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Overview and Scrutiny  
Town Hall  
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Dear Member

**OVERVIEW AND SCRUTINY BOARD - WEDNESDAY, 8 APRIL 2015**

I am now able to enclose, for consideration at the Overview and Scrutiny Board to be held on Wednesday, 8 April 2015, the following reports that were unavailable when the agenda was printed.

<b>Agenda No</b>	<b>Item</b>	<b>Page</b>
2.	<b>Minutes</b>	(Pages 1 - 7)
5.	<b>Oddicombe Beach Huts</b>	(Pages 8 - 10)
6.	<b>Overview and Scrutiny Annual Report</b>	(Pages 11 - 14)

Yours sincerely

Kate Spencer  
Overview and Scrutiny Lead



## Minutes of the Overview and Scrutiny Board

18 February 2015

**-: Present :-**

Councillor Darling (Vice-chairman) (In the Chair)

Councillors Davies, Kingscote, Tyerman, Pountney and Parrott

(Also in attendance: Councillors Cowell and Mills)

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### 41. Apologies

Apologies for absence were received from the Chairman and from Councillor Hernandez.

It was also reported that, in accordance with the wishes of the Non-Coalition and Liberal Democrat Groups, the membership of the Board had been amended by including Councillors Parrott and Pountney in place of Councillors Stockman and Pentney, respectively.

### 42. Minutes

The minutes of the meeting of the Board held on 28 January 2015 were confirmed as a correct record and signed by the Vice-chairman.

### 43. Revenue Budget Monitoring - Quarter 3

The Board received a report setting out the latest projected forecast for the Council's Revenue Budget. An overspend of £1.5 million was currently expected to be the year-end position. There were a number of variations to approved budgets across the Council with Children's – Safeguarding and Wellbeing facing the largest forecast overspend at year-end.

The Board asked questions around the level of reserves available to the Council to offset the overspend at the end of the financial year given that the Comprehensive Spending Review reserve had a number of calls on it. Questions were also asked about overpayments within Exchequer and Benefits and the trends within Adult Social Care.

**Resolved:** (i) that the Board raises its concern about the possible calls on the General Fund balance of £4.4 million given the high probability that the Comprehensive Spending Review reserve will be depleted through the estimated level of redundancy costs, the current projected overspend at year end and the possible outcome of the ongoing Judicial Review.

(ii) that additional information be prepared and presented to the Council in its consideration of the Quarter 3 Revenue Budget monitoring report in relation to:

- The lessons learnt in respect of Housing Benefit overpayments (in particular those made by Council rather than through claimant error);
- The principles by which the Council determines whether to appoint consultants and the costs associated with consultants currently contracted; and
- The trends (against projections) within Adult Social Care on the numbers of clients receiving Direct Payments and the numbers of clients within residential care.

#### 44. Capital Plan Budget Monitoring - Quarter 3

The Board considered a report on the Council's capital investment plan and the position as at the end of Quarter 3 of the 2014/2015 financial year.

The Board questioned the rationale behind the recommendation to extend the period of prudential borrowing for the replacement beach chalets at Meadfoot Beach from 25 to 35 years. The Board also asked questions on the business case for replacing the chalets at Oddicombe Beach and highlighted that work appeared to have started before Council had agreed to undertake further prudential borrowing.

**Resolved:** (i) that additional information be prepared and presented to the Council in its consideration of the Quarter 3 Capital Investment Plan update report in relation to:

- The business case for the replacement and enhancement of the beach chalets at Oddicombe Beach;
- Confirmation of whether the work on the Oddicombe Beach Chalets has commenced prior to Council approval being given to increasing the Council's level of Prudential Borrowing; and
- The return costs associated with the works at the base of Princess Pier; and

(ii) that Council re-confirm its position that any additional Prudential Borrowing must be backed by a clear Business Case.

#### 45. Torbay Growth Fund

The Board considered a report on the Torbay Growth Fund which included details of how the Fund had been set up and administered together with the outcomes that had been achieved. Also included was a report from the Monitoring Officer on how the criteria for determining applications had been approved or otherwise.

**Resolved:** that the report be noted and that any future reports include further detail about numbers of jobs created to date and the level of match funding attracted.

**46. Review of Corporate Plan**

The Board considered a paper which had been prepared setting out progress against the Council's Corporate Plan.

Members raised the issue of the previous decision made by the Council to amend the Corporate Plan to take account of the recommendations within the report of the Child Poverty Commission. To date the Corporate Plan had not been re-submitted to the Council for amendment.

