



Town Hall, Castle Circus,  
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Wednesday, 18 September 2019

## Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Rosetor Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 26 September 2019** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Steve Parrock'.

Steve Parrock  
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

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**A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

**June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207012**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)  
[www.torbay.gov.uk](http://www.torbay.gov.uk)

# Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

To confirm as a correct record the minutes of the meeting of the Council held on 18 July 2019.

(Pages 4 - 5)

4. **Declarations of interests**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

5. **Communications**

To receive any communications or announcements from the:

(Pages 6 - 13)

- a) Civic Mayor – this will include a presentation from Healthwatch Torbay on ‘What does it feel like to be a young person living in Torbay?’ (Summary report attached and the full report can be found at [www.healthwatchtorbay.org.uk/about-us/meetings-reports](http://www.healthwatchtorbay.org.uk/about-us/meetings-reports))
- b) Leader of the Council;
- c) Overview and Scrutiny Co-ordinator;
- d) Council’s representative on the Heart of the South West Joint Committee; and
- e) Chief Executive.

6. **Members' questions** (Pages 14 - 15)  
To respond to the submitted questions asked under Standing Order A13.
7. **Echo Building, St James Road, Torquay - Consideration of Community Proposal** (To Follow)  
To consider the above proposal and the recommendations of the Cabinet.
8. **Additional Funds for Special Educational Needs and Disabilities** (Pages 16 - 27)  
To consider a report that seeks additional funding to further support compliance with the Special Educational Needs and Disability Code.
9. **Appointment of Independent Person for Audit Committee** (Pages 28 - 31)  
To consider a report that seeks approval for the recruitment and appointment of an Independent Person for Audit Committee.
10. **Standing Order D11 (in relation to Overview and Scrutiny) - Call-in and Urgency** (Pages 32 - 36)  
To note the schedule of Cabinet decisions to which the call-in procedure does not apply and to consider the proposed amendment to the Constitution in respect of investment decisions.
11. **Compulsory Purchase of Crossways Shopping Centre, Paignton** (To Follow)  
To consider a report on the above.
- (Note: This report contains exempt appendices which will be circulated separately.)
12. **Exclusion of the Press and Public**  
To consider passing a resolution to exclude the press and public from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended)) is likely to be disclosed.
13. **Cabinet Recommendation - Investment Opportunity**  
To consider any recommendations from the Cabinet on investment opportunities.

**Note**

An audio recording of this meeting will normally be available at [www.torbay.gov.uk](http://www.torbay.gov.uk) within 48 hours.



## Minutes of the Extraordinary Meeting of the Council (Council decisions shown in bold text)

22 August 2019

-: Present :-

### Deputy Civic Mayor of Torbay (Councillor Manning)

Councillors Amil, Atiya-Alla, Barrand, Brooks, Brown, Bye, Cowell, Mandy Darling, Steve Darling, Dart, Doggett, Dudley, Ellery, Foster, Hill, Howgate, Kavanagh, Kennedy, Long, Loxton, Morey, O'Dwyer, Stockman and Sykes

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#### 50 Apologies for absence

Apologies for absence were received from the Worshipful the Mayor of Torbay and Councillors Carter, Heyse, Law, Barbara Lewis, Chris Lewis, Mills, Pentney, David Thomas, Jacqueline Thomas and John Thomas.

In the absence of the Worshipful the Mayor of Torbay, the Deputy Civic Mayor, Councillor Manning, chaired the meeting.

#### 51 Minutes

The Minutes of the meeting of the Council held on 18 July 2019 were confirmed as a correct record and signed by the Deputy Civic Mayor.

#### 52 Declarations of interests

No interests were declared.

#### 53 Exclusion of the Press and Public

Councillor Steve Darling proposed and Councillor Loxton seconded the motion, which was agreed by the Council, as set out below:

**that the press and public be excluded from the meeting prior to consideration of the following item on the agenda on the grounds that exempt information (as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended) is likely to be disclosed.**

Prior to consideration of the items in Minute 54 the press and public were formally excluded from the meeting.

**54 Cabinet Recommendation - Investment Opportunities 4/7/19 and 5/7/19**

The Council considered the submitted Exempt Report on the recommendations of the Cabinet for the proposed purchase of two investments by the Council, which were in line with the Investment and Regeneration Strategy.

The decision of the Council meeting is restricted due to the exempt information contained within the decision.

The Worshipful The Mayor of Torbay

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**WHAT DOES  
IT FEEL LIKE  
TO BE A  
YOUNG  
PERSON  
LIVING IN  
TORBAY ?**

**PREPARED BY**

*Healthwatch Torbay*

**DECEMBER 2018**

**healthwatch**  
Torbay

# BACKGROUND

Healthwatch Torbay are the independent consumer champion for local health and social care services. sharing the experiences of local people with healthcare bosses so they can make improvements.

The Torbay Children's Safeguarding Board, who work to make Torbay safer for children, commissioned Healthwatch Torbay to find out how young people aged 0-25 years feel about living in Torbay.

To do this, Healthwatch Torbay asked four questions:

1. How do you feel about living in Torbay?

2. What is the best thing about living in Torbay?

3. What is the worst thing about Living in Torbay?

4. What would improve the way you feel about living in Torbay?

**1,913** young people shared their views in the detailed consultation report, available at [www.healthwatchtorbay.co.uk](http://www.healthwatchtorbay.co.uk)

Question 1

# HOW DO YOU FEEL ABOUT LIVING IN TORBAY?



33.3%

*"It's okay"*

24.3%

*"It's pretty good"*



- A third of young people felt "okay" about living in Torbay (383 responses, 33.3%)
- A quarter of young people felt "pretty good" (280 responses, 24.3%) about living in Torbay
- Few young people "hate" living in Torbay (51 responses, 4.4%)

Younger people often felt better about living in Torbay than older children or young adults.



