

Meeting of the Council, Wednesday, 5 December 2018

Questions Under Standing Order A13

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

<p><b>Question (1) by Councillor Darling (M) to the Executive Lead for Planning and Waste (Councillor Mills)</b></p>	<p><b>The following question and answer was considered at the 20 September 2018 Council Meeting:</b></p> <p><b>“With the development of the Pavilion in limbo, are you confident that MDL Ltd are maintaining the building in accordance with the terms of the lease?</b></p> <p><b>There is a major planning application for comprehensive redevelopment of the Pavilion and adjacent marina car park pending, which is still “live” and waiting for additional information from the developer before it can be considered by the council as Local Planning Authority. If approved and implemented this would see the Pavilion extensively repaired as part of the redevelopment.</b></p> <p><b>In the interim, the Council continues to monitor the condition of the building regularly, and only recently carried out another inspection. I can confirm therefore that MDL are carrying out routine maintenance and we are keeping a close eye on its condition.</b></p> <p><b>If no deliverable redevelopment is approved and implemented then the Council has a number of remedies and actions it can take if necessary in consultation with the tenant to bring the property back up to a standard to the satisfaction of the Council.”</b></p> <p><b>In light of the above response how long will Torbay Council wait for the additional information from the developer before pursuing alternative remedies to get the Pavilion in a fit state?</b></p>
<p>Councillor Mills</p>	<p>I can confirm that our planning officers have requested the additional information that they require from the applicant in order to determine the Pavilion planning application. The required information has yet to be received and, in the interests of moving things forward, the applicant has now been asked to submit the required information by 31st January, 2019. Officers will then present their recommendation to the Planning Committee based on the information before them, in respect of the undetermined planning application.</p>
<p><b>Question (2) by Councillor Pentney to the Council's representative on the TOR2 Board (Councillor Bent)</b></p>	<p><b>In light of the decision by Torbay Council not to acquire Kiers shares in TOR2 at the present time. What additional management capacity do you think is needed to improve the performance of this Joint Venture Company?</b></p>
<p>Councillor Bent</p>	<p>TOR2 managers and Council officers formed a Joint Management Team some time ago to address issues of performance and contract management. This decision alone added some indirect management capacity to TOR2. The</p>

	<p>TOR2 Board continue to work closely with Council officers to address all matters related to contract performance and will therefore keep the matter of management capacity under review. Furthermore a Partnership Board, attended by Group Leaders, Community Leaders and other stakeholders, meets quarterly and provides a means to escalate issues of concern directly to the TOR2 Board.</p>
<p><b>Question (3) by Councillor Darling (S) to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Elected Mayor Oliver)</b></p>	<p><b>The following question and reply was received at the last Full Council in 18 October 2018.</b></p> <p><b>“At the Council meeting on 20 September 2018 I asked the following question and received the below reply:</b></p> <p><b>On the 1st of August 2018, due to the severe financial pressure that the Council faces, Torbay Council introduced a moratorium on non-essential spending for all parts of the Local Authority. Since then what meetings have you held with the two MPs who represent Torbay to put pressure on the Government to adequately fund the Council?</b></p> <p><b>I contacted both MPs to request a meeting to discuss Torbay’s finances as a matter of urgency. I met with Sarah Wollaston MP on 30 August 2018, however, Kevin Foster MP has declined to meet with me.</b></p> <p><b>So, since the 20 September has Kevin Foster MP made himself available to discuss the financial challenges that Torbay Council faces in light of his Governments cuts?</b></p> <p><b>Elected Mayor Oliver</b>  <b>No. I have written to Kevin Foster MP on a number of occasions and he has declined to meet with me. In one email to me he stated “Both Sarah and I regularly consult with the Leader and Deputy Leader of the Majority Group on the Council, Cllrs Thomas and Tyerman, about the future challenges for the Council and how we can support them in dealing with this. This is with reference to not only next year’s Budget, but also looking ahead to the time when the Council will be run by a Leader with Cabinet Model.”</b></p> <p><b>In light of the above is Kevin Foster still refusing to meet with you about the financial challenges of Torbay?</b></p>
<p>Mayor Oliver</p>	<p>Yes, but my door is always open.</p>
<p><b>Question (4) by Councillor Carter to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and</b></p>	<p><b>In the 2018 Budget it was announced that a £675 million Future High Streets Fund will be set up to help local areas to respond to and adapt to changes. It will support local areas to prepare long-term strategies for their high streets and town centres, with a focus on replacing retail with residential development. I understand that further detail in the prospectus is expected later this year with Expressions of Interest in Spring 2019. Mr Mayor are you gearing up for this opportunity with Paignton Town Centre in mind?</b></p>

