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Date: Wednesday, 16 January 2019

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Dear Member

**OVERVIEW AND SCRUTINY BOARD - WEDNESDAY, 16 JANUARY 2019**

I am now able to enclose, for consideration at the Wednesday, 16 January 2019 meeting of the Overview and Scrutiny Board, the following reports that were unavailable when the agenda was printed.

<b>Agenda No</b>	<b>Item</b>	<b>Page</b>
<b>3.</b>	<b>Urgent Items</b>	(Pages 2 - 26)
	<ul style="list-style-type: none"><li>• Replacement Vehicles (Draft Council Report)</li><li>• Transformation Project – Future of TOR2 Services (Strategic Delivery Model) Draft Council Report</li></ul>	

Yours sincerely

Kate Spencer  
Clerk



**Meeting: Council**

**Date: 31 January 2019**

**Wards Affected: All**

**Report Title: Replacement Vehicles (Draft Council Report)**

**Is the decision a key decision? Yes**

**When does the decision need to be implemented? ASAP**

**Executive Lead Contact Details:** Derek Mills, [Cllr.D.Mills@torbay.gov.uk](mailto:Cllr.D.Mills@torbay.gov.uk)

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## **1. Proposal and Introduction**

- 1.1 Most of the TOR2 fleet (in particular those vehicles associated with waste and recycling collections) is requiring very high cost maintenance in order to keep it functional. This has resulted in long periods of downtime, contributing to the irregular and unreliable collections of waste and recycling during the first half of 2018 and June/July 2017.
- 1.2 The replacement of the kerbside sort vehicles and refuse collection vehicles (RCVs) needs to be prioritised so that the Council can ensure it can fulfil its statutory waste and recycling collection duties and provide residents with a reliable and consistent service.

## **2. Reason for Proposal and associated financial commitments**

- 2.1 Torbay Council would need to replace most of the existing waste fleet in July 2020 at the end of the current TOR2 contract. The takeover of the majority shareholding from Kier, which was scheduled for the end of 2018 is on hold pending further due diligence work.
- 2.2 The Council needs to ensure that it can fulfil its statutory duty to collect waste from its residents in an effective manner. The purchase of new vehicles will provide for a more resilient fleet, which will better support regular collections of recycling and waste and also help to facilitate the improvement of the recycling rate to the target level, set by central government for all authorities, of 50% by 2020.
- 2.3 This would be funded through prudential borrowing of an estimated £5.5m, to replace the entire fleet. TOR2 will be granted use of the new vehicles under licence and they would be leased to them until the end of the current contract term.

TOR2 would be responsible for the running and maintenance of the new vehicles. This arrangement will need to be established and formalised prior to the ordering of the new vehicles.

- 2.4 Once the TOR2 contract has come to an end in July 2020 the vehicles would continue to be funded by the operating entity and used by the authority for the remainder of their asset life.

### **3. Recommendation(s) / Proposed Decision**

- 3.1 That the Council commits its immediate future to collecting recycling by the kerbside sort method as part of its statutory waste collection duty.
- 3.2 That the Council proceeds with the staged replacement of the existing kerbside sort vehicles, with up to 11 more modern vehicles purchased in 2019 and the remaining, up to a total of 22, purchased in 2020; and that authority be delegated to the Chief Finance Officer, Director of Corporate Services and Assistant Director of Business Services, in consultation with the Deputy Mayor, to agree the detailed terms of the procurement, funding and lease arrangements for these vehicles.
- 3.3 That the Council proceeds with the procurement of six new refuse collection vehicles for purchase in 2019 with the remaining requirements reviewed in 2020, and that authority be delegated to the Chief Finance Officer, Director of Corporate Services and Assistant Director of Business Services, in consultation with the Deputy Mayor, to agree the detailed terms of the procurement, funding and lease arrangements for these six new vehicles.
- 3.4 That prudential borrowing of up to £4.5m be approved to support the procurement and purchase of the vehicles recommended in 3.2 and 3.3 above, on the following basis;
- (i) that TOR2 agree to lease the new vehicles, on terms to be agreed, for the remainder of the TOR2 contract and sign an appropriate agreement to lease prior to the Council placing any purchase order, and
  - (ii) that the lease costs to TOR2 will, as a minimum, meet to Council's cost of borrowing during the remaining term of the TOR2 contract.