**Resolved:** (i) that the Monitoring Officer be asked to provide her opinion on the Board's concern about the governance of the Council whereby requests made at Council for reports to be presented to future meetings are not actioned; and

(ii) that, in agreeing its Work Programme for the coming year, the Board should be using the Corporate Plan to hold the Mayor and administration of the Council to account.

**47. Scrutiny Development Area - Principles of Overview and Scrutiny**

The Board considered a report produced as a result of the work which had been undertaken with the Centre for Public Scrutiny as a Scrutiny Development Area. The report set out the findings from the work and included a set of principles by which, it was recommended, overview and scrutiny at Torbay Council should operate. The report also contained a more detailed proposal which it was hoped would form the basis of discussions post election for determining the governance arrangements of Torbay Council.

It was noted that the report was not included on the agenda for the meeting of the Council scheduled for 26 February 2015 as had been detailed within the project plan for the Scrutiny Development Area work.

**Resolved:** (i) that the principles within the report be supported; and

(ii) that the Chairman of the Council be asked to include the report on the agenda for the meeting of the Council to be held on 26 February 2015.

Chairman

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## Minutes of the Overview and Scrutiny Board

24 February 2015

-: Present :-

Councillor Thomas (J) (Chairman)

Councillors Darling (Vice-Chair), Davies, Kingscote, Pountney, Stockman and Tyerman

(Also in attendance: The Mayor and Councillors Cowell, Excell and Morey)

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### 48. Apologies

An apology for absence was received from Councillor Hernandez.

It was reported that, in accordance with the wishes of the Liberal Democrat group, the membership of the Board had been amended to include Councillor Pountney in place of Councillor Pentney.

### 49. Urgent Items

The Board considered the items in Minutes 51 and 52, and not included on the agenda, the Chairman being of the opinion that they were urgent by reason of special circumstances i.e. the matter having arisen since the agenda was prepared and it was unreasonable to delay a decision until the next meeting.

### 50. Torbay Sports Facility and Playing Pitch Strategies

The Board considered the details of a call-in by five Members of the Council of the decision by the Mayor to approve the Sports Facilities and Playing Pitch Strategies.

The Call-in Promoter (Councillor Darling) set out the reasons for calling-in the decision and three of the Call-in Supporters also addressed the Board about their concerns regarding the decision.

Representatives from Sport England and Torbay Sports Council attended the meeting, gave their views and answered the Board's questions.

The Mayor and the Executive Lead for Safer Communities, Highways, Environment and Sport supported by the Executive Head – Residents and Visitors responded to the points raised by the Call-in Promoter and Supporters and the Members of the Board.

**Resolved:** that the decision to approve the Sports Facilities and Playing Pitch Strategies be referred back to the Mayor with a recommendation that:

- An Executive Summary of the Strategies be prepared
- The Strategy Implementation Group be established as a matter of urgency
- The Options Appraisal be completed within the timescales required by Sport England

(**Note:** Prior to consideration of the item in Minute 50 Councillor Darling declared a non-pecuniary interest as a Council appointed member of the Acorn Centre Management Committee and Councillor Pountney declared a non-pecuniary interest as Chairman of Torquay United Sports and Education Trust. During consideration of the item, Councillor Morey also declared a non-pecuniary interest as the Chair of the Board of Directors of the Admiral Swimming Centre in Brixham.)

### 51. Revenue Budget Monitoring - Quarter 3

Further to its consideration of the Revenue Budget monitoring report at its meeting held on 18 February 2015, the Board made the following recommendation to the Council.

**Resolved:** that the following motion be placed before the Council at its meeting to be held on 26 February 2015:

The Overview and Scrutiny Board is concerned about the possible calls on the General Fund balance of £4.4 million given the high probability that the Comprehensive Spending Review reserve will be depleted due to the estimated level of redundancy costs, the current projected overspend at year end and the possible outcome of the current Judicial Review.

Therefore the Council requests the Executive Director – Finance and Operations to undertake a further Review of Reserves to identify whether there is spare capacity within the Reserves to replenish the Comprehensive Spending Review reserve.

### 52. Capital Plan Budget Monitoring - Quarter 3

Further to its consideration of the Capital Plan Budget monitoring report at its meeting held on 18 February 2015, the Board made the following recommendation to the Council.