Question 2

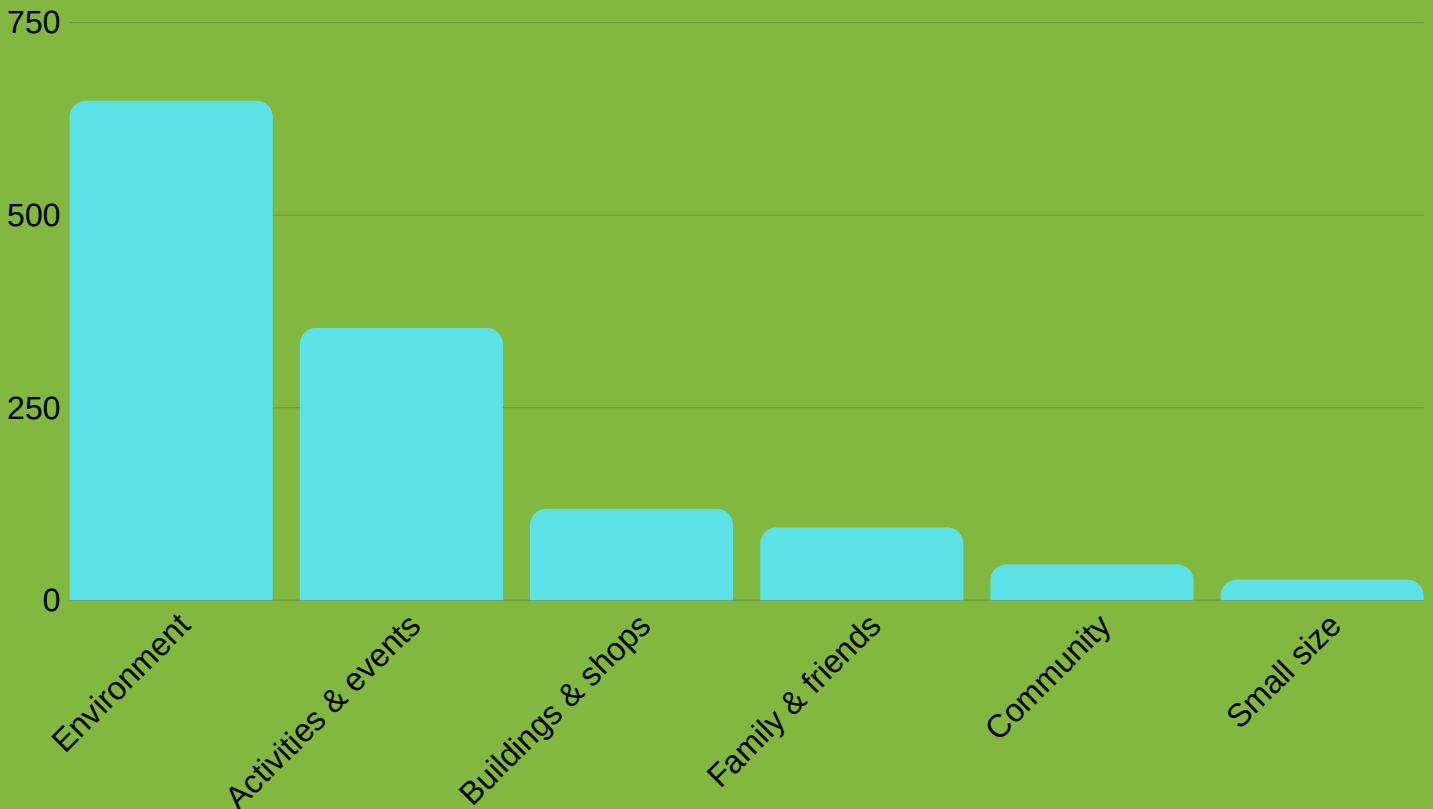
# WHAT IS THE BEST THING ABOUT LIVING IN TORBAY?

**48.3%**

*The environment and local setting*

**26.3%**

*Activities and events*



## Young people said they liked

- The **setting** and environment (648 responses, 48.3%)  
*"The beach", "Living by the seaside", "The amazing views"*
- Local events and activities (353 responses, 26.3%)  
*"Vicky Park", "Splashdown", "Cool woods"*
- **Shops and places to eat**, especially fast food! (118 responses, 8.8%)  
*"Having plenty of fast food places to eat", "Fish and chips"*
- **Friends and family** (94 responses, 7.1%)
- Its *"close community"* (46 responses, 3.4%) and **small size** (26 responses, 1.9%)

Question 3

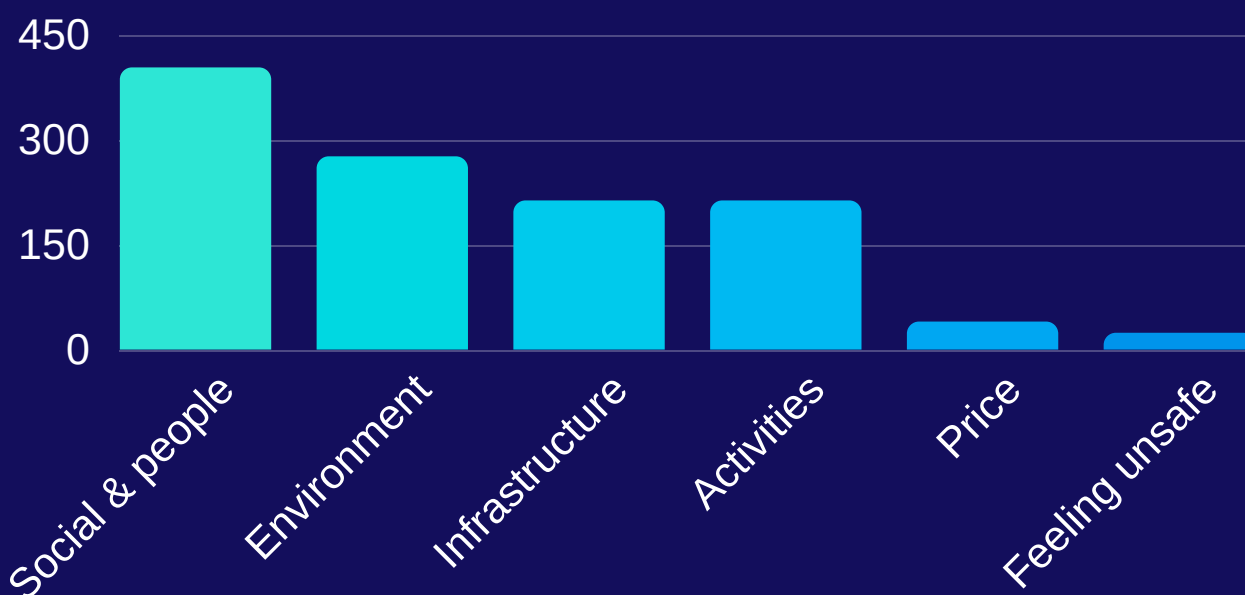
# WHAT IS THE WORST THING ABOUT LIVING IN TORBAY?