### **Appendices**

None

### **Background Documents**

WYG (White Young Green) Report on kerbside sort vehicles

WRAP – Kerbside Recycling: Indicative Costs and Performance Report June 2008

## Section 1: Background Information

### 1. What is the proposal / issue?

All of the current fleet is at least eight years old as there has been little or no investment in the waste and recycling or street cleansing fleet.

The proposal is to commit the Council's immediate future to collecting recycling by the kerbside sort method as part of its statutory waste collection duty and to replace 22 kerbside sort vehicles, 10 refuse collection vehicles (RCVs) and four mechanical sweepers. This report will only focus on the decision to procure 22 kerbside sort vehicles and 6 RCVs, with the remaining vehicles being the subject of a separate Council decision.

### 2. What is the current situation?

#### Recycling and Waste

The vehicles are frequently breaking down and maintenance costs are high, as are the levels of additional overtime required to undertake the current collection service, due to lost time. Consequently it can be seen that new vehicles would significantly reduce the running costs of the waste collection service.

It is especially important that the kerbside sorting service is both regular and consistent so that recycling gains can be achieved, which could increase material income and reduce disposal costs.

The frequent vehicle breakdowns mean the rounds for these vehicles and their services are often disrupted, especially for waste and recycling collections, increasing overtime and performance penalties due to late service completion and significant complaints from residents. The major disruption to recycling collections experienced during June and July 2017 and the first half of 2018 are likely to be experienced again in the future, unless the fleet is modernised.

Disruption to recycling collections has resulted in a high number of residents no longer separating their waste for recycling, increasing the amount of residual waste that is collected which impacts on the disposal budget. This continual disruption also makes it more difficult to encourage residents to recycle more when they cannot rely on a regular collection service. If food waste is left on the highway for up to three weeks (as it has been, both this year and last year), maggots and vermin cause a nuisance and possible environmental issues.

A consequent impact on the recycling rate is anticipated during 2018/19, which is illustrated by a 2% drop in the first half year's performance compared to the same period last year.

The expected maintenance on the 22 new kerbside sort vehicles is £4,700 per vehicle, per annum and the 6 RCV's £5,400 per vehicle, per annum, these costs also include labour. The table below illustrates the annual savings on vehicle maintenance that could be achieved through fleet replacement.

	Total Current Maintenance cost	Anticipated New Fleet Maintenance cost	Net Maintenance saving
Kerbside Sort Vehicles x 22	£231,000	£103,400	
RCVs x 10	£192,000	£54,000	
Total	£423,000	£157,400	£265,600

Further, the current kerbside recycling vehicles do not have enough capacity and are limited as to how well they can compact materials. Consequently they have to return to the depot to tip their loads more frequently (up to three times a day) and this would be reduced using a modern vehicle. More and more cardboard is being presented, mainly due to internet shopping trends. This has had implications on the efficiency of the existing recycling collection rounds.

Evidence from a trial of an alternative vehicle, has proven that, due to holding more recycling material and having an on-board cardboard compactor, the vehicle returned less often to the depot to unload. During the trial, on many days, the whole round was completed without having to return to tip until the end of the day. On average, in the trials undertaken with the modern vehicles, they reduced travelling by up to a third giving the potential to reduce both fuel and overtime costs by 33%.

With efficient management of this service, even allowing for the lease/borrowing costs of the new vehicles, there should be a net gain to the Council's waste collection and disposal budgets.

### Street Sweeping

The street cleansing vehicles are currently no longer fit for purpose due to their age and maintenance problems. The current vehicles are seven years old and their effective operating life is estimated at five years. All three have now been removed from operation as they are no longer economical to repair. Additionally the larger street cleansing vehicles are both 11 years old.

Due to the prolonged times that these old vehicles are off the road due to breakdowns and maintenance, extra costs are being incurred by TOR2 due to the need to hire in replacement vehicles.

Street cleansing vehicles will be always be required, so there is not a risk that going forward they will be surplus to requirements. This report does not address the replacement of these street sweeping vehicles but the details are provided for background information.

3.