<b>Transformation (Mayor Oliver)</b>	
Mayor Oliver	<p>I am aware of this welcome opportunity and can confirm that the Council has asked the TDA to start work on a bid for £25M of Future High Streets funding – this being the maximum amount the Council can bid for. We have also advised the HOSW LEP of our intent to submit a bid.</p> <p>Initial and informal conversations with MHCLG suggest that Torbay is well placed to make a bid. A Transformation Strategy for Torbay’s Town Centres is in place (which already reflects the objectives of the Future High Streets Fund), the resources are allocated to delivery, there is progress on delivery and there is good partnership with the private sector. It integrates with other work streams – the Economic Strategy; the Culture Strategy; delivery of our Destination Management Plan; and delivery of the Housing Strategy.</p> <p>We await the criteria for the fund, but will look to develop appropriate projects.</p> <p>The TDA will continue to build relationships with private sector partners, as this will be key to a successful bid, and will continue to liaise with Government departments to ensure Torbay has the best chance of a successful bid.</p>
<b>Question (5) by Councillor Long to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Mayor Oliver)</b>	<b>What actions are the Council taking to prepare for a No Deal Brexit?</b>
Elected Mayor Oliver	<p>The Senior Leadership Team are working proactively with neighbouring authorities, the LGA and Government, in particular, MHCLG (Ministry of Housing, Communities and Local Government), and BEIS (Department for Business, Energy &amp; Industrial Strategy) to identify Brexit related risks and proposed solutions for when we leave the EU next March.</p> <p>The Director Adult Services and Housing is coordinating Torbay's engagement and once the future is a little clearer, we understand more information and guidance from the Government will be made available. At that time, an all member briefing will be convened.</p>

## Second Round

<b>Question (6) by Councillor Darling (S) to the Council’s representative on the TOR2 Board (Councillor Bent)</b>	<b>Why has TOR2 hired in two gritting vehicles for this winter. Could this be a reflection on the poor state of the gritting fleet?</b>
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Councillor Bent	The provision of the winter gritting service is provided by TOR2 and it is their business and operational decision as to whether additional resources should be brought in, such as hired vehicles. It is clear that the current gritter fleet is ageing and this inevitably affects reliability. Torbay Council are pleased however that TOR2 have taken positive steps to provide additional resilience for the forthcoming winter.
<b>Question (7) by Councillor Pentney to the Council's representative on the Police and Crime Panel (Councillor Excell)</b>	<b>Torquay has suffered a massive reduction in the numbers of PCSOs who are integral to the delivery of neighbourhood policing reducing the numbers from 25 to 5 in Torquay. Earlier this year the Police and Crime Commissioner and Chief Constable of Devon and Cornwall Constabulary assured the Overview and Scrutiny Board that a review would be undertaken and more PCSOs recruited. When will we see more uniformed officers on the streets of Torquay?</b>
Councillor Excell	<p>The new BCU Commander has been working closely with the Neighbourhood Policing Review Team and Unions to ensure Torbay, and in particular Torquay get an increased presence of PCSO's. From the 1st December, a number of PCSO's across South Devon will be moving into Torquay on a longer term basis. This will increase the number of PCSO's in Torbay to 19, 10 in Torquay, and 9 covering Paignton &amp; Brixham.</p> <p>Dependent on imminent Government decisions on policing settlement, the Police will be seeking a targeted recruitment campaign in early 2019 to ensure that Torbay has its full complement of PCSO's.</p>
<b>Question (8) by Councillor Darling (M) to the Executive Lead for Community Services (Councillor Excell)</b>	<b>Since the introduction of the Torre traffic reversal, residents of Morgan Avenue have raised concerns about the volume and speed of traffic passing through this road. They were promised that following this reversal the wishes of the Morgan Avenue residents would be considered with a view to making this road safe. Could the member please advise what progress has been made to discourage drivers from using this road as a cut through?</b>
Councillor Excell	Following the reversal of traffic through Torre, Torquay, a traffic study was carried out to assess traffic volume and speeds. Following this, officers liaised with resident's representatives and Ward Members to agree a 'light touch' traffic calming scheme which was implemented in 2017. There are no plans to prevent through traffic on this road, as there is no available, or potential, turning facility at either end of the road, however the junction with Tor Hill Road was realigned, as part of the works, to encourage vehicles to enter the road at lower speeds and discourage the 'corner cutting' that was apparent from a number vehicles making this manoeuvre.
<b>Question (9) by Councillor Carter to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Mayor Oliver)</b>	<p><b>The attached decision (Appendix 1) was published in February of this year.</b></p> <p><b>Your decision was in response to a motion submitted to Council over nine months ago. Can you please advise what progress has been made on the number of actions identified below:</b></p> <ol style="list-style-type: none"> <li><b>1. Instigating a council-led Plastic Free Torbay Task Force that involves all sections of the local community to be in place by July 2018. This task force will create an action plan that works towards moving away from the unnecessary single use plastics</b></li> </ol>