**Resolved:** that the following motion be placed before the Council at its meeting to be held on 26 February 2015:

The Overview and Scrutiny Board is concerned that it is recommended that the term of the Prudential Borrowing associated with Meadfoot Beach Chalets be extended from 25 to 35 years. It is also concerned about the lack of detail which was available to it with regard to the business case for the reinstatement and enhancement of the beach chalets at Oddicombe Beach.

The Council re-confirms its position that any Prudential Borrowing must be agreed by the Council and be backed by a clear Business Case and that, at this time, the Council has not seen a full Business Case for Oddicombe beach huts.

Chairman

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## Minutes of the Overview and Scrutiny Board

23 March 2015

**-: Present :-**

Councillor Thomas (J) (Chairman)

Councillors Bent, Darling (Vice-Chair), Parrott, Pountney and Tyerman

(Also in attendance: The Mayor and Councillors Excell, Lewis, Mills and Stocks)

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### **53. Apologies**

Apologies for absence were received from Councillors Davies, Kingscote and Hernandez.

It was reported that, in accordance with the wishes of the Non-Coalition Group and the Liberal Democrat Group, the membership of the Board had been amended to include Councillors Parrott and Pountney in place of Councillors Stockman and Pentney respectively.

### **54. Petition requesting covenant for Cary Green**

The Board considered the details of a call-in by five Members of the Council of the decision by the Mayor to take no action in respect of a petition received requesting that a covenant be placed on Cary Green, Torquay.

The Call-in Promoter (Councillor Parrott) set out the reasons for calling-in the decision and two of the Call-in Supporters also addressed the Board about their concerns regarding the decision.

The Mayor supported by the Executive Director of Operations and Finance responded to the points raised by the Call-in Promoter and Supporters and the Members of the Board.

**Resolved:** that no further action be taken.

**(Note:** During consideration of the item in Minute 54 Councillor Pountney and Executive Director of Operations and Finance declared non-pecuniary interests as Directors of the Torbay Economic Development Company.)

Chairman

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# Agenda Item 5

## Monitoring Officers Report

### Works undertaken at Meadfoot and Oddicombe Beaches

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#### Reason for the report

At the Council meeting on 26 February 2015 the Council decided;

“That, in light of the issues raised at the Overview and Scrutiny Board meetings on 18 and 24 February 2015 regarding the governance of the decision making in connection with Oddicombe and Meadfoot beaches, the Executive Director of Operations and Finance be requested to complete a thorough investigation into this matter and report back to the Council at the earliest opportunity.”

On behalf of the Executive Director, I have undertaken this investigation.

#### Background

##### (a) Meadfoot beach

On 18 July 2013 a report was submitted to the meeting of the Full Council concerning the proposal for the development of beach chalets at Meadfoot Beach, following condition surveys identifying the need for urgent and extensive repairs of the existing huts with some recommended for demolition.

Councillors agreed unanimously inter alia;

- (i) that, subject to planning approval, the existing beach chalets at Meadfoot Beach be replaced with new purpose built facilities;
- (ii) that the Council makes available £1.55million in prudential borrowing to allow the redevelopment of the Meadfoot Beach Chalets which will be repaid over 25 years from income as identified in the Business Plan to the submitted report.

However by February 2014 it was recognised by Officers that the necessary works would cost far in excess of the monies approved by Full Council. This was as a result of;

- The cliff stabilisation works were more expensive than had been expected,
- The original fill behind the sea wall was found to be poor, resulting in the need for more costly pile foundations (rather than raft foundations),
- The storms over the 2013/14 winter removed the beach material. This meant that it was not possible to access the beach with a mobile crane and so access onto the prom had to be achieved with a tower crane, which had to be moved on multiple occasions.

Senior Officers did discuss the additional costs with the Executive in February 2014, believing that they were able to proceed on this basis. Unfortunately however Officers failed to recognise the need to return the matter to Full Council for further funding approval (or present the matter to the Executive Director for an urgent decision if the timing of Council meetings was not compatible with the need for a decision).

### **(b) Oddicombe Beach**

In August 2014 more than half of the 18 roof chalets at Oddicombe beach were destroyed by a fire. The chalets were wooden in construction and as assets they were reaching the end of their design life. A condition survey undertaken in 2011 demonstrated that a capital investment of £63k was required over a 4 to 5 year period.

The immediate impact of the fire was a direct loss of £10k of chalet income per year. However it was recognised that there were wider indirect losses including a loss of amenity and damage to the Council's reputation.