### **What options have been considered?**

#### Maintain the current recycling system and replace the vehicles

Torbay Council needs to ensure that it can fulfil its statutory duty to collect waste from its residents in an effective manner.

WYG (White Young Green) consultants were commissioned to give an opinion as to the number of vehicles that should be deployed for the kerbside collection of dry recyclables and food. Their findings, which are supported by evidence gathered from other nearby local authorities, are that the methodology of waste and recycling collections in Torbay does not need to fundamentally change. Therefore residual waste would be collected fortnightly by RCV's and dry recycling and food waste will continue to be collected weekly using kerbside sort vehicles. Other neighbouring councils have made a similar commitment to this methodology, albeit that there are slight variations in each locality.

A review of town centre properties and flats that have a weekly collection of both residual waste and recycling, due to limited storage area will be undertaken in the near future at the end of the existing contract or sooner by agreement with TOR2.

The purchase of new vehicles will provide for a more resilient fleet, which will better support regular collections of recycling and waste and also help to facilitate the improvement of the recycling rate to the target level, set by central government for all authorities, of 50% by 2020. Such investment will also help contribute to the South West Devon Waste Partnership projection of a combined 50% recycling rate by 2020 as part of the business case submitted to DEFRA as a condition of the PFI funding for Energy from Waste Plant (EfW).

The replacement of the current kerbside sort vehicles by more modern, efficient and fit for purpose kerbside sort vehicles will lead to improved efficiencies due to a reduction in maintenance costs and collection times. This will be alongside increased capacity to carry greater volumes of recycling, which reduces the time travelling to and from the depot to unload materials. These vehicles also allow quicker unloading and reduced fork lift operations as the only stillage (compartment) that has to be unloaded is the food compartment.

The replacement of the kerbside sort vehicles and RCVs needs to be prioritised so that the Council can ensure it can fulfil its statutory waste and recycling collection duties and provide residents with a reliable and consistent service.

Without replacing the RCVs there is little chance to expand the commercial waste and recycling collection operation or to offer a chargeable garden waste collection service, both of which could increase income to the Council. Garden waste collection could also reduce the amount of waste disposed of at the Energy from Waste Plant (EfW) resulting in savings to the Council's disposal budget.

	<p><u>No change – Maintain the current recycling system and not replace the vehicles</u></p> <p>As stated above, it is recommended that the methodology for waste and recycling collections does not need to change.</p> <p>The Council could determine not to replace the vehicles at this stage. However, the lack of capital funding on the waste plant and vehicles over the past eight years means that most of the fleet is requiring very high cost maintenance in order to keep it functional. This results in very high periods of downtime which has contributed to the irregular and unreliable collections of waste and recycling during the first half of 2018 and in June/July 2017.</p> <p>As the majority shareholder Kier would be expected to make decisions to invest in new vehicles. However, such investment is most unlikely given that less than two years remain on the contract, there is no expectation that the contract would be extended and Kier are understood to be withdrawing from the waste sector.</p> <p>Discussions with potential suppliers would indicate that a delayed decision could result in significant lead time for the delivery of new vehicles due to sizeable orders from other clients and an order book that exceeds production capacity.</p> <p><u>Change the collection methodology in Torbay</u></p> <p>Changing the collection methodology has been considered and reviewed over many months. The only other realistic alternative option would be a move back to twin bin fortnightly co-mingled collection.</p> <p>This is similar to the collection method employed prior to the formation of TOR2 where one week residual waste is collected and the consecutive week dry recyclable material is collected. Whilst the co-mingled method uses less resource in plant and staffing, which would reduce operational costs, these savings would be negated because the Council would have to send the recycled materials to a Recycling Centre and pay a gate fee. Furthermore the income from the recycled material would be lost to the operator of the Recycling Centre.</p> <p>This option would still require the purchase of new vehicles together with other infrastructure (such as additional bins).</p> <p>In summary a reversion to the previous waste collection methodology would provide the Council with a more expensive waste collection system.</p>
<p><b>4.</b></p>	<p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p>

If there is a complete failure of the waste fleet due to age related issues then the Authority cannot deliver its statutory duties for waste and recycling collections and street cleansing.

