How would you like Torbay Council to be run?
By a mayor who is elected by voters. This is how the council is run now.	By a mayor who is elected by voters. This is how the council is run now.
Or	Or
By a leader who is an elected councillor chosen by a vote of the other elected councillors. This would be a change from how the council is run now.	By one or more committees made up of elected councillors. This would be a change from how the council is run now.

2. Methodology

This consultation was open between Monday 3rd August and Monday 31st August 2015. An on-line survey was published on the Torbay Council website, and paper versions were made available in all four Torbay Libraries and the three Connections Offices.

The survey was also posted or e-mailed to 600 Torbay residents who are members of the Viewpoint Panel.

Four consultation events were held to raise awareness of the survey and answer any of the public's questions regarding a Mayoral referendum. There were three daytime events at Brixham Library, Paignton Library and Torquay's Union Street, as well as one evening event at Paignton Asda.

The consultation, its survey and events, were publicised in the local press and on social media sites.

3. Summary of results

- 675 respondents (74.7%) answered **no** to question 1: Do you want to keep the current system (Directly Elected Mayor) without holding a referendum? Compared with 197 (21.8%) who answered **yes**.

- In answer to question 2, just over half of respondents chose **Option 2** - Committee System, as their preferred option, 486 (53.8). Almost a quarter of respondents chose **Option 1** - Leader / cabinet System at 213 (23.6%).

- The vast majority of respondents 878 (97.1%) **live in Torbay**

- Just over half 477 (52.8%) of respondents **work in Torbay**. 384 (42.5%) ticked no or stated that they were retired.

- Question 5 allowed respondents to make **written comments**. There were 307 comments made. These have been categorised into popular themes for this report. The numbers in brackets within the tables indicate the number of responses in that theme. Individual comments may be classified under more than one theme.

4. Results

1. Do you want to keep the current system (Directly Elected Mayor) without holding a referendum?

	Number	Percent
Yes*	197	21.8%
No	675	74.7%
No response	32	3.5%
Total	**904**	**100%**

*If respondents answered yes to question 1, they were asked to go to question 3.

2. What would be your preferred option for what should be included on a referendum ballot paper?

	Number	Percent
Option 1 - Leader / cabinet System: Voters elect councillors to their ward and a leader would be chosen by the 36 elected councillors, the leader would have the same powers as the Mayor, but can be replaced at any time with another councillor.	213	23.6%
Option 2 - Committee System: Voters elect councillors to their ward. No decision making powers would be given to any one councillor and all decisions would be made at Council or committees or sub committees where Council agrees to this.	486	53.8%
No response	205	22.7%
Total	**904**	**100%**

21 respondents (2.3%) answered yes to question 1, but also answered question 2. Of these respondents, 16 (1.8%) chose option 1 and five (0.6%) chose option 2.

22 respondents (2.4%) answered no to question 1 but did not provide an answer to question 2.

Seven respondents did not provide an answer to both question 1 and question 2.

3. Do you currently live in Torbay?

	Number	Percent
Yes	878	97.1
No	10	1.1
No response	16	1.8
Total	**904**	**100%**

4. Do you work in Torbay?

	Number	Percent
Yes	477	52.8
No*	384	42.5
No response	43	4.8
Total	**904**	**100%**

* 'No' figure includes respondents who indicated they are retired.

4 respondents (0.4%) did not provide an answer to both question 3 and question 4.

5. Are there any further comments you would like to make?

This question allowed respondents to make written comments. These comments have been categorised into popular themes. The numbers in brackets indicate the number of responses in that theme. Individual comments may be classified under more than one theme.