The building was an insured risk and the agreed claim was £58,550, with the possibility of an additional £7,000 of lost revenue. A business plan was formulated to support the rebuilding of the chalets, incorporating the insurance claim. The business plan included the need for prudential borrowing of £134k.

In October 2014 the Executive Head considered the business plan and consulted with the Executive. A decision was considered to be urgent because construction needed to be completed by Easter 2015 to safeguard the ongoing income as well as the Council's reputation. Formal approval for the £134k of prudential borrowing was not sought at the time, with the early funding of the project being sustained using the insurance settlement. Unfortunately Officers failed to recognise the need to present the matter to Full Council for approval of the prudential borrowing at that early stage (or present the matter to the Executive Director for an urgent decision if the timing of Council meetings was not compatible with the need for a decision).

### **Consideration**

In respect of the projects at both Meadfoot and Oddicombe beaches, it is clear that the appropriate governance procedures were not followed. Prudential borrowing is a matter for Full Council's consideration, and this did not happen in either case before the monies (or additional monies) were spent.

Whilst there were discussions with the Executive in respect of both projects, this did not negate the necessity for Officers to identify the need for Full Council approval to be obtained.

Officers have fully accepted and apologised for their errors, which I believe were genuine human errors. As we all recognise, errors can and do occur. It is not always possible to prevent errors, however in the light of two such errors occurring in quick succession, it is important that we seek to identify any potential safeguards that could prevent such errors occurring in the future.

### **Recommendations**

In order to address the concerns highlighted by these projects I would recommend;

1. The Monitoring Officer to undertake a review of Standing Orders in respect of the Capital Budget, with a view to incorporating additional safeguards to ensure the good governance of the same. Proposals to be discussed with the Mayor and Group Leaders following the election.
2. Following any changes to the Constitution, the Monitoring Officer to brief SLT on the revised requirements. SLT to consider any specific teams/departments who would also benefit from any training in this regard.
3. Projects requiring Capital funding to be considered by SLT at a formative stage, to enable peer challenge, and to enable identification of future decisions that would need to be taken.

**Anne-Marie Bond**  
**Monitoring Officer**  
**31.03.15**

## Annual Report 2014/2015



### Foreword

This is my final annual report under the term of the present Administration. I consider myself to be privileged indeed to have served as the Chairman of the Torbay Overview and Scrutiny Board for an unbroken period of almost eight years having been unanimously re-elected to the office of Chairman of the Board annually by the cross party members of the Board. In closing my nearly eight years of service to the Bay I wish to thank all elected members of the Council and all Officers for their professional help and advice to both myself and to the Overview and Scrutiny Board. I also thank the members of the public who participated in the programme of work. Our job as Scrutineers is to hold the Executive to account and to drive improvements to the public services that your Council provides. Another huge task that we undertake is to examine the source and application of the increasingly limited funds that Torbay – in common with all Local Authorities - are experiencing in these times of financial austerity.

Key amongst the matters that your Board has examined are keeping a watching brief on the impact of welfare reform and the Council's economic strategy. We have closely scrutinised the Elected Mayor's savings proposals and taken an in depth look at the impact of the Supporting People budget reductions, and the future of housing in Torbay. The call-ins relating to the Mayoral decisions on the Churston Covenant, the Sports Facilities and Playing Pitches Strategy and refusal of a Cary Green Covenant were all matters of great public interest. There was very close scrutiny of the Children's Services Budget and five year plan and the Board have developed links with the Torbay Children's Safeguarding Board. Your Health Scrutiny Board examined the issues Mental Health services in Torbay

All in all a very busy year in an environment of ever reducing funds.

Thank you to all who have played any part in the process during the past year and may I wish you all well.

Councillor John Thomas  
Overview and Scrutiny Co-ordinator

### Introduction

Overview and scrutiny...

- is one of the ways the Council improves services and the quality of people's lives in Torbay
- acts as the Council's "watchdog" and challenges decisions taken by the Mayor and looks at decisions in more detail

- reviews existing policies and issues of concern
- is a constructive and independent way of looking at an issue, highlighting areas that work well and suggesting where improvements can be made

This report gives details of the work which has been undertaken by the Overview and Scrutiny Board over the course of 2014/2015.

### **Membership**

The Members of the Overview and Scrutiny Board over the past year have been Councillors Bent, Darling, Davies, Hernandez (from December 2014), Hytche (until December 2014), Kingscote, McPhail (until October 2014), Pentney, Stockman, Thomas (J) and Tyerman (from October 2014).