It is essential at this stage to consider the future of the fleet and plant and to establish a robust vehicle replacement strategy for the medium to long term to ensure that services are not adversely affected by an ageing fleet and end of life plant.

It does fit in with promoting healthy lifestyles in Torbay as ensuring waste is collected on time eliminates the risk of environmental issues caused by weeks of uncollected waste which has been the case recently, especially with food waste.

Not replacing the fleet will lead to ever increasing maintenance costs and spiralling overtime, and the increasing risk of collection rounds falling behind once again with the inevitable flood of calls and complaints, further damaging the reputation of both TOR2 and Torbay Council.

The fleet needs to be future proofed to allow for changes in material trend changes, collection frequency changes and the growth in household numbers. It will also future proof the Council to any future alignment/mergers with neighbouring authorities. It was announced on the 19<sup>th</sup> December 2018 that FCC Environment won the tender for the joint waste and recycling service between West Devon and South Hams District Councils, so all surrounding districts including, Teignbridge and East Devon will from 1<sup>st</sup> April 2019 be committed to single pass kerbside sort collections, including food waste.

Several neighbouring local authorities currently utilise more modern vehicles to achieve very high recycling rates, ranging from 50% to 60% compared to Torbay's 42%. This is not completely due to the vehicles and changing the fleet will not lead to a corresponding change in our position. However, it will provide an opportunity for our staff and residents to make a step change towards meeting our recycling targets and should deliver with it significant cost savings and operational efficiency. This will enable TOR2 and Torbay Council to proactively promote and encourage participation in recycling, from a position in which they can be confident in delivering a reliable and efficient collection service.

To enable the full potential of these vehicles to be realised, consideration of how residents are asked to present their recycling for collection should also be considered. Renewed labelling of recycling boxes and provision of an additional reusable bag for cardboard would help to reduce the time that collection crews spend sorting the materials, enabling the full benefit of increased efficiencies due to fleet replacement to be realised.

This fits in well with working towards a prosperous Torbay, because the more that is recycled, the less is disposed of, helping to reduce the budget deficit significantly.



5.	<p><b>How does this proposal contribute towards the Council's responsibilities as corporate parents?</b></p> <p>N/A</p>
6.	<p><b>How does this proposal tackle deprivation?</b></p> <p>N/A</p>
7.	<p><b>How does this proposal tackle inequalities?</b></p> <p>N/A</p>
8.	<p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>N/A</p>
9.	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>All residents of Torbay will be positively impacted by this proposal as they will receive a more reliable cost effective service. As it is not proposed that the format of the service they receive will significantly change, consultation will not be required.</p>
10.	<p><b>How will you propose to consult?</b></p> <p>N/A</p>

## Section 2: Implications and Impact Assessment

11.	<p><b>What are the financial and legal implications?</b></p> <p>Capital investment is required to purchase 22 new kerbside sort vehicles and up to 10 refuse collection vehicles (RCVs). Initially it is proposed that 11 kerbside sort vehicles and 6 RCVs are purchased in 2019 with the remaining vehicles ordered for delivery in 2020. The need to replace a further 4 RCVs will be kept under review but these vehicles are readily available to hire if urgently required.</p> <p>The cost of replacing 11 kerbside sort vehicles and 6 RCVs is approximately £4.5m.</p> <p>At the current prudential borrowing rate and with an average asset life of 8 years, an additional revenue contribution of circa £607k per annum will be</p>
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	<p>required to service the loan (circa £380k in 2019 with only 11 kerbside sort vehicles).</p> <p>TOR2 will be granted use of the new vehicles under licence and they would be leased to them until the end of the current contract term. TOR2 would be responsible for the running and maintenance of the new vehicles. This arrangement will need to be established and formalised prior to the ordering of the new vehicles. TOR2 will need to sign an agreement to lease.</p> <p>Once the TOR2 contract has come to an end in July 2020 the vehicles would continue to be funded by the operating entity and used by the authority for the remainder of their asset life.</p>
12.	<p><b>What are the risks?</b></p> <p>If the new vehicles are not purchased there is a risk that the authority will not be able to fulfil its statutory duty as a Waste Collection Authority as the current fleet is unlikely to be maintained in a roadworthy or operational condition for much longer.</p> <p>Timing is essential as the kerbside sort vehicles will be in great demand with a number of local authorities currently out to tender for kerbside sort with a start date of April 2020.</p> <p>The solution to the service failure issue in 2018 was a temporary return to the co-mingled solution in order to catch up on the missed collections and this achieved at a significant additional cost to the contractor. This cost would rest with Torbay Council if the service fails and needs to be urgently recovered, post July 2020.</p>
13.	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>The Procurement team are assisting getting the ESPO framework fit for purpose, so that timeframes can be achieved and best value is assured, if this proposal is agreed.</p>
14.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>Report commissioned from WYG is available as a background document.</p>
15.	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>N/A</p>