30.9%

*Social and people related issues*

21.2%

*The environment*



Young people said the worst things about living in Torbay were:

- The 'people' (403 references, 30.1%) - "drug use", "underage drinking and drugs", "people living on the streets", gangs, "roadies", crime & violence
- The plastic and the litter (276 references, 21.1%)
- Having 'nothing to do' (213 references, 16.2%) and
- Empty shops, bad roads and transport (213 references, 16.2%)

Some young people said things that other people do in Torbay such as drinking or drug-taking make them feel unsafe.

*Question 4*

# WHAT COULD BE IMPROVED?



"Have a council  
that listens"

"Less drugs"  
"Less crime"  
"Help the homeless"  
"More police"

"Have more things to  
do for young people in  
Torbay that are  
affordable and  
designed for young  
people, not tourists."

"Get rid  
of the litter  
and plastic  
in Torbay."

"Have more  
open spaces  
to play in."

"Have more shops,  
better buses and  
trains that we can  
afford."

# YOUNG PEOPLE'S RECOMMENDATIONS

- Work together with young people to find out what matters most.
- Treat young people equally.
- Keep asking how young people feel about living in Torbay.
- Have more police around 'hot spots' where young people feel unsafe.
- Talk about what happens to young people involved in crime and gangs through talks in schools by the police.
- Help fix the root causes of drugs and alcohol.
- Make more safe places for young people to hang out.
- Create activities with local young people that they can afford and use in all weathers.
- Reduce the amount of litter and plastic in Torbay.



## ACKNOWLEDGEMENTS

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Healthwatch Torbay would like to thank:

- All the children and young people who took part in the survey,
- The Torbay Children's Safeguarding Board for the opportunity to undertake this consultation
- The additional support received from:  
Healthwatch Torbay Young People's Project team
- Young persons' task group members involved in the planning of the project and the design of the toolkit and events
- Task group members
- Paignton Academy Student Council and all other local schools and colleges who supported this piece of work
- South West families and young adult carers who completed surveys and contributing at events
- Play Torbay who shared their 'Imagine This' report findings
- Plymouth University for their support with data analysis and putting this report together with Healthwatch Torbay.

The main consultation report is available to read in full via [www.healthwatchtorbay.org.uk](http://www.healthwatchtorbay.org.uk)

**healthwatch**  
Torbay

Freephone 08000 520 029

# Agenda Item 6

Meeting of the Council, Thursday, 26 September 2019

## 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.

Question (1) by Councillor Chris Lewis to the Leader of the Council (Councillor Steve Darling)	Can the Leader of the Council please confirm the time taken for Members enquiries to be responded to? I understand the time has been changed from 5 to 10 days. If this is the case when will it return to 5 days?
Question (2) by Councillor Foster to the Cabinet Member for Infrastructure, Environment and Culture (Councillor Morey)	<p>Will the portfolio holder responsible for waste and recycling collections please give an update on proposed improvements for regular collections in Maidencombe.</p> <p>Some residents have had a six week period this summer of no collections for recycling and many Maidencombe residents often have missed collections on a regular basis.</p>
Question (3) by Councillor O'Dwyer to the Leader of the Council (Councillor Steve Darling)	In the town council press release Cllr Steve Darling has stated 90% of town council monies will be spent on services, based on the Brixham model, how can this be accurate? Could the Leader of the Council please show the evidence he has to substantiate this claim.
Question (4) by Councillor Bye to the Cabinet Member for Corporate and Community Services (Councillor Carter)	The 'Your town, your voice – New Town Council's Consultation' implies a decision has not been made already by the partnership. Could the portfolio holder for Corporate and Community Services inform if this is genuine or just for information and propaganda?
Question (5) by Councillor Hill to the Leader of the Council (Councillor Steve Darling)	What would happen should residents not want new town councils as with the 80% not wanting them in the last consultation. Does the Leader of the Council and the partnership have any other ideas?

### Second Round

Question (6) by Councillor Chris Lewis to the Leader of the Council (Councillor Steve Darling)	Can the Leader of the Council please outline how enquiries from Members are prioritised. For example how are they dealt with if they are urgent compared to non-urgent subjects.
Question (7) by Councillor O'Dwyer to the Leader of the Council (Councillor Steve Darling)	The Leader of the Council states that the cost of all the Town Council's will be only £1.73 per week in year one but with no such guarantees for future years. Can he and his partnership state now what they are budgeting for the following years or expects this to increase by as they cut further future services and assumes town councils will take them on.

