

Meeting: Council

Date: 10 December 2015

Wards Affected: All Wards

Report Title: Transitional Funding for the English Riviera Tourism Company

Is the decision a key decision? Yes – General Exception

When does the decision need to be implemented?

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1. Proposal and Introduction

- 1.1 The English Riviera Tourism Company (ERTC) is a wholly owned company of the Council and this paper sets out decisions that need to be made by the Council following the recent 'no' vote for the proposed Torbay Retail and Tourism Business Improvement District (TRTBID).
- 1.2 It will be a key decision but it has not been published in the Forward Plan issued on 23 September 2015 e.g. three months before the decision is due to be taken as the outcome of the TRTBID ballot was not known until 12 November 2015. Therefore a General Exception notice was published on 19 November 2015 advising of the issue.
- 1.3 In September 2014, the Council agreed to fund and support the development of a TRTBID as an alternative sustainable funding model to provide ongoing retail and tourism destination marketing activity, including visitor information services. This proposed funding model is no longer available to the ERTC, as the proposed TRTBID was not supported at a recent ballot.
- 1.4 This report intends to provide clarity over the Council's intentions regarding the future funding of the ERTC for the benefit of the tourism sector and employees of the company.
- 1.5 Without any funding beyond 1 April 2016, the ERTC will be unable to maintain the existing level of tourism destination marketing and visitor information services for the English Riviera.

- 1.6 The current position is that the ERTC are contracted by Torbay Council to provide Destination Marketing and Visitor Information Services both of which have been bought into by the 2016 Promotional Partners and they are expecting that service to be delivered next year.
- 1.7 Support for tourism remains a discretionary spend by all local authorities across the country and the Council's revenue budget is under increasing pressure.

2. Reason for Proposal

- 2.1 This decision needs to be made because the proposed budget for 2016/17 shows no funding allocated to the ERTC and a notice period of at least three months would be required to close the company. Therefore, the Council needs to determine how to proceed with the ERTC before the end of the year.

3. Proposed Decision

3.1 That, the Council agrees:

- a) to provide transitional funding to the English Riviera Tourism Company (ERTC) for a maximum period of nine months from 1 April 2016 to 31 December 2016;**
 - b) that the maximum amount of transitional funding should not exceed £200,000 and that this funding be taken from the 'Comprehensive Spending Review' reserve;**
 - c) that if an alternative funding model can be found prior to the end of 2016, any transitional funding not required by the ERTC will be returned to the Council;**
 - d) not to provide any further funding to the ERTC from the Council's ongoing revenue budget beyond the current financial year and;**
 - e) that the Executive Head of Business Services be requested to work with the Board of the ERTC and the Executive Lead for Tourism, Culture and Harbours to provide a report to Council in February 2016 with further advice on the options to deliver sustainable support for tourism that is funded by the private sector.**
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Supporting Information

4. Position

- 4.1 The Council is expecting large budget cuts over the next three years and it has been recognised that, after March 2016, it needed to review the level of direct funding it provides in support of tourism activity. Consequently, on 6 November 2015 the Mayor's proposed budget for 2016/17 showed no allocated funding for the ERTC. In September 2014, the Council agreed to fund and support the development of a TRTBID as an alternative sustainable funding model to provide ongoing retail and tourism destination marketing activity, including visitor information services. This proposed funding model is no longer available to the ERTC, as the proposed TRTBID was not supported at a recent ballot.
- 4.2 The ballot had to clear two majorities, a majority by number of those that vote (51%) and by Rateable Value (51%). 259 votes (47%) were cast in favour of the TRTBID and 290 (53%) voted against. In total there were 549 valid votes cast, another 10 ballot papers were rejected as either unsigned, unmarked or void for uncertainty. This represents a 36% turnout and the average turnout for a BID ballot is 46%. The Rateable Value majority was reached in favour of the TRTBID but the vote required both majorities to be cleared.
- 4.3 The ERTC is an Arms Length Private Company limited by guarantee and owned by Torbay Council. It has been commissioned by the Council as a private sector led public/private tourism partnership to deliver tourism destination marketing and visitor information services for the English Riviera. The ERTC was set up following extensive industry consultation and was formed to fulfil a Services Contract, the term of which was six years and six months from 1 October 2010 until 31 March 2017. It is clear that the Board of the ERTC recognises the serious financial challenges being faced by the Council and they are keen to work with the Council to find a sustainable future for tourism in the Bay.
- 4.4 Prior to the set up of the ERTC, the Council was spending over a £1m each year on the promotion of tourism. The ERTC took a 30% cut on its foundation and since then the funding from the Council has been reducing steadily with the contribution in 2015/16 being £350k, of which £100k was 'transitional funding'. If the TRTBID proposal had been successful, the Council would have realised further saving of £250k and the proposed Council budget assumes that these savings will be made by removing all further revenue funding to the ERTC.
- 4.5 The tourism industry has always been an important part of the economy of Torbay and the ERTC has clearly delivered some excellent results in recent years. At its most recent meeting, the Board of the ERTC discussed the need for 'transitional funding' from 1 April 2016 to 31 December 2016. Although this report seeks to address this immediate option, the Council will clearly need to review its policy for supporting destination marketing and visitor information services in the longer term and its ability to continue to fund the ERTC.