16.	<b>Amendments to Proposal / Mitigating Actions</b>  N/A
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## Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			There is no differential impact
People with caring Responsibilities			There is no differential impact
People with a disability			There is no differential impact
Women or men			There is no differential impact
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact
Religion or belief (including lack of belief)			There is no differential impact
People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact

	Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	More reliable collections will result in cleaner streets and improved local environmental quality.		
<b>16</b>	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	Ongoing proposal to acquire Kier's 80% share of TOR2 with further due diligence currently being undertaken.		
<b>17</b>	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	N/A		



**Meeting: Full Council**

**Date: 31 January 2019**

**Wards Affected: All**

**Report Title: Transformation Project - Future of TOR2 Services (Strategic Delivery Model) Draft Council Report**

**Is the decision a key decision? Yes**

**When does the decision need to be implemented? Immediately**

**Executive Lead Contact Details:** Councillor Derek Mills, Deputy Mayor and Executive Lead for Planning and Waste & Councillor Robert Excell, Executive Lead for Community Services

**Supporting Officer Contact Details:** Kevin Mowat, Assistant Director of Business Services 01803 208425, [kevin.mowat@torbay.gov.uk](mailto:kevin.mowat@torbay.gov.uk)

## **1. Proposal and Introduction**

- 1.1 This report is presented to Council to consider a strategic proposal on the future delivery options for the services that are currently delivered by TOR2.
- 1.2 The most significant services that TOR2 deliver on behalf of the Council are Assets (fleet management and built asset management), Waste (collection and transfer of waste) and Street-scene - (highways, parks, beaches and street cleansing).
- 1.3 The delivery vehicle for these services is TOR2, which is a joint venture company established in July 2010 between Torbay Council and May Gurney (subsequently May Gurney was acquired by Kier Group in 2013). The shareholding between the two parties is 19.99% for Torbay Council and 80.01% held by Kier Group.
- 1.4 The contract with TOR2 for the delivery of these services was for 10 years and is due to end in July 2020, however the contract does include an option to extend for 15 years, in increments of 5 years.

## **2. Reason for Proposal and associated financial commitments**

- 2.1 The initial contract with TOR2 is due to cease in July 2020, and as such the Council has been considering options for the future delivery of the services currently delivered by TOR2.
- 2.2 The Council needs to inform TOR2 of whether it intends to renew the existing contract by July 2019 at the latest, therefore Council are being asked to approve the recommended way forward.

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### **3. Recommendation(s) / Proposed Decision**

- 3.1 That Council approves the strategic intention to deliver services currently delivered by TOR2 through a Local Authority wholly owned company, at the end of the current contract with TOR2, or earlier should this be agreed.
- 3.2 That Council delegates to the Chief Executive the authority to establish a new wholly owned company, should this be required, for this purpose.