<p>Question (8) by Councillor Bye to the Deputy Leader and Cabinet Member for Finance (Councillor Cowell)</p>	<p>Can the portfolio holder for finance please inform us which services currently financed by Torbay Council are budgeted to be stopped in year two of Town Councils?</p>
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**Meeting:** Council

**Date:** 26<sup>th</sup> September 2019

**Wards Affected:** All

**Report Title:** Additional Funds for Special Educational Needs and Disabilities Compliance

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

**When does the decision need to be implemented?** October 2019

**Cabinet Member Contact Details:** Cordelia Law, Lead Member for Children's  
[Cordelia.law@torbay.gov.uk](mailto:Cordelia.law@torbay.gov.uk)

**Supporting Officer Contact Details:** Rachael Williams, Assistant Director Education Learning and Skills. [Rachael.williams@torbay.gov.uk](mailto:Rachael.williams@torbay.gov.uk)

## 1. Proposal and Introduction

1.1 The Special Educational Needs and Disability Code (SEND) came into effect on 1<sup>st</sup> September 2014. It represented the biggest change to arrangements for pupils with additional needs in a generation and aimed to integrate education, social care and health support in order to improve outcomes for children and families. The SEND Code imposes a range of statutory obligations upon local authorities which are extensive in scope and prescriptive in nature.

1.2 Torbay Council used its existing resources to meet many of the duties within the code. However there are some key elements of the SEND duties that were not resourced or addressed within the arrangements put in place in 2014, resulting in the Local Authority not being able to meet the full range of obligations within the code. The report sets out the duties that are placed on the Local Authority and the current performance in each area. The Local Area will be subject to a Special Educational Needs and Disabilities Area Inspection conducted by Ofsted and the CQC by July 2020. This process will test health, social care and education's response to the legislation. This report sets out what is required for education to be further compliant with the code.

## 2. Reason for Proposal and associated financial commitments

2.1 The Local Authority is responsible for ensuring that children and young people with special education needs are adequately identified and supported. The demand within the service has increased since the introduction of the SEN code in 2014. There has been a 77% increase in the number of requests for statutory assessment and a 51% increase in the number of Education Health and Care Plans that have been issued. The Local Authority has not altered its resource allocation to the service during this time. The Local Authority working with its School Forum are working collectively to reduce a deficit budget within the Higher Needs Block of the Dedicated Schools Grant. The work of the education department



is critical in ensuring that this money is directed to the most appropriate children and young people and that the decisions regarding the support provided gives the best value for money.

2.2 The Local Area will be subject to a Special Educational Needs and Disabilities Area Inspection conducted by Ofsted and the CQC by July 2020. This process will test health, social care and education's response to the legislation. This report sets out what is required for education to be further compliant with the code.

2.3 To ensure we are moving towards compliance with the code it is recommended that members allocate up to £200k from the Comprehensive Spending Review reserve within 2019/2020 and members allocate up to £650k into the base budget for education in 2020/2021. This will enable the recruitment of Education Psychologists, SEN Caseworkers, Education Health and Care Plan Co-ordinators, Amendment Officers, SEND Commissioners, Monitoring Officers and Business Support.

2.4 However given the Council's overall financial position such an investment in this service in 2020/21 and future years will inevitably have to be funded from reductions in other services. Therefore the sums outlined in this report are maximum allocations. The Assistant Director Education, Learning and Skills in consultation with the Chief Finance officer will work proactively to mitigate any increases in cost while moving to compliance with the SEND Code. The funding allocation required for 2020/21 will be included in the final budget proposals for 2020/21.

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

3.1 The Education budget is allocated up to an additional £200,000 from the Comprehensive Spending Review Reserve in 2019/2020. The Education budget is rebased from 2020/2021 with an additional maximum investment up to £650,000.

### **Appendices**

### **Background Documents**

## Section 1: Background Information

1.

### **What is the proposal / issue?**

Torbay Council used its existing resources to meet many of the duties within the code. However there are some key elements of the SEND duties that were not resourced or addressed within the arrangements put in place in 2014, resulting in the Local Authority not being able to meet the full range of obligations within the code.

A full appraisal of the existing staffing structure, compared to the delivery of duties at a minimum level has been conducted. This appraisal demonstrates that an additional 15.5 FTE staff members are required. These posts will be made up of Education Psychologists, SEN Caseworkers, Education Health and Care Plan Co-ordinators, Amendment Officers, SEND Commissioners, Monitoring Officers and Business Support.

In order to do this the council will need to allocate an additional £300k from reserves in 2019/2020 and rebase the education budget by £650k from 2020/2021.

2.

### **What is the current situation?**

This section of the report provides an overview of the duties and tasks required under the SEND Code and provides

#### **2.1 Request for new Education Health and Care plans and decision to proceed to an EHC needs assessment.**

A request for a new EHC plan can be initiated by a child's parents, a young person over the age of 16 and a person acting on behalf of a child or young person, such as an educational establishment, social worker, health professional or early years practitioner.

Following a request, the Local Authority must make and communicate the decision to proceed or not to the child's parents or young person within 6 weeks of receiving the request. To inform this decision, SEN officers must consult with the young person. In Torbay this is conducted through a face to face meeting.

In addition to seeking the views and evidence from parents, the SEN officers also have to notify and seek information from all agencies connected to the child/young person. This includes but is not exclusive to the health service (all relevant departments), social care, education (early years, schools, colleges). This is currently conducted via the sharing of reports (appendix templates).

In considering whether an EHC needs assessment is necessary, the LA needs to consider whether there is evidence that despite the education provider taking relevant and purposeful action, the child or young person has not made expected progress. The task of gathering this information and creating a rationale for the decision is conducted by case work officers. A fortnightly multi-

agency panel then takes the final decision. Currently 100% of parents and young people are informed of the decision to proceed or not in the six week timescale.