The Members of the Health Scrutiny Board over the past year have been Councillors Bent, Davies, Doggett, Faulkner (A), Hernandez, Hytche, McPhail (until October 2014) and Thomas (J).

### **Priorities and Resources**

The majority of the Overview and Scrutiny Board's Work Programme for the year has been taken up by reviewing proposals for the Council's priorities and resources for the coming year. The Board asked to hear the views of service users, communities and partners when considering the Mayor's savings proposals in September 2014 and January 2015.

The Board were able to question the Mayor and his Executive Leads about his proposals and made a number of recommendations and conclusions. The reports from both stages of the Board's work are available on the Council's website.

### **Call-ins**

The call-in process is one of the mechanisms which can be used to hold the Mayor to account.

The purpose of call-in is to examine the decisions reached by the Mayor and the reasoning behind those decisions. The process enables further public debate to be held on the subject. The Overview and Scrutiny Board can then consider whether the decision was appropriate and make recommendations accordingly.

Over the course of the year, the Overview and Scrutiny Board have received three call-ins:

- Proposed covenant on Churston Golf Course
- Sports Facilities and Playing Pitches Strategies
- Proposed covenant on Cary Green

In each instance, members of the public and members of the Council were able to raise their concerns with the Overview and Scrutiny Board. The Board then requested additional

information and questioned the Mayor on how he had reached his decision. The outcomes from each of these call-ins are available on the Council's website.

## **Health Scrutiny**

Health scrutiny is a fundamental way by which local councillors are able to voice the views of their constituents, and hold NHS bodies and health service providers to account. The primary aim of health scrutiny is to help to improve the health of local people, ensuring their needs are considered as an integral part of the commissioning, delivery and development of health services.

Torbay Council's Health Scrutiny Board has met twice over the past year although the Overview and Scrutiny Board has also considered health scrutiny matters during the year.

Discussions were held with social care and NHS colleagues on issues relating to mental health and learning disabilities. The Board have kept a watching brief of these issues through updates provided to both the Overview and Scrutiny Board and the Health and Wellbeing Board. The Board also received a formal update on the review of Learning Disability Services in Torbay later in the year. The Health and Wellbeing Board has recently asked the Health Scrutiny Board to carry out a further in-depth review of mental health services in Torbay in the new Municipal Year.

The Board also received updates on the progression towards an Integrated Care Organisation, the Living Well at Home contract and the redevelopment of Brixham Hospital.

Moving forward the relationship between the health scrutiny function, the Health and Wellbeing Board and Healthwatch Torbay will be reviewed to ensure the roles and responsibilities of each function are fully understood by both the public and all partners.

## **Scrutiny Development Area**

Torbay Council was successful in its bid to become a Scrutiny Development Area as part of a programme run by the Centre for Public Scrutiny (CfPS). Council officers and the CfPS worked with Executive and Non-Executive members to:

- Undertake a high level evaluation of overview and scrutiny
- Agree how overview and scrutiny should operate given the challenges the Council faces
- Determine how the Council can better harness the skills of non-executive members to enable them to make a more meaningful contribution to the work of the Council

The project established a set of principles for overview and scrutiny in Torbay and provided a framework for a wider review of the governance structure of the Council which will inform the induction process following the elections in May 2015.

The report that was produced at the end of the project was adopted by the Council in February 2015 and is available on the Council's website. The principles which were agreed are:

- The Council as a whole, and therefore overview and scrutiny, need to focus on the issues that really matter. There are no longer any easy decisions to make. The luxury of looking at the more marginal issues has long passed. It is important that there is an "all Council" approach to tackling the challenges now being faced.
- "Holding to account" must continue as a vital role of overview and scrutiny. But "policy development" is of equal importance. And national experience has shown that this is where the contribution of the non-executive members can be most effective.
- The Forward Plan should be seen as a key tool for managing the decision making process throughout the Authority. There needs to be more informal discussions about what is coming forward for decision in the coming months.
- Overview and scrutiny should be seen as an important element in delivering good, sound decisions. The relationship between overview and scrutiny and the executive should not be adversarial, but rather of seeking to complement one another.
- There should be the ability for all councillors to have the opportunity to help shape policy decisions at an early stage.

### **Future Work Programme**

The Work Programme for 2015/2016 will be developed following discussions with all members and the Senior Leadership Team after the Local Elections in May 2015.

### **Contact Details**

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