### **Appendices**

Appendix 1: TOR2 Options Appraisal

### **Background Documents**

None

## Section 1: Background Information

<b>1.</b>	<b>What is the proposal / issue?</b> <p>The existing contract with TOR2 is due to expire in July 2020 requiring the Council to provide notice as to whether they will renew the contract by July 2019 at the latest.</p> <p>This has provided the Council with an opportunity to consider options to pursue a new delivery model for these services, driven by the Council's desire to ensure it provides the most innovative, efficient and cost-effective services whilst meeting its statutory obligations and ensuring customer satisfaction.</p>
<b>2.</b>	<b>What is the current situation?</b> <p>TOR2 is a Joint Venture Company which was established in July 2010 between Torbay Council and May Gurney (subsequently, in 2013, May Gurney was acquired by Kier Group). The shareholding between the two parties is 19.99% for Torbay Council and 80.01% held by Kier Group. The initial contract duration was for 10 years and the contract is due to end in July 2020 with the option for the Council to extend in increments of 5 years up to 15 years.</p> <p>The services currently delivered by TOR2 are split into three contracts; Assets (fleet management and built asset management), Waste (collection and transfer of waste) and Street-scene (highways, parks, beaches and street cleansing). The Council pays TOR2 £10.909m per annum (2018/19) for the delivery of these cyclical services.</p> <p>There are some key elements of the original joint venture concept which have not been as expected;</p> <ul style="list-style-type: none"><li>• To date TOR2 has not generated a dividend as was expected when the contract was entered into in 2010,</li><li>• TOR2 have not improved recycling rates at a sufficient pace and are unlikely to achieve the target recycling rate of 50% (or above) by 2020,</li><li>• There is currently limited evidence of introducing innovative solutions i.e. in cab technology,</li><li>• Poor performance has been highlighted in relation to waste collection which led to a vote of no confidence from Brixham Town Council and a debate at the Council meeting held on the 19 October 2017 about a client vote of no confidence regarding waste collection which was ultimately unsuccessful.</li></ul>
<b>3.</b>	<b>What options have been considered?</b> <p>As stated above the Council has an opportunity in July 2020 to pursue a new delivery model for the services currently delivered by TOR2.</p>



As a result the Council has considered the following options and timelines:

- 1 **Renewal of the current contract with TOR2** - Notice to renew is July 2019 and within 90 days of the notice, both the Council and TOR2 would need to meet to agree any variations to the contracts and associated documents.
- 2 **Transfer to an 'In-house' service (as a Council department)** - It is estimated that this option would require a minimum period of 12 months to implement ahead of July 2020.
- 3 **A Local Authority Company (100% owned subsidiary)** - It is estimated that this option would require a minimum period of 12 months to implement ahead of July 2020. Were the services to be delivered through such a company, this would allow the Council the absolute control and flexibility to review future delivery of services, and consider private sector suppliers for the services or parts thereof, and opportunities for shared service partnership/s with other Local Authorities.
- 4 **Procure another private sector supplier(s) for the services** - It is estimated that this option would require a period of 24 months ahead of July 2020 to implement, commencing with a procurement process – ***therefore at this time this option is not viable.***
- 5 **Develop a shared service partnership(s) with other Local Authority (ies)** - It is estimated that this option would require period of 24 months ahead of July 2020 to implement, commencing with a detailed options appraisal. This is due to the range of factors that must be considered for this option, such as the market appetite or the timing of opportunities for partnering with other local Authorities - ***therefore at this time this option is not viable.***

The 'impacts & benefits' and 'risks & dis-benefits' for each option have been assessed – these can be found in Appendix 1 TOR2 Options Appraisal.

To ensure that the Council is in the most flexible and dynamic position to respond to or innovate change at the same time as controlling the costs of the service the preferred model must ensure that the Council obtains the appropriate level of control and impact, therefore the recommended option at this time is to proceed with Option 3, namely for the services to be delivered through a 100% wholly owned company of the Council.

This could be achieved either through the creation of a new company, or by the Council acquiring the entirety of the TOR2 shares (note: the acquisition of the shares could take place in July 2020, or at an earlier point should this be agreed between the parties).

Note : For all options save option 1, the contract with TOR2 stipulates how the contract is ended and matters dealt with e.g. asset transfers. The contract does not need to end early if the Council acquires 100% ownership of TOR2.