Torbay has a high number of children/young people with a statement or EHC plan. Torbay 4.4% compared to a national figure of 2.9%. Torbay has reviewed the criteria for securing a plan and subsequently reduced the rate of initial requests that convert into a plan. Currently 80% of initial requests convert into a plan compared with 90% at the start of the new duty. There is an increasing rate of requests for new EHC plans at both a national and local level. Torbay currently receives around 280 requests for an assessment for an EHC plan.

Where a decision is taken to not proceed with a plan, the case work officer meets with the parents and/or young person to discuss the rationale for the decision and ensure appropriate support can be provided through SEN support or a universal service.

**2.2 Following the decision to proceed to a plan, the Local Authority must conduct a detailed EHC assessment and issue the EHC plan within 20 weeks.**

In seeking advice and information, the SEN officers undertake additional work with parents and young people to understand their views and aspirations. They also support the parents or young person to understand the range of assessment information and to help them to make an informed decision about whether existing advice is satisfactory.

This process includes gaining detailed information from education, psychological advice, social care advice, youth offending team, early help, and virtual school for LAC and disability services.

The Local Authority co-ordinates the request and collection of all advice and takes the lead role in sharing this information with parents and young people.

Torbay currently receives timely advice from Education (83%). The local area health services have been challenged in the delivery of advice in a timely manner. Current performance is at 60% in the six week timescale. Challenge by Assistant Director has improved compliance from a position of 0%, but further improvement is needed.

The current Social Care information provided is becoming more fit for purpose, but we are failing in our duty to provide a full social care assessment as part of the EHCP process. Work has been conducted to establish a new process, this went live on 1<sup>st</sup> November 2018, the process includes using the MASH as a single point of contact, with the MASH allocating the task to the correct part of the social care system. The process now includes a return being provided by the allocated social worker if the case is opened, a return being provided by targeted help or social worker if the case is closed recently or a telephone assessment to families that are not known to the services. The effectiveness of this process will be closely monitored and reported to the SEND board.

### **2.3 Issuing an Early Health Care Plan**

By using the EHC assessment information, the SEN officer then completes the writing of the statutory plan. As a statutory minimum, EHC plans must include;

Section A – The views and aspirations of the child and his or her parents or the young person

Section B – The child or young person's special educational needs

Section C – The child or young person's health needs which are related to their SEN

Section D – The child or young person's social care needs which are related to their SEN or to a disability

Section E – The outcomes sought for the child or young person

Section F – The special educational provision required by the child or young person

Section G – Any health provision required

Section H – Any social care provision required

Section I – The name of the school to be attended

Section J – Details of any personal budget allocated

Section K – The advice and information gathered during the assessment

The Local Authority must issue a draft plan to the child's parents and young person at least 15 days prior to the 20 week deadline. In issuing the draft plan, the SEN Officers must make time to meet parents if requested and be available to discuss the content. When changes are requested to the draft plan, the plan is then amended and issued as the final EHC plan. The final plan has to be issued by the 20<sup>th</sup> week.

Torbay currently issues 42% of plans within the 20 week timescale but fails in its duty to meet all parents, the team are now meeting 1 in 10 parents. The process used also enables plans to be issued where all returns have not been received, this results in redrafting plans closely after the initial plan is issued. The SEND operational board ceased this practice in October 2018.

### **2.4 Reviewing an Early Health Care Plan**

In discharging its duties the EHC plan should be actively monitored by the Local Authority and as a minimum there should be an official review every 12 months. To enable this to process to take place, the Local Authority is required to provide a list of all EHC plans to be reviewed to the education provision before the start of each term. The process should gather and assess information from all parties listed in the plan and involve the setting of new interim targets for the coming year. The review should be conducted with the

parent and young person. Following a review, the plan should be altered if appropriate. At this point, it might also be relevant to cease and EHC plan.

Torbay currently has 1334 EHC plans. The Local Authority provides a list to education providers however it is currently failing in its duty to monitor, review and re-issue plans on an annual basis, we have recently recruited two SEN Monitoring Officers and an EHCP writer. This team will start work on compliance from September 2019.

The lack of dedicated resource to complete an annual review process, results in an issued plan becoming quickly outdated. The process of reviewing and re-issuing plans would also provide a natural opportunity to reconsider the resource allocation, the continuation of specialist placement and a collective decision to cease an EHCP. Without this function the Local Area is locked into financial commitments that are becoming unviable.

Currently the Local Authority takes action to attend the review meeting where placement breakdown may occur. These crisis reviews are called to deal with emerging issues and avoid placement breakdown.

Forward thinking Local Authorities are currently considering the use of digital resources to support the annual review process. The Local Authority already uses a digital platform through Open Objects, this resource could be extended to include the digital transfer and processing of annual reviews. This would require an investment of £30k in year one and an on-going investment of £10k for the maintenance of the licence.

## **2.5 Resolving Disagreements**

The SEN framework is complex and involves numerous decisions and recommendations. At each point in the process, there is a right of appeal and access to independent support services. To ensure early resolution the Local Authority has to make available an SEND information, Advice and Support Service (SENDIASS) that is available to those with an EHC plan or SEN initial enquirers. The Local Authority also has to offer mediation to discuss EHC needs assessments and plans. Torbay currently benefits from a peninsular mediation service. Parents and young people also have the right to an appeal with the Tribunal.

Torbay has a high satisfaction rate and most concerns are dealt with effectively through early resolution processes. There have been three cases taken through formal mediation and five tribunals since the code came into effect.

## **2.6 Local Offer**

Local Authorities must publish a Local Offer setting out in one place information about provision that is available across education, health and social care for children and young people that have SEN or are disabled.

The Local Offer must provide clear, comprehensive, accessible and up to date information about the available provision and how to access it and be inclusive and

Be inclusive and responsive to local needs and aspirations by directly involving children, young people and their parents in its development and review.