4.6 A greatly reduced operating budget has been put forward by the ERTC executive, which amounts to £200,000 of ‘transitional funding’ for the nine month period from 1 April 2016 to 31 December 2016. For comparison, a nine-month budget in 2015/16 would be in the region of £412,000. The basic breakdown of this reduced budget for April to December 2016 is outlined below :-

Income		Expenditure	
Council grant – transitional funding	£200,000	Staff costs	£109,000
		Redundancy costs	£23,000
		Rent & rates	£12,000
		Publications & website	£32,000
		Other fixed costs	£24,000

4.7 To achieve this slimmed down operational budget the ERTC will take the following actions and cease certain activity :-

- The Visitor Information Centre (Torquay) reduced to summer opening only
- All brand development activity will cease
- PR activity will not be funded (i.e. journalists, media, etc)
- Market research will be reduced
- No attendance at regional or national conferences
- All campaign activity will cease

4.8 The Council’s tourism strategy - ‘Turning the Tide for Tourism in Torbay’ - 2010 ~ 2015 is due for review/renewal in 2016. This key policy document makes it clear that “*moving forward Torbay Council will continue to support the industry for a minimum of 5 years*”. The policy also refers to the need for significant investment from the public and private sector if the English Riviera is to continue to arrest the decline in the value of tourism. Furthermore the policy states that “*increased private sector investment will be needed moving forward to achieve the key objectives and in particular promote the destination effectively and attract new visitors*”.

5. Possibilities and Options

5.1 The Council could find funding from within the 2016/17 revenue budget, and beyond, but this will no doubt be challenging, as the current austerity policy is likely to see further budget cuts to local government. In addition, it will indicate to the tourism sector that the Council will always be able to provide financial support and such a message will not help to facilitate a more sustainable funding model in the future.

5.2 The Council could stop providing any direct financial support to the ERTC beyond 31 March 2016 but this is not an option that is recommended by the Board of the ERTC because it does not provide sufficient time to make any transitional arrangements. Time is required to identify other options that could be used to maintain the existing level of tourism destination marketing and visitor information services for the English Riviera.

- 5.3 It is also an option to not fund tourism and allow the private sector to fund directly through membership or partnership fees. This could result in an unequal arrangement and a fragmented sector where some businesses pay and others do not. If Destination Marketing was funded in this way all businesses would benefit but with no compulsion for every business to pay into such a scheme.
- 5.4 The Council could retain the ERTC as a shell company ('mothballed or dormant') (owned and controlled by the Council either directly or as trading subsidiary of the TDA) licensing its intellectual property as appropriate. It would be necessary to amend the existing Memorandum and Articles of Association in order to change the current governance structure. This option would cause significant uncertainty within the tourism sector with the probability of significant redundancies depending upon how the Council or TDA operated the company post transfer. In addition, the Board of the TDA has not considered this option.
- 5.5 The possibility of a TBID is being explored within the sector and this might offer the prospects of continued employment if that BID is managed by the ERTC or via TUPE if it was to be managed by another operator. (TUPE refers to the "Transfer of Undertakings (Protection of Employment) Regulations 2006" as amended by the "Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014")
- 5.6 Torbay Council has a current and ongoing liability (by guarantee) for historic pension liabilities for ERTC staff (because of the original TUPE transfer of a number of staff from Torbay Council to the ERTC). There are currently six staff (5 FTE) working for the ERTC and four of these are members of the Local Government Pension Scheme (LGPS), which is administered by Devon County Council, through Peninsula Pension Services (PPS). PPS have advised Torbay Council of the pension costs of the staff that could be the subject of a TUPE transfer from the ERTC to any new company, which are currently estimated to be £428,000 on a "full cessation" basis. The current and ongoing Torbay Council liability would be crystallised at the time of the transfer of the staff from the ERTC to another company and that company would then be responsible for future pension liabilities. The PPS advice confirms that any new company will be required to become the new admitted body in the LGPS and follow the usual admission agreement process, as part of becoming an Admitted Body, any new company as the employer will be wholly responsible for any future pension liabilities.