4.	<p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>This proposal aligns with the Council's Corporate Plan 2015-2019 action of 'Ensuring Torbay remains an attractive and safe place to live and visit' and the Corporate Plan principle that promotes the use of reducing resources to best effect.</p>
5.	<p><b>How does this proposal contribute towards the Council's responsibilities as corporate parents?</b></p> <p>N/A</p>
6.	<p><b>How does this proposal tackle deprivation?</b></p> <p>N/A</p>
7.	<p><b>How does this proposal tackle inequalities?</b></p> <p>N/A</p>
8.	<p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>N/A</p>
9.	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>Based on the options outlined above, and referenced in Appendix 1, the proposals will not have any impact upon service delivery at this stage, therefore public consultation does not need to be carried out. If it is proposed that there are any changes to service provision at any time in the future, public consultation with key stakeholders and service users will be undertaken.</p>
10.	<p><b>How will you propose to consult?</b></p> <p>As above.</p>

## Section 2: Implications and Impact Assessment

11.	<p><b>What are the financial and legal implications?</b></p> <p>The Council is in a contract with TOR2 for the delivery of the three cyclical service areas, at a sum of £10.909m in 18/19.</p> <p>This contract could be brought to an end at any date by the agreement of all parties, but the current term of the contract ends in July 2020, and therefore the Council needs to make a decision as to the future delivery of these services.</p> <p>Within any contractual arrangement, the extent to which services and specifications can be changed is controlled. The recommendation contained within this report to deliver the services through a wholly owned company, provides the Council with absolute control and flexibility over future service delivery and associated costs.</p> <p>The set up costs associated with the creation of a new company will be funded from the Transformation budget.</p>
12.	<p><b>What are the risks?</b></p> <p>The risks of each option are outlined in Appendix 1.</p>
13.	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>N/A at this time - however the preferred model will need to work within all legal constraints such as the Public Contracts Regulations 2015, employment law and any legal implications around the Council establishing a Local Authority owned company.</p>
14.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>A Transformation Project has brought together Officers across the Council to review in detail the options which are outlined in this report. This Project has been underway for xxx with considerable thought given to the various options, including ongoing dialogue with the current contractor and neighbouring local authorities, with a view to a shared service. The option to work more closely with nearby Councils, on shared service delivery models, can be better explored once the existing contract has concluded and/or the Council gains full control of TOR2.</p>
15.	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>N/A</p>

16.	<b>Amendments to Proposal / Mitigating Actions</b>  N/A
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## Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			No differential impact.
	People with caring Responsibilities			No differential impact.
	People with a disability			No differential impact.
	Women or men			No differential impact.
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact.
	Religion or belief (including lack of belief)			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.
16	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	None known at this time.	
17	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	None known at this time.	

## Appendix 1: TOR2 Options Appraisal

OPTION DESC.	1. Renewal of the current contract with TOR2 (in blocks of five years)	2. Transfer to an 'In-house' service (as a Council department)	3. Transfer to a Local Authority Company (100% owned subsidiary)	4. Procure another private sector supplier(s) for the services	5. Develop a shared service partnership(s) with another Local Authority(ies)
<p><b>IMPACTS / BENEFITS</b></p> <p style="text-align: center;">Page 23</p>	<ul style="list-style-type: none"> <li>• Cost certainty for services for contract duration</li> <li>• Benefits of joined-up services e.g. TOR2's collaborative response to Storm Emma</li> <li>• TOR2 have access to wider Kier network for expertise</li> <li>• Retains specialist software and staff resources from Kier as part of contract costs</li> </ul>	<ul style="list-style-type: none"> <li>• Potential to improve customer (public) satisfaction by an improved "user-focused" service delivery</li> <li>• Increased focus on improving the recycling rate</li> <li>• Greater confidence in compliance with statutory obligations e.g. fleet maintenance records</li> <li>• Increased responsiveness to government and local policy/targets</li> <li>• Flexibility to instigate change or develop new/innovative services and meet changing Government targets</li> <li>• Latitude to generate income from services (subject to statutory limitations)</li> <li>• Flexibility to adjust specifications in order</li> </ul>	<p>All Impacts/Benefits noted against Option 2 apply equally to this option, whilst minimising LGPS liability/costs.</p>	<ul style="list-style-type: none"> <li>• Potential to improve customer (public) satisfaction by improving service delivery</li> <li>• Opportunity for the Council to identify supplier/s with track record of compliance with statutory obligations i.e. recycling rates</li> <li>• Council can determine transparent commissioning arrangements</li> <li>• Opportunity for the Council to identify supplier/s who will develop innovative services</li> <li>• Cost certainty for contract duration</li> <li>• Ability to spread transition costs across the duration of contract</li> </ul>	<ul style="list-style-type: none"> <li>• Potential to improve customer (public) satisfaction by improving service delivery</li> <li>• Opportunity for council to identify partner with track record of compliance with statutory obligations</li> <li>• Council can determine transparent commissioning arrangements</li> <li>• Opportunity for the Council to generate (shared) income with partner and/or reduce costs</li> <li>• Opportunity for the Council to identify partner who will develop new and innovative services</li> <li>• Improved resilience of service as both organisations will have a larger critical mass, the ability to share costs &amp; command greater economy of scale</li> </ul>