	<p>Currently the Local Authority has an online directory that is hosted on the Family Information Service portal. The Local Offer is visited on an annual basis to ensure it is up to date. The Local Authority does not currently have a mechanism or resource to involve children and young people in its design, development or review.</p> <p><b>2.7 New Post 16 Duty</b></p> <p>The Children and Families Act in 2014, introduced a new duty to extend the entitlement of an EHC plan to post 16 pupils up to the age of 25 years.</p> <p>This duty has resulted in fewer plans ceasing as age 16 and an increase in requests for EHC plans at this stage.</p> <p>To date, the Local Authority has issued or continued 344 EHC plans for post 16 pupils. These plans are subject to the same assessment and review arrangement. This has enabled young people to access further education and receive a range of high quality education programmes.</p> <p>This duty has not only resulted in additional assessments but has required the Local Authority to work with a number of providers to produce an accessible range of post 16 provisions. Currently the department works to assess and issue the plan, however there is no capacity to review the plan.</p>
<p><b>3.</b></p>	<p><b>What options have been considered?</b></p> <p>The Education Service has moved resources around the system to ensure a degree of compliance with the code, this has included using the support and expertise within the wider education system and requesting schools hold meetings without the Local Authority.</p> <p>To work towards compliance an investment into the service is the only viable option.</p> <p>To ensure that the investment request is kept to a minimum, the education service will undertake a full service re-design to maximise the impact of the new posts.</p>
<p><b>4.</b></p>	<p><b>What is the relationship with the priorities within the Partnership Memorandum and the Council’s Principles?</b></p> <p>Priorities:</p> <ul style="list-style-type: none"> <li>• Thriving People and Communities</li> </ul> <p>Principles</p> <ul style="list-style-type: none"> <li>• Reduce demand through prevention and innovation</li> <li>• Integrated and joined up approach.</li> </ul>

<p>5.</p>	<p><b>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</b></p> <p>Looked After Children are often identified as having special educational needs. The children will benefit from an improved response to having their needs assessed and ensuring an up to date education, health and care plan is in place to support their education and care planning.</p>
<p>6.</p>	<p><b>How does this proposal/issue tackle poverty, deprivation and vulnerability?</b></p> <p>Analysis of Special Educational Needs data demonstrates that 50% of children within an Education Health and Care Plan live within our most deprived communities. A timely and comprehensive assessment of needs will help to tackle the disadvantages faced and ensure an appropriate allocation of resources and provision.</p>
<p>7.</p>	<p><b>How does the proposal/issue impact on people with learning disabilities?</b></p> <p>Further compliance with the SEN code of practice will ensure that children and young people with identified special educational needs and disabilities are identified and supported. The code also ensures that there is effective provision until the age of 25 and good transition planning into adult services where the threshold is met.</p>
<p>8.</p>	<p><b>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</b></p> <p>The Local Authority SEN team work in partnership with the Voluntary and Community sector. This includes the commissioning of services from the providers within the VCS community and also the identification of children and young people that access community lead provision.</p> <p>The proposal will increase the opportunity to co-produce activities/provision with the VCS. Currently the work that can be conducted is limited by the capacity of Local Authority staff, the new structure will enable more formal opportunities for commissioning and have a community engagement focus. For example the establishment of a Young People SEND Champion Group.</p>

## Section 2: Implications and Impact Assessment

9.	<p><b>What are the financial and legal implications?</b></p> <p>The proposal seeks additional investment into the education budget. The recommendation is for a £300k in 2019/2020 with an additional £650k added to the base budget from 2020/2021.</p>
10.	<p><b>What are the risks?</b></p> <p>The Local Authority will not be fully compliant with the 2014 SEN code. The processes can be tested through ombudsman investigations and SEND Tribunals.</p> <p>The Local Area will be subject to a Special Educational Needs Inspection conducted by Ofsted and CQC. This will take place before July 2020. A failure to demonstrate compliance with the code, may result in the need for an improvement plan, this would determine the level of resource required.</p>
11.	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>Not applicable</p>
12.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>Torbay has a higher than national rate of children and young people with special educational needs. Currently 4.4% of Torbay's population has an Education Health and Care Plan compared to a national average of 2.9%.</p> <p>Torbay's School Forum have been taking action to consider how to best meet children and young peoples need within the financial envelope provided. Over the last 12 months the School Forum have been enacting a financial recovery plan which has been agreed by the Department for Education. In order to drive the recovery plan, there needs to be sufficient central resources, to assess needs, support and challenge practice within education, health and social care. The plan in place is comprehensive and built upon good practice taken from other Local Areas, policy initiatives and research conducted by the Education Endowment Fund.</p>
13.	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>The Local Authority has consulted with schools, key stakeholders, health and social care on two major policies regarding SEND. The SEND strategy and Higher Needs Recovery Plan both demonstrate the need to have early</p>



	<p>identification, the meeting of needs at the lowest level of intervention and the development of the Local Area system to ensure children can be effectively supported within their communities. The increase of capacity with the Education Service team will enable the two plans to be enacted at a greater pace and with more effective support.</p> <p>If the recommendation is taken forward, we will conduct a full consultation with all staff through a HR process.</p>
<p><b>14.</b></p>	<p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>Not applicable.</p>

## Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	The proposal will ensure that children and young people with Special Educational Needs and Disabilities are identified at the earliest opportunity		
	People with caring Responsibilities	The proposal will support families to ensure that their needs are adequately assessed.		
	People with a disability	The proposal will support the identification and provision provided for children and young people with disabilities.		
	Women or men	The proposal will support all genders.		
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>	The proposal will support all ethnic backgrounds.		
	Religion or belief (including lack of belief)	The proposal will support all religions and beliefs equally.		
	People who are lesbian, gay or bisexual	The proposal will support the identification of children and young people who need support.		
	People who are transgendered	The proposal will support the identification of children and young people who need support.		