Category	Comments made by respondents
Mayor / Mayoral System (85)	*"Elected Mayor system more democratic as they are voted in by the public."* *"Find the mayoral system confusing for voters."* *"Hundreds of towns and boroughs manage to do without a Mayoral System and they manage extremely well. Torbay doesn't need a Mayor and the money saved from that could be spent where it is really needed in the area."* *"I believe an elected mayor provides greater public accountability."* *"I have not been happy with the elected mayor system, but will option 2 cost more money?"*

	"Mayor brings long term stability. Before we had councillors kicking out their leader every few months so nobody knew who was in charge." *"I think the current system works perfectly well and should not be tampered with just to appease certain members of the council who disagree with some of the decisions made by our Mayor."* *"The committee system will save ratepayers money by reducing red tape and staffing costs by removing the mayor and all of his staff. In these times of financial restriction placed on Local Councils by central government, the money saved will enable more staff to be employed where they are really needed."* *"The existing system is not beyond redemption but if it should be retained it is important that the person holding the office genuinely works for the whole bay, and works with all of his council to deliver programmes following meaningful consultation with the electorate affected."* *"Torbay is too small to have an elected mayor system."*
Decisions (51)	*"A committee system to make the decisions in a fairer way."* *"Committee system - Time Consuming, expensive, decisions take too long to get made."* *"Decisions should be made by multi-party councillors or similar so that there is a broader view over decisions made where all people in the bay are considered."* *"Ultimately there needs to be a decision maker. In my experience committees do not make quick decisions and procrastinate. Committees also suffer from group think. Committees are good for fact finding and putting forward suggested ways forward, but ultimately an elected person needs to make a decision, based on the best interests of the bay, now and in the future. That person is accountable and can be elected out."* *"The previous system failed Torbay because political infighting interfered with the decision making process"* *"Any contentious decisions, ideas made public before it becomes a fait accompli."* *"Decisions should not be taken on council affairs by any one person. All council decisions should be taken by elected councillors put in place by Torbay residents."* *"Hadn't realised the amount of power the Mayor has to make decisions. Committee system would be fairer."* *"……I would not trust councillors collectively making a decision (they would never agree and nothing would get done) and I certainly wouldn't trust the councillors deciding who the leader should be….."*

	"I believe that a committee system, with NO leader to be the most democratic way to run the council. That way everything will be decided on a majority basis with no-one having a decisive or casting vote."
Other (39)	*"A simple yes or no to an elected mayor would seem simpler."* *"Option 2 is untried and without further information on how it would be envisaged to work, it is not possible to determine who would ultimately take charge. Rather reminds me of the concept of designing a camel by committee!"* *"I do not work because I am retired."* *"Vote by local's system only"* *"Council is a multi-million pound business, needs to be run by people who have the expertise - with forward thinking ideas."* *"Hold election along with referendum"* *"I do not understand the full implications of options 1 and 2"* *"If a referendum is to be held, my preferred option is for option 1 - leader/cabinet system."*
Cost / Finances / Savings (36)	*"Are there many financial benefits to the local council tax payer? Can money be saved using a system without an elected Mayor?"* *"Debate also needs to consider what Torbay Council will look like by 2019 given £33m cuts. Also consideration should be given to the number of councillors needed in a modern world."* *"I do not believe one person should be able to make major decisions which affect so many residents' lives and also waste valuable funding."* *"I think the Mayoral system has been a very expensive mistake and I believe voters have been apathetic and not interested in voting in a Mayor. I wonder how much a Mayor, his office and staff have cost us?"* *"The cheapest option would probably make sense."* *"While I was never in favour of having a directly elected Mayor, I'm prepared to put up with the current system simply to avoid ANOTHER referendum. They are so costly for an already cash strapped Local Authority."* *"I presume any leader would not get paid a Mayoral salary."*
Councillors (35)	*"All Councillors should be independent and party politics should play no part in local government"* *"Bring back the civic Mayor. We need younger councillors, too many over 65 councillors on Torbay Council. We need Councillors who work and live in the real world!!!"*