		<p>to reduce costs as required</p> <ul style="list-style-type: none"><li>• Ability to restructure and integrate services to provide greater efficiency</li><li>• Opportunity to pursue all models in one or more service area in future</li><li>• Greater ability to develop appropriate I.T./digital strategy</li><li>• Improved governance – stronger link to decision-making and local policy</li><li>• Stronger local supply chains</li><li>• Improved local employment opportunities &amp; staff development</li><li>• Ability to improve communications strategy &amp; customer engagement</li><li>• Greater management control and ability to share corporate objectives and values</li></ul>		<ul style="list-style-type: none"><li>• Ability to develop efficient I.T./digital strategy</li><li>• New supplier provides experience and expertise across relevant service areas</li></ul>	<ul style="list-style-type: none"><li>• Ability to improve communications strategy &amp; engagement with customers</li></ul>
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<p><b>RISKS / DISBENEFITS</b></p>	<ul style="list-style-type: none"> <li>• Costs may increase from current levels of contractual spend</li> <li>• Minimal scope to reduce costs</li> <li>• Limited flexibility over changing the contract other than via a change mechanic</li> <li>• No evidence that there will be any renewed appetite for innovation</li> <li>• TOR2's failure to increase profitability indicates that any award of dividends is unlikely</li> <li>• Current levels of TOR2 service delivery will likely continue with little expectation to improve customer (public) satisfaction</li> <li>• High levels of Agency staff impact on service continuity &amp; local employment</li> <li>• Member/public confidence in the TOR2 brand</li> <li>• Council has limited access to customer insight data</li> <li>• Renewal requires agreement from both Shareholders. Kier's ongoing interest is not certain</li> </ul>	<ul style="list-style-type: none"> <li>• Corporate support departments may need to increase their resources to support this operation e.g. HR</li> <li>• The Council would create LGPS responsibility/cost for a significant proportion of the staff who are not currently in the LGPS scheme</li> <li>• The Council would need to invest in key infrastructure (i.e. IT) which is currently provided by Kier/Tor 2</li> <li>• Complexity for re-introduction of services/staff to current structure</li> <li>• Potential decrease in current third-party revenue streams (Kier linked)</li> <li>•</li> </ul>	<p>Please see risks/disbenefits noted against Option 2 with the exception of the risk associated with pension being removed, as the pension position would not change from that through TOR2.</p>	<ul style="list-style-type: none"> <li>• Conflicting objectives of Council vs private sector; quality focus rather than profit focus</li> <li>• External contracts will include elements of profit</li> <li>• Inflexibility of private sector to adopt new approaches and change model due to the volume of scale achieved by its existing network</li> <li>• Exposure to the private sector market and potential failure of suppliers e.g. Carillion</li> <li>• Limited scope and flexibility over the levels of service delivery and ability to make changes or respond to Government targets/policy</li> <li>• Inability for Council to reduce costs as required during contract duration</li> <li>• Contract management alone will not deliver sufficient control to drive change,</li> </ul>	<ul style="list-style-type: none"> <li>• Limited ability for Torbay Council to be flexible and/or implement change due to different leadership dynamics, strategic objectives and existing contractual agreements of partnering Local Authority</li> <li>• Potential procurement demands (dependent on partnership vehicle)</li> <li>• Dependent on the partnership vehicle, corporate support departments may need to increase resources</li> <li>• Investment in key infrastructure (i.e. IT) required (could be shared with partner)</li> </ul>
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				<p>innovation and performance improvements e.g. real risk of repeating the current situation</p> <ul style="list-style-type: none"><li>• Market/supplier appetite unknown, especially in light of significant change expected in national policy on waste</li></ul>	
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