	People who are in a marriage or civil partnership			The proposal will have a neutral impact on those in a marriage or civil partnership.
	Women who are pregnant / on maternity leave			The proposal will have a neutral impact on women who are pregnant/on maternity leave.
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	The proposal will enable further identification and support to children living in deprived communities or with vulnerabilities.		
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The proposal will help to identify children and young people with special educational needs and disabilities at the earliest opportunity and will impact on the Local Authority ability to engage with health services for co-ordinated planning.		
16.	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	There will be no detrimental impacts to wider council systems. The additional staff will be able to engage more widely on whole service priorities and issues.		
17.	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	There will be no detrimental impacts on other public services. The additional staff will be able to offer valuable support and co-ordination. The education sector will benefit from having access to greater expertise.		



**Meeting:** Council

**Date:** 26 September 2019

**Wards Affected:** All

**Report Title:** Appointment of Independent Person for Audit Committee

**Is the decision a key decision?** No

**When does the decision need to be implemented?** As soon as possible

**Cabinet Member Contact Details:** Councillor Carter, Cabinet Member Corporate and Community Services, [christine.carter@torbay.gov.uk](mailto:christine.carter@torbay.gov.uk)

**Supporting Officer Contact Details:** June Gurry, Head of Governance, (01803) 207012, [june.gurry@torbay.gov.uk](mailto:june.gurry@torbay.gov.uk)

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## 1. Proposal and Reasons for Proposal

- 1.1 At the meeting of the Audit Committee on 18 June 2019, Members resolved to recruit and appoint an Independent Person. CIPFA's 'Audit Committees: Practical Guidance for Local Authorities and Police' 2018 Edition, recommends local authorities actively explore the appointment of an independent member to join local authority Audit Committees. The attached advert and role profile has been developed based on the aforementioned CIPFA guidance.
- 1.2 Good practice has shown that co-option of Independent Person(s) is beneficial to audit committees with the appointment of an Independent Person providing additional benefits such as:
  - Additional knowledge and expertise to the committee;
  - Reinforcement of the political neutrality and independence of the Audit Committee; and
  - Continuity of committee membership where membership is affected by the electoral cycle.
- 1.3 There are also some pitfalls to the use of Independent Person(s) which should also be borne in mind:
  - Over-reliance on the Independent Person by other committee members can lead to a lack of engagement across the full committee;
  - Lack of organisational knowledge or 'context' among the Independent Members when considering risk registers or audit reports; and
  - Effort is required from both the Independent Person and Officers to establish an effective working relationship and establish appropriate protocols for briefings and access to information.

- 1.4 The Independent Person will not possess any voting rights but will be able to actively participate in debate which ultimately would lead to a decision being made.
- 1.5 The CIPFA guidance referred to above provides guidance on recruitment process and states that the requirement for knowledge or expertise should be clearly determined and candidates should be able to demonstrate their political independence and their suitability should be checked. Independent Person(s) appointments should be for a fixed term and be formally approved by Council. Whilst operating as a member of the Audit Committee, the Independent Person will be expected to follow the same code of conduct as elected members and a register of interests will be required.
- 1.6 To ensure the independence of the appointment, approval is being sought for Council to delegate authority to the Employment Committee to undertake the recruitment and interview process. Initially a 5 year term of office is proposed to ensure continuity after the local elections in 2023, the term of office thereafter can be extended for a further 4 years. To maintain independence an Independent Person will only be permitted to serve two terms of office.

## **2. Associated financial commitments**

- 2.1 At present it is anticipated that the role of Independent Person is a voluntary role, however some other authorities provide financial inducement. Given the Council's current financial pressures a financial inducement is not an option.

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

- (i) that the advert and role profile as set out in Appendix 1 be approved; and
- (ii) that authority be delegated to the Employment Committee to appoint an Independent Person for the Audit Committee for an initial term of 5 years, in accordance with the role profile set out in Appendix 1.

## **Appendices**

Appendix 1: Recruitment Advert and Role Profile

## **Background Documents**

CIPFA Audit Committees – Practical Guidance for Local Authorities and Police 2018 Edition



## 1. Recruitment Advert and Role Profile

- 1.1 Torbay Council wishes to appoint an independent member to join its Audit Committee. The appointment is for a period of four years, subject to annual review.

As an independent member, you would be expected to have finance, accountancy, corporate governance, risk management or audit background. You must be able to analyse and discuss complex information and act impartially at all times. You would be expected to attend meeting of the Audit Committee (approximately five a year) in a non-voting capacity, and be able to provide advice, experience and insight.

The Audit Committee provides a key source of assurance on the Council's audit and corporate governance arrangements. Specifically, the Committee is responsible for the council's internal and external audit activity, risk management, maintaining an effective control environment, treasury management, financial accounts and wider corporate governance.

The Audit Committee comprises up to one independent member (non-voting) and six elected members of Torbay Council. You will be required to attend up to five meetings a year and training will be provided.

We are looking for individuals who share our values, have a commitment to continuous improvement and a desire to deliver better outcomes for all of our residents. Anyone wishing to put themselves forward for this role should be able to demonstrate a commitment to good governance in the public sector, and preferably have some knowledge of local government or other public bodies.

Anyone who wishes to be considered for the role must not:

- Be a current or former councillor or officer of Torbay Council, or a close friend or relative of such a person
- Have a criminal conviction
- Be an undischarged bankrupt
- Have any significant business dealings with the Council
- Be currently actively engaged in politics or be a member of a political party

**How to apply:** please send a CV and covering letter which addresses how you meet the skills outlined in the attached role profile to [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

**Closing dates for applications:** 24 October 2019

**Formal discussions with shortlisted applicants to be held on: 31 October 2019**

**1.2 Role Profile**

Overview

As an independent member, you would be expected to have finance, accountancy, corporate governance, risk management or audit background. You must be able to analyse and discuss complex information and act impartiality at all times.

Time commitment

Approximately six days per year, including meeting preparation and attendance.