	"Decisions should not be taken on council affairs by any one person. All council decisions should be taken by elected councillors put in place by Torbay residents".
	"No need to waste funds on voting for a mayor, then being stuck with him/her for a set time. Much better to discuss in groups/committees and have full council voting, so more councillors can be properly involved."
	"Councillors used to chop and change leader all the time in the past so we never moved forward under strong leadership. I prefer the public deciding who should lead them not a few people secretly doing it behind closed doors."
	"Reduce the number of councillors by 50% allowing those left to do a more productive job."
	"Option 1 only perpetuates the current system and furthermore it takes the power of electing the mayor out of the hands of the public and gives it to councillors."
Power (27)	*"An "all powerful" Mayor) or like person can be manipulated by an individual resident for personal gain - as has happened against the opposition of other residents, causing resentment. Such a powerful individual may make decisions against Council Policy. How are they held to account?"*
	"I think under the current system the mayor has too much power and of course is the cost of his/her post public purse, and maybe some things pushed through would seem a bit odd to say the least. The public should be more involved in what is best for Torbay not just a few people who think they know best. Conflict of interest comes to mind."
	"The council needs a leader with powers who can make decisions otherwise we will return to the past where nothing is done as the civil servants clog everything up in eternal surveys and the only thing that goes up is their salaries………."
	"I think that the reason for introducing a Mayoral System has been overlooked. That reason was to move on from the constant inter-party bickering and lack of action from the previous system. Better to have a Mayor with decision making powers."
	"Mayor system of one man holding all the power is totally wrong, democracy is dead in the bay while this system is in operation."
Democratic (23)	*"Committee system more democratic & responsive. More responsive to rapidly changing Torbay demography, with better ethnicity and culture, less sudden shocks & changes of direction makes less conflict, better cross party relations, agreement before hitting press."*

	"Decisions adopted on behalf of voters should not be capable of being taken up by one person's opinion only, this is not democratic. Important decisions should only be made by appointed committees, this should lead to a better chance of correct decisions being made & by a group of dedicated local people, living in the bay, and who should be aware of the facts first hand." *"In my opinion, Option 1 is too similar to the current system. Option 2 provides a clearer alternative which, I feel, is also more democratic in its processes."* *"I believe in a greater democratic system than we now have"*
Unitary (20)	*"Have a referendum on abolishing Torbay unitary status, go back to Devon County Council. Abolish Torbay unitary in the referendum in May 2016"* *"As a unitary authority Torbay is too small to attract the necessary calibre in staff and councillors, it should unite with Devon. It is the worst authority I have ever worked or lived in!"* *"Torbay is too small to be a successful Unitary Authority. The Local Government reorganisation of 1976 resulted in Torquay having a disproportionate influence on the social, cultural, economic activities of Torbay. Torbay Councillors do not have the skills or integrity to ensure equal distribution of resources throughout all sections of the Borough. Far better for Torbay to be subsumed into Devon County Council and so avoid some of the inequalities and duplication of functions that hinder the development and prosperity of Torbay area."* *"We should give up unitary status as we are too small an area to govern ourselves and it has been disastrous for the area. Residents were dissatisfied with the way the council was run after becoming unitary so the elected mayoral system was brought in, it has also proved disastrous so we should now reunite with Devon County Council."*
Listen to the people of Torbay (17)	*"I feel very strongly a lot of decisions are made personally at present - without a listening ear to either fellow councillors or their electorate. The other system could be more advantageous. Thank you for this opportunity to voice my opinion."* *"The committee system would only work well if councillors didn't waste time on irrelevant discussion or get caught up in political arguments. Concentrating on genuine debates that lead to well thought out decisions actually being made and truly representing voters interests will be key. Good luck!!"* *"The existing system is not beyond redemption but if it should be retained it is important that the person holding the office genuinely works for the whole bay, and works with all of his council to deliver programmes following meaningful consultation with the electorate affected."*

This Consultation (17)	*"I am disappointed how little publicity has been given to this on line consultation - it does suggest the council have a hidden agenda already. Let's hope enough people see it"* *"Why can't we choose between mayor, leader and committee systems?"* *"You have forced me to vote yes to question one when, in fact, I would like a referendum in which I would vote in favour of keeping the current system. Your questionnaire is clearly flawed"*
Change (15)	*"Changing the system will not give us stronger candidates. We have had behind closed door council decisions and didn't like it so moved to a Mayor, We didn't like the politicising and perceived lack of accountability that that brought and now we seek to change it all again"* *"I feel that if we revert to option 2 it will be a retrograde step."* *"We need to change the system urgently!"*
Figurehead / leadership (13)	*"A Mayor is directly elected by the people, I prefer this method because a leader can be a favourite of the councillors. Having a Head is important for discussion making."* *"It seems obvious that a leader elected by the councillors themselves would co-operate better"*
Brixham (12)	*"I would like to see Brixham under the control of Brixham Council, with Torbay Council having no authority over Brixham."* *"Brixham Council should be included in ballot - whether they stay or go."*
Accountability (10)	*"I believe an elected mayor provides greater public accountability."* *"I feel Torbay Council lacks credibility, transparency and clarity. Decisions by the few effect Torbay and Torbay needs to be brave, develop and grow. Torbay needs decent jobs to attract people of working age. Torbay Council needs to modernise and be fully accountable for its actions."*