in Torbay and campaign to reduce and discourage single use plastics from retail premises;

2. Start phasing out the use of unnecessary 'single use plastic' products such as bottles, cups, cutlery and drinking straws in all Council buildings and at all Council events by July 2020
5. Working with local businesses and the Tourism Sector to participate in this initiative;

**Actions:**

Torbay Council is leading the South West Marine Plastics Initiative, in conjunction with Groundwork Trust. The project will be applying for substantial funding from the Big Lottery Fund to cover initiatives in the South Devon area (Plymouth CC, South Hams DC, Torbay Council (waste team, beaches and harbours) Teignbridge DC Exeter CC, Devon CC and East Devon DC), working with various partners including Torbay Cleaner Coasts Initiative, Torbay Coast and Countryside Trust, Beach Care (part funded by Tidy Britain), Fathoms Free, South Devon AONB, The National Trust, MVV and Groundwork South who are all committed to dealing with plastic waste washed up on our beaches and in our seas,.

The project will focus on the collection, recycling and reuse of marine plastics through the collection of plastic waste from beaches and seas during organised community beach cleans/litter picks, alongside the fishing industry being enabled to recycle their unwanted nets, along with any other plastic collected in the course of their work.

The plastic will be collected separately and taken to Exeter CC's Material Reclamation Facility, where it will be sorted into different polymers. This will then be delivered to a company in Germany who will turn the plastic into pellets. The pellets will then be made into kayaks and hopefully surfboards by a company in Somerset.

Kayaks will then be distributed to beach clean groups to enable them to continue to collect waste and plastic from the sea.

Funding will also be requested for the purchase of items to replace single use plastics in all council and partner's buildings.- glasses, cutlery etc.

This project has the potential to be a flagship scheme for the whole of the UK, if the trial is successful.

Torbay Council is also signed up to the Refill Devon scheme, this is a practical tap water campaign that aims to make refilling your water bottle as easy, convenient and cheap as possible by introducing refill points on every street.

Participating cafes, bars, restaurants, banks, galleries, museums and other businesses display a round, blue sticker in their window, inviting thirsty passers-by to come on in and fill up their bottle – for free.

The aim is to reduce the amount of plastic bottles ending up in our oceans, whilst keeping residents and visitors healthy, hydrated and saving money at the same time.

Refill Devon launched last year with the support of Beach Care and City Seas (see <https://www.recycledevon.org/welcome-to-refill-devon> and <http://www.torbay.gov.uk/> for more information).

3. Installing a free drinking water fountain in Paignton Library;

Action:

Whilst waiting for the drinking water fountain to be installed, Paignton Library could offer the Refill Devon scheme.