Skills and experience

We are particularly interested in people who can demonstrate the following skills and experience:

<b>Essential</b>	<b>Desirable</b>
Ability to remain independent in thinking and consider matters without regard to personal political views	Experience of dealing with Local Government or a similar public sector or voluntary organisation
Ability to analyse information, ask pertinent questions, reach rational conclusions and maintain confidentiality	Experience of acting as an independent member/non-executive director or a trustee on a Board or Committee
A professional qualification or background in accountancy, risk management, law, governance or general management	Knowledge of Local Government and an understanding of the role of Council and Councillors
An understanding of local government and/or the public sector more broadly	Recent senior management experience within a complex organisation
Broad understanding of and commitment to the '7 Principles of Public Life'	
An understanding of governance and ethical standards	

\*independent member of Audit Committee are expected to abide by the Council's Members Code of Conduct and the Nolan Principles of Public Life.

**Standing Order D11 (in relation to Overview and Scrutiny) – Call-in and Urgency  
Council Meeting, 26 September 2019**

In accordance with Standing Order D11, the call-in procedure does not apply where the executive decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests.

Before deciding whether a decision is urgent the decision making person or body must consult the Overview and Scrutiny Co-ordinator, or in his absence either:

- (a) (if the decision is a Key Decision and Standing Order E14 (General Exception) applies) each member of the Overview and Scrutiny Board shall be consulted; or
- (b) (in all other cases) the Civic Mayor, or (if there is no Civic Mayor appointed) the Deputy Civic Mayor, shall be consulted.

Decisions taken as a matter of urgency shall be reported to the next available meeting of the Council, together with the reasons for urgency and a summary of the consultation undertaken.



The table below sets out this information:

Matter for decision	Decision-taker	Reasons for urgency	Consultation
Investment Opportunities 1/7/19 and 2/7/19	The Cabinet	<p>The Cabinet took an exempt decision, at its meeting held on 23 July 2019, to purchase two new investments from the Council's Investment and Regeneration Fund in accordance approved Investment and Regeneration Fund Strategy. The details of the investments are exempt as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).</p> <p>The decision taken by the Cabinet needed to be implemented immediately as any delay likely to be caused by the call-in process would prejudice the Council interests and result in the Council losing these investment opportunities.</p>	The Overview and Scrutiny Co-ordinator was consulted on 25 July 2019
Investment Opportunities 2/7/19, 3/7/19 and 5/7/19	The Cabinet	<p>The Cabinet took an exempt decision and recommendation to Council, at its meeting held on 30 July 2019, to purchase three new investments from the Council's Investment and Regeneration Fund in accordance approved Investment and Regeneration Fund Strategy. The details of the investments are exempt as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).</p> <p>The decision taken by the Cabinet needed to be implemented immediately as any delay likely to be caused by the call-in process would prejudice the Council interests and result in the Council losing these investment opportunities.</p>	The Civic Mayor was consulted on 30 July 2019

Matter for decision	Decision-taker	Reasons for urgency	Consultation
Investment Opportunity 6/9/19	The Cabinet	<p>The Cabinet took an exempt decision, at its meeting held on 3 September 2019, in respect of the purchase of one new investments from the Council's Investment and Regeneration Fund in accordance approved Investment and Regeneration Fund Strategy. The details of the investment is exempt as defined in paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).</p> <p>The decision taken by the Cabinet needed to be implemented immediately as any delay likely to be caused by the call-in process would prejudice the Council interests and result in the Council losing these investment opportunities.</p>	The Overview and Scrutiny Co-ordinator was consulted on 3 September 2019

## Information:

Prior to May 2019 Investment and Regeneration Fund decisions were made by the Investment and Regeneration Committee or were referred to Council where the investment was in excess of £25m. These decisions were able to be implemented immediately without the need to call-in as this did not apply to decisions made by the Investment and Regeneration Committee. Following the local elections in May 2019 the Council transferred the decision making for the Investment and Regeneration Fund to the Cabinet as executive decisions. Normally all executive decisions would be subject to call-in, unless the process is waived in accordance with Standing Order D11. The Cabinet has now considered investments at its meetings and the call-in requirements were waived in both occasions as detailed above. The Cabinet will continue to consider new investments on a regular basis. These are important exempt decisions which are required to be implemented immediately and therefore it is proposed to amend the Constitution to enable a blanket requirement to waive call-in for Investment, Regeneration or Economic Growth Fund investments to enable the Cabinet decisions on such investments to be implemented immediately, in the same way they were when the decisions fell within the remit of the Investment and Regeneration Committee. This is in the best interest of the Council and public as the surplus income generated from these investments helps to fund Council services.

## Recommendation to Council:

- (i) that the Standing Orders – Overview and Scrutiny be amended as shown in bold and underlined below:

### **D11. CALL-IN AND URGENCY**

D11.1 The call-in procedure set out above shall not apply where the executive decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether (in the opinion of the decision-making person or body) the decision is an urgent one, and therefore not subject to call-in.

D11.2 Before deciding whether a decision is urgent, the decision-making person or body shall consult with the Overview and Scrutiny Co-ordinator or (if he/she cannot be reasonably contacted) then:

- (a) (if the decision is a Key Decision and Standing Order E14 (General Exception) applies) each member of the Overview and Scrutiny Board shall be consulted; or
- (b) (in all other cases) the Civic Mayor, or (if there is no Civic Mayor appointed) the Deputy Civic Mayor, shall be consulted.

**D11.3 The Council has waived the call-in provisions and the requirements of D11.2 relating to Investments, Regeneration or Economic Growth Fund Investments due to the urgent nature of these decisions.**

D11.34 Decisions taken as a matter of urgency shall be reported to the next available meeting of the Council, together with the reasons for urgency and a summary of the consultation undertaken under Standing Order D11.2.

**Anne-Marie Bond  
Monitoring Officer**