5. Conclusion

Most respondents do not want to keep the current system of a Directly Elected Mayor

Option 2 – Committee System is the preferred option to be included on a referendum ballot paper by the majority of respondents.

For further information please contact the Policy Performance and Review team on 01803 207227 or email consultation@torbay.gov.uk

The information used to collate this report has been collected and processed in accordance with the Data Protection Act, 1998.

Meeting: Full Council   **Date:** 22 October 2015

Wards Affected: Berry Head with Furzeham and St Marys with Summercombe

Report Title: Lease of Office Premises for Brixham Children's Centre/SWIFT Practise Base (Mayoral Decision)

Is the decision a key decision? No

When does the decision need to be implemented? October 2015

Executive Lead Contact Details: Cllr Julien Parrock, Executive Lead for Adults and Children, 293217 and julien.parrott@torbay.gov.uk

Supporting Officer Contact Details: Rachael Williams, Head of Schools, 208743 and Rachael.williams@torbay.gov.uk

1. Proposal and Introduction

1.1. Brixham Children's Centre offers a variety of supportive services to young families in the area, including workshops, drop in sessions and training. Earlier this year the centre was forced to vacate its premises at Furzeham Primary School. This was due to the needs of the school which is facing rising pupil numbers and an ongoing works programme dealing with condition of its buildings. There is no option for the centre to return there in the foreseeable future.

1.2. Following investigations, Children Services has identified suitable alternative premises; a vacant unit which is part of the Brixham Enterprise Centre, Rea Barn Road, Brixham TQ5 9DF.

1.3. The unit is centrally located in the town with good accessibility and flexible, well – presented accommodation.

1.4. The premises are owned by the Torbay Economic Development Company (TEDC) and are available to lease at £17,000 per annum, subject to upward review at 3 yearly intervals if market conditions dictate.

2. Reason for Proposal

2.1. To enable the Brixham Children's Centre to move to new accommodation.

3. Recommendation(s) / Proposed Decision

3.1. That Children Services be granted a 21 year lease from Torbay Economic Development Company of the vacant unit at Brixham Enterprise Centre, Rea Barn Road, Brixham TQ5 9DF for use as accommodation for the Brixham Children's Centre

Appendices: Appendix 1: Supporting Information and Impact Assessment

Background Documents: None Page 119

Appendix 1

Supporting Information and Impact Assessment

Service / Policy:	Children Services Brixham Children's Centre
Executive Lead:	Cllr Julien Parrott
Director / Assistant Director:	Richard Williams

Version:	2	Date:	7/10/15	Author:	Rachael Williams

Section 1: Background Information	

1.	**What is the proposal / issue?** The proposal is that Children's Services lease the unit at Brixham Enterprise Centre from the TEDC in order for it to become the service delivery point for Brixham Children's Centre and as a practise base for the SWIFT project. Services initially to be delivered from the setting include: • Baby massage • Drop in sessions for 0-6 months • Breast feeding clinic • Play cafe • Toddler sessions • Parents to be sessions • Nurture clinic • Health visitor check ups Whilst this range of services will change and grow as the centre becomes more established and as the SWIFT project evolves to meets the needs of its community; it is believed that the unit offers sufficient flexible accommodation to support their long term aspirations and needs. In addition the central site of the unit, which is within walking distance of the town centre with good road and pedestrian access, makes it the ideal location for a community base and a hub for localised service delivery. In fact this location is expected to increase the reach of the services.
2.	**What is the current situation?** Since 1st April 2015 Brixham Children's Centre has not had a base from which to deliver its services. This is having a negative impact on its service delivery. Without a base it has only been able to provide a very limited offer and is, therefore, not meeting all of its statutory functions. Parents and vulnerable families are forced to travel to Paignton and Torquay to access the full range of services that should be on offer. The centre has noticed a drop off in the number of contacts.
3.	**What options have been considered?** Officers and staff from Action for Children have visited all the existing community bases within Brixham to see how viable they would be as a venue. Unfortunately none were found to be suitable. This was due to a variety of reasons including lack of availability, lack of storage and unsuitable working conditions for the type of service to be delivered (ie. baby health checks).