4. Increasing the amount of plastic that can be recycled through doorstep recycling and instigating a strategy to reduce the amount of litter on Torbay's streets;

Actions:

TOR2 already collect a comprehensive range of plastics at the kerbside including drinks bottles, shampoo, milk and detergent bottles, plastic pots like yoghurt pots, plastic tubs like margarine and ice cream tubs and plastic trays that fruit and meat are sold in.

Torbay Council does not take black plastic, film or hard plastic as this cannot easily be recycled and can contaminate plastic loads resulting in rejection of whole loads of otherwise recyclable plastic.

The Council will continue to look for new markets that can accept all these more difficult plastics, but with the Chinese market restrictions from January this year plastic recycling is becoming increasingly difficult.

6. Sign up to the Herald Express and SAS campaign for Torbay to become a Plastic Free community by 2020.

Action:

The Elected Mayor supports working with the Herald Express and SAS on board with our marine plastics initiative.

Elected Mayor Oliver	<p>1. Actions Although there is currently not a council-led Plastic Free Torbay Task Force, the Council's recycling officer has been working with Simon Wallace and the Torbay Cleaner Coasts Initiative, Torre Abbey and Squirrel Arts promoting the concept of a plastic free Torbay.</p> <p>2. Actions Single use cups, cutlery and drinking straws have not been used at meetings or events in council buildings by staff, who now use their own glasses, mugs and cutlery. At this year's Air Show, the council provided free refill stations for visitors and also sold reusable water bottles on site. The recycling officer, is currently working with the Air Show to attempt a plastic free show next year.</p> <p>5. Actions The Mayor attended a launch in June to promote local takeaway businesses that are using biodegradable packaging for their food and drink. The recycling officer is currently signing up local businesses, leisure centres and schools to be part of the Refill Devon scheme, which encourages residents and visitors to refill their drinks bottles with water from their premises. She is also working with the TDA to encourage residents and visitors to refill their bottles from the water points close to our beaches and signs are being erected informing everyone that this water is safe to drink.</p> <p>Although Torbay was unsuccessful in receiving funding for a joint south west marine plastics initiative, the work is continuing with plastics recovered from Brixham fishing crews, stored and then sent to Exeter for reprocessing. Exeter also take all plastics collected from beach cleans in the bay.</p> <p>3. Action Paignton library is currently part of the Refill Devon scheme.</p>
<b>Question (10) by Councillor Long to the Executive Lead for Adults (Councillor Parrott)</b>	<b>For the last three years that figures are available, how many complaints have the Council received regarding Third Party Top Ups in relation to care home placements for adults, and how many of those complaints have been upheld?</b>
Councillor Parrott	<p>Torbay and South Devon Foundation Trust (TSDFT) have provided information that shows out of a total of 77 complaints about adult social care received over the last 3 years (2015-2018), 13 related directly to fees/cost of care, payments and charges but only 1 related directly to third party top-ups to care home charges. The complaint was not upheld.</p> <p>TSDFT address all social care complaints separately, prioritising a personalised response and resolution with individuals. However, prior to that they would hope to resolve any concerns about third party top us with the person and their family. These top ups to placement fees are optional, with people being offered a placement based on a conversation about their needs and preferences. It should be noted that complaints may include a variety of complex overlapping issues.</p>

