



Meeting: Council

Date: 23 July 2015

Wards Affected: All wards

Report Title: Torbay Youth Trust Guarantee

Is the decision a key decision? No

When does the decision need to be implemented? July 2015

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1. Purpose and Introduction

- 1.1 Subsequent to Council approval of the creation of a Youth Trust at its 26 February 2015 meeting, Council are requested to approve two guarantees in relation to the Council staff due to transfer under TUPE regulations to the new Youth Trust.

2. Proposed Decision

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

3. Reason for Decision

- 3.1 To save the Council having to fund the Torbay Youth Trust to the sum of £51k, the Council will act as their guarantor (for a period of ten years) to the Local Government Pension Fund. There will be no initial fee associated with providing a guarantee but the Council will be responsible for picking up any deficit liability at the end of the Youth Trust contract which can either be paid as a lump sum or added to Torbay Council's ongoing deficit liability. A guarantee also provides insurance to the Fund in the event that the Youth Trust becomes insolvent or wound up because the staff will automatically transfer back to the Council and the Council will absorb all pension liabilities.

4 Supporting Information

4.1 Subsequent to Council approval of the creation of a Youth Trust at its February meeting, Council are requested to approve two guarantees in relation to the Council staff due to transfer to the new Trust.

4.2 The relevant Council minute from that meeting is below:

Torbay Youth Services - The Way Forward

Further to Minute 71/9/13, the Council considered the submitted report and business plan on the creation of Torbay Youth Trust. It was proposed by Councillor Pritchard and seconded by Councillor Tyerman:

(i) that the creation of a Torbay Youth Trust and TUPE of existing youth service staff to the Trust from 1 June 2015 be approved;

(ii) that the Executive Head of Commercial Services be given delegated authority to agree the terms of the lease and/or procurement arrangements for the transfer of the Parkfield site (the new build), BMX and Skateboard Park to the Torbay Youth Trust; and

(iii) that up to £70,000 be allocated from the Comprehensive Spending Review Reserve

- 4.3 Work on the creation of the Youth Trust has been progressing and it has been proposed to transfer 14 members of Torbay Council staff to set up the Torbay Youth Trust from 1 October 2015.
- 4.4 In order to protect the pension provision of the staff transferring and comply with the Best Value Authorities Staff Transfers Direction 2007, Torbay Youth Trust has to become an admitted body in the Local Government Pension Fund.
- 4.5 Peninsula Pensions, as the Council's administering authority for the Pension Fund, insist on insurance being in place for any new employers in the Fund in the event that the new employer fails to fulfil its financial responsibilities, which means that the Youth Trust either have to obtain an indemnity bond or fund an "escrow" account to the value of £51k or Torbay Council can provide a guarantee.
- 4.6 To save the Council funding the Torbay Youth Trust with an initial £51k payment upfront, the Council can act as guarantor to the Local Government Pension Fund. There will be no initial fee associated with providing a guarantee but the Council will be responsible for picking up any deficit liability at the end of the Youth Trust contract which can either be paid as a lump sum or added to Torbay Council's ongoing deficit liability. A guarantee also provides insurance to the Fund in the event that the Youth Trust becomes insolvent or wound up because the staff will automatically transfer back to the Council and the Council will absorb all pension liabilities.
- 4.7 The Youth Trust will be responsible for funding ongoing employer contributions to the fund and will be liable for any decisions taken by the Trust that would incur a strain

payment or similar to the pension fund. The exception to this is where it is recommended that Torbay Council will fund the exit costs of any of the Youth Trust TUPE staff for a period of ten years where they are the direct result of Council imposed budget savings.

5. Possibilities and Options

5.1 The alternative was for Torbay Youth Trust to obtain a bond to the value of £51k and they could have covered this in one of two ways:

- (i) The Trust have the option of paying a premium per month to a bank or insurance company but would find it almost impossible to find a bank or insurance company willing to provide a bond to a new employer without any financial background; or
- (ii) The Council could have funded the £51k to the Youth Trust in order to deposit into an escrow account with a joint signing mandate with Devon County Council.

6. Fair Decision Making

6.1 Proposal discussed with Youth Trust representatives, the Mayor and Group leaders on Torbay Council.

6.2 The provision of a guarantee could impact on future revenue budgets if realised therefore this decision is deemed to form part of the Council's Policy and Budget Framework. As the value of the guarantee could be in excess of £50,000 this is assessed as a Council decision and not one within the delegations to the Chief Financial Officer.

7. Public Services (Social Value) Act 2012

7.1 Not applicable

8. Risks

8.1 The assessed value of the liability could change depending on future actuarial valuations. The guarantee is solely linked to the staff transferring and no further staff will be included in the guarantee.

Appendices

None

Additional Information

Council report on Youth Trust – 26 February 2015