4.	**How does this proposal support the ambitions and principles of the Corporate Plan 2015-19?** The services on offer by the centre support the principles of the Corporate Plan; they support families and their children, and young people achieve the best outcomes, particularly in relation to educational and health outcomes.
5.	**Who will be affected by this proposal and who do you need to consult with?** This proposal will lead to the reinstatement of a delivery point for services in Brixham; Children Services are not proposing to reduce what is on offer but enhance it leading to a positive impact on children and young people, their parents/carers, and all the agencies/services in Brixham that work with children and young people.
6.	**How will you propose to consult?** This proposal has been discussed at both the Parents Advisory Board and at the Strategic Advisory Board. It has also been discussed with parents attending the services still being offered at Brixham (in temporary locations).

Section 2: Implications and Impact Assessment	
7.	**What are the financial and legal implications?** Children Services will sign a lease for the premises; the lease will be for a period of 21 years with break out clauses every 3 years. The cost of the lease per annum will be £17,000, subject to upward review at 3 yearly intervals if market conditions dictate. This will be met from within existing Children's Services budgets. Children services will be seeking to recuperate this cost from partners who will be based at the unit. Through sub lets and services level agreements Children Services expects to receive the following towards this cost: • £10,000 from Action for Children • £7,000 from SWIFT • £3,000 from Play Torbay
8.	**What are the risks?** The funding identified to cover this cost or the service could be withdrawn; in this eventuality, through the regular break out clauses built into the lease, Children Services will be able to terminate the agreement.
9.	**Public Services Value (Social Value) Act 2012** Any works undertaken at the premises will adhere to this Act.

10.	**What evidence / data / research have you gathered in relation to this proposal?**
	
	During the last full operational year for the Brixham Children's Centre (1/7/14 – 31/6/15)
	
	• Total beneficiaries 723 (681 children and 42 parents to be)
	• Sustained Reach
	  273 once only
	  163 2- 4 times
	  245 5+ times
	• Carers seen 622
	• Children seen 681

11.	**What are key findings from the consultation you have carried out?** All parties, both users and professionals, have responded positively; believing the central location will benefit both parental access and opportunities for join up working with other professionals. Health has already discussed running additional services from the premises.
12.	**Amendments to Proposal / Mitigating Actions** Not applicable

Equality Impacts

13	**Identify the potential positive and negative impacts on specific groups**			
		Positive Impact	**Negative Impact & Mitigating Actions**	**Neutral Impact**
	Older or younger people	There will be a single, central delivery point for services in Brixham which will offer support to this group. It is also anticipated that there will an increase in the reach of this service for this group with its more central and accessible location.		
	People with caring Responsibilities	There will be a single, central delivery point for services in Brixham which will offer support to this group. It is also anticipated that there will an increase in the reach of this service for this group with its more central and accessible location.		
	People with a disability	This single, central delivery point for services in Brixham will be fully accessible & DDA compliant. It is also anticipated that there will an increase in the reach of this service for this group with its more central accessible location.		
	Women or men			No differential impact
	People who are black or from a minority ethnic background (BME) *(Please note Gypsies / Roma are within this community)*			No differential impact
	Religion or belief (including lack of belief)			No differential impact

				No differential impact
	People who are lesbian, gay or bisexual			No differential impact
	People who are transgendered			No differential impact
	People who are in a marriage or civil partnership			No differential impact
	Women who are pregnant / on maternity leave			No differential impact
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			No differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			No differential impact
14	**Cumulative Impacts – Council wide** (proposed changes elsewhere which might worsen the impacts identified above)	No negative impacts identified.		
15	**Cumulative Impacts – Other public services** (proposed changes elsewhere which might worsen the impacts identified above)	No negative impacts identified.		