### Third Round

<p><b>Question (11) by Councillor Darling (M) to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Mayor Oliver)</b></p>	<p><b>In the 2018 Budget it was announced that a £675 million Future High Streets Fund will be set up to help local areas to respond to and adapt to changes. It will support local areas to prepare long-term strategies for their high streets and town centres, with a focus on replacing retail with residential development. I understand that further detail in the prospectus is expected later this year with Expressions of Interest in Spring 2019. Mr Mayor are you gearing up for this opportunity with Torquay Town Centre in mind?</b></p>
<p>Mayor Oliver</p>	<p>My answer is the same as that in question 4:</p> <p>I am aware of this welcome opportunity and can confirm that the Council has asked the TDA to start work on a bid for £25M of Future High Streets funding – this being the maximum amount the Council can bid for. We have also advised the HOSW LEP of our intent to submit a bid.</p> <p>Initial and informal conversations with MHCLG suggest that Torbay is well placed to make a bid. A Transformation Strategy for Torbay’s Town Centres is in place (which already reflects the objectives of the Future High Streets Fund), the resources are allocated to delivery, there is progress on delivery and there is god partnership with the private sector. It integrates with other work streams – the Economic Strategy; the Culture Strategy; delivery of our Destination Management Plan; and delivery of the Housing Strategy.</p> <p>We await the criteria for the fund, but will look to develop appropriate projects.</p> <p>The TDA will continue to build relationships with private sector partners, as this will be key to a successful bid, and will continue to liaise with Government departments to ensure Torbay has the best chance of a successful bid.</p>
<p><b>Question (12) by Councillor Long to the Executive Lead for Customer Services (Councillor Haddock)</b></p>	<p><b>I understand that there is a loophole whereby second home owners can potentially avoid paying any council tax on their second homes by making their properties ‘available for let’ for 140 days per year so that they qualify as a business. The homes do not actually need to be let – just available for let. What representations have the Council made to Government or other agencies to get this loophole closed?</b></p>
<p>Councillor Haddock</p>	<p>The decision on whether a property is subject to Council Tax or Business Rates lies with HMRC Valuation Office Agency, not the Local Authority.</p> <p>The Rating legislation that HMRC Valuation Office Agency has to conform to determines whether a property should be classed as a self-catering holiday unit and subject to Business Rates or classed as domestic and therefore subject to Council Tax.</p>



Rating legislation states that if the owner of a property can demonstrate to HMRC Valuation Office Agency that it is available to let for more than 140 days in a year then it should be classed as commercial and subject to Business Rates for the whole year.

The local authority is not party to this process and although we may question the decision we are not entitled to formally challenge the decision of HMRC Valuation Office Agency.

Once a self-catering holiday unit has been rated, the rating occupier is entitled to claim Small Business Rate Relief subject to the relevant criteria. This means if they are liable to pay Business Rates on one property within England which has rateable value below £12,000 the charge would be covered in full by the relief. The rating of a self-catering holiday unit can be backdated to 1 April 2017, and relief would be awarded from this date.

The Valuation Office Agency '[A Basic Guide to the Rating of Holiday Cottages and Self-Contained Units in England](#)' provides information that is available through the Valuation Office.

As the local authority is not responsible for rating commercial property it has not asked the Government to review HMRC Valuation Office Agency legislation.

## Appendix 1

### Record of Decision

#### Notice of Motion - Plastic Free Torbay

##### Decision Taker

Elected Mayor on 22 February 2018

##### Decision

That the motion be supported in principle, however, a number of actions are already being taken by the Council to support a plastic free Torbay as follows:

1. Instigating a council-led Plastic Free Torbay Task Force that involves all sections of the local community to be in place by July 2018. This task force will create an action plan that works towards moving away from the unnecessary single use plastics in Torbay and campaign to reduce and discourage single use plastics from retail premises;
2. Start phasing out the use of unnecessary 'single use plastic' products such as bottles, cups, cutlery and drinking straws in all Council buildings and at all Council events by July 2020
5. Working with local businesses and the Tourism Sector to participate in this initiative;

##### Actions:

Torbay Council is leading the South West Marine Plastics Initiative, in conjunction with Groundwork Trust. The project will be applying for substantial funding from the Big Lottery Fund to cover initiatives in the South Devon area (Plymouth CC, South Hams DC, Torbay Council (waste team, beaches and harbours) Teignbridge DC Exeter CC, Devon CC and East Devon DC), working with various partners including Torbay Cleaner Coasts Initiative, Torbay Coast and Countryside Trust, Beach Care (part funded by Tidy Britain), Fathoms Free, South Devon AONB, The National Trust, MVV and Groundwork South who are all committed to dealing with plastic waste washed up on our beaches and in our seas,.

The project will focus on the collection, recycling and reuse of marine plastics through the collection of plastic waste from beaches and seas during organised community beach cleans/litter picks, alongside the fishing industry being enabled to recycle their unwanted nets, along with any other plastic collected in the course of their work.