6. Risks

- 6.1 Uncertainty will be caused if the Council fails to make clear and sound decisions regarding the future of the ERTC. The ERTC has been a highly successful organisation and it has enjoyed respect locally, regionally and nationally. Local tourism businesses want to safeguard this success and enable the role to be sustained. It is recognised by the ERTC Board that the best way to explore other funding options following the failed TRTBID ballot is to secure more time through further transitional funding.

- 6.2 If the Council is unable to fund the ERTC beyond 31 March 2016 then there is a high risk of claims from the ERTC's Promotional Partners who have already purchased Advertising Packages for 2016. The value of these advertising packages that have been sold for 2016 is £114,539.50 and a nine month refund for the period of 1 April to 31 December could be requested from businesses totalling £85,904. In addition to the direct advertising costs, businesses could also put in a claim to Torbay Council regarding a potential loss of business due to scheduled Destination Marketing activity not being delivered as contracted with the ERTC, who are the official Destination Marketing Organisation (DMO) for Torbay.
- 6.3 An independent and professional research agency undertook a Marketing Evaluation Report for the ERTC in 2014. One of the key points that can be learnt from the report is that the ERTC Destination Marketing Activity currently has a return on investment of £60 for every £1 invested by Promotional Partners. Based on this multiplier and the £85,904 figure identified in 6.2 above, it is clear that there could be a significant risk to the Torbay Visitor Economy if the ERTC were to be closed, due to a lack of funding, on 31 March 2015.
- 6.4 It is not possible to quantify the reputational risk to the Bay if the ERTC were not to be funded after March 2016. However, if the Destination Marketing Organisation of the South West's biggest seaside resort were to close, having achieved five years of consecutive visitor growth in terms of numbers and value, it is likely to send a negative message to the industry and to potential inward investors. In addition, our links with Visit England as the national tourist board would also be harmed with the ERTC currently the official Visit England partner.
- 6.5 There are currently six permanent staff employed by the ERTC and if all the staff were to be made redundant, the cost would be approximately £23,000 and this figure has been included within a draft budget prepared by the ERTC for the period 31 March to 31 December 2016. This budget has indicated that the maximum amount of transitional funding would be £200,000.
- 6.6 Given the expected pressure on the Council's budget in future years there is a very clear risk that the Council will be unable to provide any revenue funding to the ERTC beyond the 31 March 2016.
- 6.7 As the ERTC is wholly owned by Torbay Council, the Council will be responsible for picking up any pension deficit on the cessation of the ERTC. A cessation valuation report for the ERTC has been obtained from the Devon County Council Pension Fund (the Fund) and this indicates that the deficit would be £428,000 on a "full cessation" basis and £284,000 on a "partial cessation" basis. The Council can cover this liability in several ways:
- a) providing a guarantee to the new company;
 - b) adding the liability to the Council's overall pension liability (which will be funded from future employer contributions);

- c) making a cash payment to the pension fund; or
- d) a combination of the three options outlined above.

6.8 The ERTC currently lease both the Visitor Information Centre and Offices from the TDA, on Vaughan Parade, Torquay. A 12-month notice period is required to terminate and there is a financial risk to the TDA if new tenants cannot be found once the 12-month notice period has elapsed. If the Council were to cease funding the ERTC beyond the 31 March 2016, then the TDA, which has also been asked to make significant savings, is likely to lose rental income during the notice period if new tenants cannot be found for these properties.

Risk Mitigation

- 6.9 The Council would try to redeploy staff at risk, either directly or through its trading subsidiaries, but the Council will remain responsible for any pension deficit where this is not possible. The TDA, for example, is responsible for providing the Council with strategic tourism advice; it also operates a business and a number of facilities, which might offer suitable alternative employment.
- 6.10 If an alternative funding model can be found prior to the end of 2016, any transitional funding not required by the ERTC would be returned to the Council and this has been estimated to be a refund of approximately £67,000.

Appendices

None

Background Documents

Devon County Council Pension Fund Report – *‘English Riviera Tourism Company Indicative cessation valuation as at 31 March 2016’*.

Report to Council on 23rd July 2015 – *‘The English Riviera Tourism Company (ERTC) and the proposed Torbay Retail and Tourism Business Improvement District (TRTBID)’*.