The plastic will be collected separately and taken to Exeter CC's Material Reclamation Facility, where it will be sorted into different polymers. This will then be delivered to a company in Germany who will turn the plastic into pellets. The pellets will then be made into kayaks and hopefully surfboards by a company in Somerset.

Kayaks will then be distributed to beach clean groups to enable them to continue to collect waste and plastic from the sea.

Funding will also be requested for the purchase of items to replace single use plastics in all council and partner's buildings.- glasses, cutlery etc.

This project has the potential to be a flagship scheme for the whole of the UK, if the trial is successful.

Torbay Council is also signed up to the Refill Devon scheme, this is a practical tap water campaign that aims to make refilling your water bottle as easy, convenient and cheap as possible by introducing refill points on every street.

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3. Installing a free drinking water fountain in Paignton Library;

Action:

Whilst waiting for the drinking water fountain to be installed, Paignton Library could offer the Refill Devon scheme.

4. Increasing the amount of plastic that can be recycled through doorstep recycling and instigating a strategy to reduce the amount of litter on Torbay's streets;

Actions:

TOR2 already collect a comprehensive range of plastics at the kerbside including drinks bottles, shampoo, milk and detergent bottles, plastic pots like yoghurt pots, plastic tubs like margarine and ice cream tubs and plastic trays that fruit and meat are sold in.

Torbay Council does not take black plastic, film or hard plastic as this cannot easily be recycled and can contaminate plastic loads resulting in rejection of whole loads of otherwise recyclable plastic.

The Council will continue to look for new markets that can accept all these more difficult plastics, but with the Chinese market restrictions from January this year plastic recycling is becoming increasingly difficult.

6. Sign up to the Herald Express and SAS campaign for Torbay to become a Plastic Free community by 2020.

Action:

The Elected Mayor supports working with the Herald Express and SAS on board with our marine plastics initiative.

### **Reason for the Decision**

To respond to the motion.

### **Implementation**

This decision will come into force and may be implemented on Wednesday, 7 March 2018 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

### **Information**

At the Council meeting held on 22 February 2018, the Elected Mayor considered a motion on a plastic free Torbay notice of which was given in accordance with Standing Order A14 by Councillors Long and Carter as set out below:

Torbay is an important UNESCO accredited Global Geopark. The sea has shaped our communities and history and is a vital contributor to our economy and premier tourism offer.

This Council notes that in 2016 the Ellen MacArthur Foundation estimated that by weight, there could be more plastic in our oceans than fish as soon as 2050. Columbia University has estimated that plastic can last for up to 600 years in our environment, often finding its way into marine life thus affecting the food chain, and the water we eventually drink.

Torbay Council also congratulates the Herald Express newspaper and 'Devon Live' for launching a campaign with 'Surfers Against Sewage' (SAS) to encourage 125 communities to become plastic free by 2020.

Following the public outcry on this issue after the BBC 'Blue Planet II' programme, this Council resolves to provide leadership on this issue by:

- 1) Instigating a council-led Plastic Free Torbay Task Force that involves all sections of the local community to be in place by July 2018. This task force will create an action plan that works towards moving away from the unnecessary single use plastics in Torbay and campaign to reduce and discourage single use plastics from retail premises;
- 2) Start phasing out the use of unnecessary 'single use plastic' products such as bottles, cups, cutlery and drinking straws in all Council buildings and at all Council events by July 2020;
- 3) Installing a free drinking water fountain in Paignton Library;

- 4) Increasing the amount of plastic that can be recycled through doorstep recycling and instigating a strategy to reduce the amount of litter on Torbay's streets;
- 5) Working with local businesses and the Tourism Sector to participate in this initiative; and
- 6) Sign up to the Herald Express and SAS campaign for Torbay to become a Plastic Free community by 2020.

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

The Elected Mayor responded to the motion at the meeting 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 – Reference Number: I037242

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

Yes

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

None

**Published**

27 February 2018

Signed: \_\_\_\_\_  
The Elected Mayor of Torbay

Date: 27 February 2018